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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Commodity Credit Corporation

7 CFR Parts 719, 793, 1405, 1413, 1421, 1497, and 1498

Annual Wheat, Feed Grains, Cotton, and Rice, Production Adjustment Programs

In the matter of: Reconstitution of Farms.
Authority to Make Payments When There Has Been a Failure To Comply Fully with the Programs
Loans, Purchases and Other Operations
Feed Grain, Rice, Upland and Extra Long Staple Cotton, Wheat and Related Programs
Price Support and Production Adjustment Programs
Payment Limitation
Foreign Persons Ineligible for Program Benefits

AGENCY: Agricultural Stabilization and Conservation Service and Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The regulations at 7 CFR part 1413 set forth provisions which are applicable to Commodity Credit Corporation (CCC) annual wheat, feed grains, cotton, and rice production adjustment programs. The regulations at 7 CFR part 719 set forth the criteria used to determine a "farm" for purposes of administering these programs. The regulations at 7 CFR part 1497 and 1498 set forth the maximum payment limitation provisions and foreign person provisions which are applicable to these and other CCC programs. The amendments made by this interim rule clarify existing CCC policy and make minor changes as a result of market conditions which are primarily the result of the 1988 and 1989 droughts. These amendments will enhance the implementation of these programs with respect to the 1990 crop year. This interim rule will make grammatical corrections and technical changes to 7 CFR parts 1497 and 1498. The preamble to the interim rule also sets forth the examples that were originally published in the August 5, 1988 **Federal Register** with grammatical corrections and also includes several new examples.

EFFECTIVE DATE: Effective January 17, 1990. Comments must be received on or before February 16, 1990 in order to be assured consideration.

ADDRESSES: Comments must be sent to H. E. Maynard, Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013; (202) 447-7641.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "not major." It has been determined that the provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to the interim rule since Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. It has been determined by an environmental evaluation that this action will not have significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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

The titles and numbers of the Federal assistance programs to which this interim rule applies are: Commodity Loans and Purchases—10.051; Cotton Production Stabilization—10.052; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065; Feed Grain Production Stabilization—10.055, as found in the Catalog of Federal Domestic Assistance. Background: In accordance with the Agricultural Act of 1949, as amended (the 1949 Act), CCC conducts annual acreage production programs for wheat, feed grains, cotton, and rice. Producers who comply with the terms and conditions of these programs are eligible to receive various benefits from CCC, most notably deficiency payments and the opportunity to obtain CCC price support loans and purchase agreements. These programs are administered on a farm-by-farm basis. The regulations at 7 CFR part 719 are used to determine the constitution of a farm. In order to allow producers and landowners to farm efficiently, a "farm" may consist of land owned by more than one individual so long as all landowners agree to the combined "farm" and all other requirements are met. The regulations at 7 CFR 719.3 do not currently clearly specify the manner in which such a multiple-owner farm may be decombined. Accordingly, 7 CFR 719.3 is revised to clarify that, with respect to such farms, any person with an undivided interest in the land which comprises a portion of the farm may request that the farm be decombined.

The regulations at 7 CFR part 793 specify the manner in which mathematical calculations are determined when a fraction of a number is included in the calculation. This interim rule amends this part to specify that in a calculation which involves several multiplications or divisions, the rounding of a fraction shall be made at the conclusion of the computation and not with respect to each individual calculation. CCC is currently revising price support and production adjustment

regulations and operating procedures to conform to revised debt settlement practices and regulations. As a result of these revisions, changes and the manner in which CCC assesses interest on delinquent debts will likely be made. A proposed rule setting forth these proposals was published on June 19, 1989 at 54 FR 25718 which would revise 7 CFR parts 1403 and 1408.

The interest rate on these debts is used to make certain price support loan program calculations when loans remain unsettled or liquidated damages are assessed in the event of program violations. Since many of the price support program regulations which are applicable to the 1989 and prior crops have cross references to this late payment interest rate, in lieu of amending each individual reference to this rate, 7 CFR part 1405 is amended by adding a new section to specify that for purposes of making price support loan program determinations, CCC will continue to use the late payment interest rate determined under 7 CFR part 1403 as such regulations existed on December 1, 1989. This action will not affect in any way CCC's price support loan program for 1989 and prior crop year loans nor will it affect in any way the liability or obligation of any producer who obtains a 1989 crop year loan or who has already obtained a 1989 or prior crop year loan. In the event the proposed rule is adopted, a subsequent rule will be issued to correct the 1990 and subsequent crop price support loan program regulation cross references to CCC debt settlement regulations.

The regulations at 7 CFR part 1413 set forth the major provisions of the annual production adjustment programs. 7 CFR 1413.3(u) defines the term producer as "a person who, as owner, landowner, tenant, or sharecropper, shares in the risk of producing the crop, or would have shared had the crops been produced." A similar definition is set forth at 7 CFR 719.2(t). Although these two definitions are worded slightly differently, they are used by ASCS and CCC in the same manner. Accordingly, for clarity, these two definitions are revised to be identical.

During the administration of the 1988 and 1989 Disaster Payment Program it became apparent that many individuals were producing hybrid seed corn, and were receiving feed grain program benefits on generally the same basis as producers of regular corn, although the hybrid seed corn "producer" did not meet the definition of a "producer" as specified in 7 CFR 1413.3. After reviewing the farming methods of these producers, CCC has determined that with respect to hybrid seed producers, the program requirements should be revised to recognize that such producers have cropping practices which are different than other producers. Accordingly, 7 CFR 1413.110 is added to set forth the additional criteria which are applicable to hybrid seed producers under these programs.

In accordance with Section 4 of the CCC Charter Act, as amended and section 501 of Public Law 82-137, 65 Stat. 290, as amended (31 U.S.C. 9701), which is commonly referred to as the "Independent Offices Appropriations Act, 7 CFR 1413.6 is amended to provide that CCC will implement service fees to recover county office administrative costs related to calculating proven yields when such yields are established at the request of the producer. Section 4(m) of the CCC Charter Act, as amended provides, in part, that CCC "[s]hall have such powers as may be necessary or appropriate for the exercise of the powers specifically vested in the Corporation, and all such incidental powers as are customary in corporations generally; * * *" The Independent Office Appropriations Act provides generally that the head of each Federal agency "may prescribe regulations establishing the charge for a service or thing of value provided by the agency." These charges are based on (1) the cost of the Government; (2) the value of the service or thing to the recipient; (3) the public policy or interest served; and (4) other relevant facts.

7 CFR 1413.102(e) specifies that in certain instances a producer may plant certain nonprogram crops on a farm but have a percentage of such acreage considered as having been planted to the program crop. These regulations currently limit this authority to the 1986–1989 crop years. However, Public Law 100–81 amended section 504 of the 1949 Act to authorize such action for the 1990 crop years. Accordingly, this provision at 7 CFR part 1413 is revised to reflect this amendment.

In recent years, if a farm had: (1) A corn crop acreage base (CAB) and a grain sorghum CAB or (2) a barley CAB and an oats CAB, these bases were "combined" for purposes of determining whether a producer was in compliance with the applicable acreage reduction program. For example, a farm with a 100 acre oats CAB and a 100 acre barley CAB would, for compliance purposes, have a total CAB of 200 acres. If a 10 percent acreage reduction program was in effect, the producer could plant up to 180 acres of oats and barley in any combination of acreages. Recently, producers have planted increased acreages of barley and decreasing acreages of oats. Much of the change was due to higher CCC barley program benefits. As a result of this declining oats production, Congress has allowed the Secretary of Agriculture to implement an oats acreage reduction program with a reduction percentage which is lower than the percentage applicable to barley, corn and grain sorghum. Although this action has had a minimal effect on increasing oats acreage, the combined oats-barley base still results in less oats production than if these CAB's were not combined. Accordingly, this interim rule amends 7 CFR 1413.7 to specify that for the 1990 crop years, for compliance purposes, oats and barley CAB's will not be combined and that corn and sorghum CAB's will continue to be combined.

The regulations at 7 CFR 1413.104 currently specify the manner in which interest is assessed with respect to unearned deficiency payments when the producer is not in compliance with program requirements. This section is revised by this interim rule to conform to existing CCC interest assessing policy which provides that interest will begin to accrue from the date of the making of the payment to the earlier of the date of repayment or the date of delinquency as determined under 7 CFR part 1403. This provision is also amended to clarify that until the unearned payment is converted to a claim, the applicable rate of interest is the rate charged by CCC with respect to price support loans as determined under 7 CFR part 1405. After a demand letter is sent to the debtor for payment of the owed amounts, interest is assessed in accordance with 7 CFR part 1403.

The regulations at 7 CFR 1421.740–1421.756 set forth the regulations for the Farmer-Owned Reserve (FOR) Program. Generally, under this program, producers receive advance storage payments for storing FOR loan collateral. However, on July 24, 1989 CCC amended 7 CFR 1421.750 to provide that producers who extended eligible 1985 crop FOR would receive storage payments at the time the loan is settled. This action was taken since the extension period was for only six months. For clarity, this interim rule amends 7 CFR 1421.750 (f) to specify that this requirement is applicable to only this six month extension. Producers with 1985 crop loans which are extended for more than six months will continue to receive FOR storage payments in advance.

The regulations at 7 CFR part 1497 set forth the regulations for determining whether a "person" is eligible to receive

certain CCC payments and to implement applicable statutory maximum payment limitation provisions. Major statutory revisions became effective with respect to the 1989 crops and are also applicable to the 1990 crops. Based upon a review of manner in which producers re-organized their farming operations in 1988, it is apparent that producers are establishing trusts with the primary, if not sole purpose to evade these revisions. Accordingly, this interim rule amends these regulations to provide that if upon the termination of an irrevocable trust, if any of the assets of the trust pass to the grantor at anytime, the trust shall be considered to be a revocable trust.

In addition, several producers have established two or more irrevocable trusts in which the grantor of one trust transfers to a trust an undivided interest in land or equipment and names another party to be the income beneficiary of the trust. A third party is the beneficiary of the trust at the termination of the trust in several years.

Simultaneously, the third party has established a second trust in which an equivalent undivided interest in the same property which was given to the first trust is given to the second trust. The grantor of the first trust is named as the remainder beneficiary of the second trust. Based upon a review of the farming operations which utilize these transactions, it is clear that these trusts were used merely to avoid the statutory maximum payment limitation provisions. The current regulations provide that the grantor and an irrevocable trust may be separate persons, while the grantor and a revocable trust are combined as one person. Thus, in the cited example, the grantor has effectively created a revocable trust but has avoided the effect of having the grantor combined with the trust. Accordingly, 7 CFR 1497.10 and 1497.11 are revised to provide that the grantor and the beneficiaries of trusts must, if requested, disclose to CCC all interests, whether direct, indirect or contingent, in any other trust which receives payments or loans from CCC. These sections are also revised to provide that a separate tax identification number must be provided by each trust before any program payments or benefits are made available to the trust.

7 CFR 1497.16 is revised to incorporate changes to the cash rent tenant provisions resulting from implementation of Treatment of Cash Rent Tenants for Payment Limitation Purposes Act. The Act amended the Food Security Act of 1985 to provide that for purposes of determining who is a "person" in applying the per-person limits on payments under certain farm programs, effective for the 1989 crop year, landlords will not be considered to be one "person" with cash rent tenants who fail to meet the provisions of § 1497.16 if (1) A determination had previously been made with respect to the tenant's farm operation that the tenant is a seperate "person" from the landlord, and (2) the landlord does not consent to or knowingly participate in the tenant's failure to meet the provisions of § 1497.16. The Act also provided that, during the 1990 crop year, any cash rent tenant that fails to meet the provisions of § 1497.16 will be ineligible to receive farm program payments applicable to the crop year for which such failure occurred.

During 1990 crop year the Act provides that, rather than combining a noncomplying cash rent tenant with the landlord for the purposes of payment limitations, such cash rent tenant will be made ineligible for farm program payments.

7 CFR 1497.21 provides that charitable organizations are considered to be one person if the land or proceeds from the farming operation may revert to an entity which exercises control or authority over such organization. After a review of charitable organizations which are involved in farming, it has been determined that this provision may be overly restrictive. Accordingly, this section is revised to provide that an organization will be combined with a controlling entity only in the event the crop or proceeds from the crop are transferred to the controlling entity during the year for which the person determination has been made. Other revisions are also made to 7 CFR part 1497 for clarity.

On December 12, 1989, Public Law 101–217 was approved. This act amends the Food Security Act of 1985 with respect to manner in which statutory payment limitation provisions are applied to cash rent tenants. Accordingly, this interim rule amends 7 CFR 1413.16 to reflect these changes.

On August 5, 1988 (53 FR 29552) CCC published the final rule which set forth the provisions of 7 CFR part 1497. The preamble to this final rule included numerous examples with respect to the implementation of 7 CFR part 1497. In order to provide greater clarity regarding the use of these regulations, these examples have been revised for clarity and new examples have also been developed. Accordingly, the following examples set forth hypothetical situations and determinations which involve the application of these regulations.

Discussion of Changes

As required by the Omnibus Budget Reconciliation Act of 1987 (the 1987 Act) which amended the Food Security Act of 1985 (the 1985 Act), 7 CFR parts 1497 and 1498 were issued as a final rule in August 1988. Since the final rule contained grammatical errors and required clarification of several of the examples contained in the "Summary of Provisions of Final Rule," the "Summary of Provisions of Final Rule" is being reissued in its entirety. These corrections include changes in the definition of "active personal management" and "payment" which are found at § 1497.3.

The final rule provided that financing was no longer a factor in determining whether individuals and entities were one "person." The final rule provided that financing would impact on actively engaged in farming determinations when the financing was by someone with an interest in the farming operation and the contribution was being used to meet the significant contribution requirements provided for at § 1497.6(b). The final rule also provided that if the financing was by someone with an interest in the farming operation and the contribution was being used to meet the commensurate contribution requirements provided at § 1497.6(d), such financing would impact on actively engaged in farming determinations only when the financing was not at the prevailing interest rate. Accordingly, the definitions of "Capital," "Equipment," and "Land" set forth at § 1497.3 have been amended to clarify this provision.

The definition of "Farming Operation" found at § 1497.3 also has been amended to clarify that an individual or entity may have more than one farming operation if such individual or entity is a member of one or more joint operations.

It has been noted that trusts could be established for a specified short period of time in an effort to circumvent the permitted entity provisions found at § 1497.5 and to, in general, defeat the purposes of Part 1497. To clarify that these types of trusts would be considered revocable trusts and combined with the grantors for purposes of determining whether the trust and the grantor were one person, the definition of "Irrevocable Trust" has been added at § 1497.3 to provide that an irrevocable trust is any trust which may not be modified or terminated by the grantor and the grantor does not have any future contingent or remainder interest in the corpus of the trust. The

definition further provides, except in two instances, if the corpus of the trust transfers to the remainder beneficiary in less than 20 years from the date the trust is established, the trust will be considered to be a revocable trust.

The definition of "Sharecropper" for purposes of part 1497 is currently the definition found at 7 CFR part 719. This definition provided that a sharecropper was a producer which could be either an individual or an entity. The definition of "Sharecropper" has been added at § 1497.3 to provide that a sharecropper, for the purposes of this part, may only be an individual and not an entity.

Since publication of the final rule some confusion has existed as to whether the selection of "permitted entities" found at § 1497.5 required the selection of one set of "permitted entities" for all programs found at § 1497.1 or if there could be a selection of different permitted entities for each program found at § 1497.1. § 1497.5 has been amended to clarify that only one set of "permitted entities" for all programs specified at § 1497.1 shall be allowed. In addition, § 1497.5 has been amended to provide that large publicly held entities may be exempt from reporting to all stockholders the provisions of this part and from reporting to county committees the names and taxpayer identification numbers of all stockholders of such entities if the Deputy Administrator determines that, because of the number of members of the entity, no member is likely to have a substantial beneficial interest in such entity and such reporting would place an unusual burden on such entity.

Sections 1497.10 and 1497.11 of the final rule set forth the provisions regarding irrevocable and revocable trusts, respectively. Since the rules regarding these two types of trusts are the same, except that the grantor of a revocable trust is always combined as one "person" with the revocable trust, these two sections have been combined into one section at § 1497.10 and § 1497.11 has been deleted.

It has been noted that these payment limitation provisions may be circumvented through the establishment of trusts. For example, individuals that had previously owned corporations that would not qualify as "actively engaged in farming" could set up a trust and name a former employee of the corporation as a beneficiary of the trust and qualify the trust as "actively engaged in farming." This beneficiary could have a very small interest in the trust which would pay the beneficiary no more than had the beneficiary been an employee of the corporation. Accordingly, § 1497.10 has been amended to provide that the combined interest of the income beneficiaries which provide the active personal labor and/or management to qualify the trust as "actively engaged in farming" must be at least 50 percent. This will not put undue hardship on the majority of trusts, as most trusts are landowners and will be able to qualify as "actively engaged in farming" under the landowner provision found at § 1497.13.

Special statutory provisions exist for determining whether landowners, family members, and sharecroppers are "actively engaged in farming." Generally, these special provisions provide relaxed requirements for determining whether an individual or entity is "actively engaged in farming." Different requirements exist and are very specific depending on whether the person is a landowner, family member, or sharecropper who is trying to establish that they are actively engaged in farming. The contribution of a significant amount of owned land, under the landowner provision, was inadvertently omitted in the final rule. Accordingly, § 1497.13 has been amended to provide if a significant contribution of owned land is made to a farming operation the landowner shall be determined actively engaged in farming with respect to all land owned and contributed by such landowner.

The cash rent tenant provision found at § 1497.16 provides a landlord and a cash rent tenant shall be combined as one person if the tenant does not make a significant contribution of labor or management and equipment. As provided in the final rule, this provision could cause the combination of numerous unrelated individuals on different farming operations through one common "person" involved only in the production of non-program crops on such farming operation. Accordingly, § 1497.16 has been amended to provide that only those cash rent tenants which receive benefits under one of the programs specified in § 1497.1 shall be subject to the cash rent tenant provision and also to provide that if a tenant is not actively engaged in farming with respect to the cash rented land such tenant shall not be subject to the cash rent tenant provision.

Section 1497.18 has been reorganized and the title changed to make it clear that a substantive change is required only when a new "person" subject to the provisions of this part is involved in the change in the operation of a farm.

In order to more effectively administer this part with respect to Indian Tribal ventures and to ensure that an individual tribal member does not receive benefits in excess of the statutory limitation, § 1497.22 has been amended to provide for a certification by any American Indian who receives benefits both as an individual and as a member of an Indian tribal venture. The certification will state that the individual American Indian executing the certification will not receive payments from the Indian tribal venture and from the American Indian's individual farm in excess of the applicable payment limitation for programs specified in § 1497.1.

Section 1498.3 has been amended to make a grammatical correction in the definition of "payment, loan, and benefit" and the definitions of "capital" and "land" have been amended to reflect the changes made in § 1497.3.

Section 1498.4(b)(1) has been amended to provide, as required by the 1987 Act amendments, that not only farms owned by corporations with foreign stockholders are subject to the provisions of part 1498, but also farms operated by such corporations.

As a result of these changes, the summary discussion of the August 5, 1988 final rule is no longer accurate. Accordingly, the following summary discussion of 7 CFR part 1497 is set forth:

Summary of Provisions of 7 CFR Part 1497

Section 1301 of the 1987 Act amended the 1985 Act by adding a new section 1001A to provide that: (1) An individual who receives specified farm program payments may not also hold directly or indirectly substantial beneficial interest in more than two entities, as defined in section 1001(5)(B)(i)(II) of the 1985 Act, which are engaged in farming operations that receive such payments may not hold directly or indirectly substantial beneficial interests in more than three such entities, as defined in section 1001(5)(B)(i)(II) of the 1985 Act. If an individual owns a substantial beneficial interest in excess of the permitted number of entities, the payment which is made to the "excess" entity is reduced by an amount that bears the same relation to the full payment that the individual's beneficial interest in the entity bears to all beneficial interests in the subject entity.

In order for an individual or entity to be made aware of these limitations, section 1001A(a)(2) of the 1985 Act provides that an entity receiving a specified payment must notify each individual or entity that holds a substantial beneficial interest in such entity of these provisions. In addition, each affected individual must notify the

Secretary of Agriculture of those entities which are to be considered eligible to receive payments. Failure of the affected person to provide the required notification will result in the reduction of payments commensurate with the individual's or entity's share in the subject entity.

Accordingly, 7 CFR 1491.3 sets forth the definitions of the terms "permitted entity," "person," and "substantial beneficial interest." A permitted entity would be an entity which is designated annually by an individual who is eligible to receive payments which are subject to the payment limitation provisions of the 1985 Act.

Generally, a person would be defined as an individual, corporation, joint stock company, association, limited parntership, trust, charitable organization or similar entity including any individual or entity participating in a farming operation as: a partner in a general partnership; a participant in a joint venture; or a participant in a similar entity. A State, politial subdivision and agencies thereof would also be considered to be one person.

A substantial beneficial interest would be defined as an interest which, either directly or indirectly, results in an ownership interest of 10 percent or more. A lesser amount would be applicable if it was determined that a financial arrangement has been established for the purpose of circumventing the provisions of 7 CFR part 1497.

The notification procedure applicable to an entity receiving a payment and those individuals and entities who have a substantial beneficial interest in such an entity is set forth at 7 CFR 1497.5. In accordance with 7 CFR 1497.5, under the following example, the following notifications would be required.

AGRICULTURAL INCORPORATED

Stockholder	Ownership interest (percent)
A Incorporated	33⅓
B and F Partnership	33⅓
Individual C	33⅓
A Incorporated	
Individual A	50
Individual D	25
Individual E	25
B and F Partnership	
Individual B	50
Individual F	50

Agricultural, Inc. consisting of A, Inc., B and F Partnership, and Individual C, must inform the local Agricultural Stabilization and Conservation (ASC) Committee of the stockholders of Agricultural, Inc., and must inform each stockholder of the "permitted entity" provision.

A, Inc., consisting of Individual A, Individual D, and Individual E must inform each stockholder of the "permitted entity" provision. Each stockholder and partner must then inform the local ASC committee of their selected entities for payment.

B and F Partnership, consisting of Individual B and Individual F must inform each partner of the "permitted entity" provision and each partner must then inform the local ASC committee of their selected entities for payment.

If Individual E, a stockholder of A, Inc., does not choose A, Inc.'s interest in Agricultural Inc., as a "permitted entity," the payments made to Agricultural, Inc., would then be reduced by Individual E's ownership interest in A, Inc. For example, if Agricultural, Inc., is eligible to receive $50,000, the 33⅓ percent interest of A, Inc., in Agricultural, Inc., would be $16,665. Individual E's 25 percent interest in the $16,665 would be $4,166. Therefore, Agricultural, Inc., would be eligible to receive $45,834.

Section 1302 of the 1987 Act amended the 1985 Act by providing in section 1001A(b) of the 1985 Act that in order for a person to be eligible to receive specified payments such person must be actively engaged in farming. In order for an individual, including an individual who is a partner in a general partnership or a participant in a joint venture, to be considered to be actively engaged in farming the individual must make a significant contribution to the farming operation of: (1) Capital, equipment, or land, and (2) active personal labor or active personal management.

With respect to limited partnerships, corporations, and similar entities, the entity must make a significant contribution of capital, equipment, or land to the farming operation and the stockholders or participants must collectively make a significant contribution of active personal labor or active personal management.

Special provisions are applicable to landowners, family members, and sharecroppers so long as their contributions are at risk and commensurate with the persons' share of the profits and losses from such operation. The special provisions for landowners do not include landlords who do not own the land which is part of the farming operation. Such landlords must contribute active personal labor and/or active personal management to be considered actively engaged in farming. Landowners who contribute owned land to a farming operation in return for a share of the crop produced on the farm or who retain control of the land and receive all of the income from the land are considered to be actively engaged in farming. Similarly, a sharecropper who makes a significant contribution of active personal labor to the farming operation and who receives a specified share of the crop produced on the farm in payment for such labor is considered to be actively engaged in farming.

Section 1001A(b)(3)(B) of the 1985 Act provides that with respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution of active personal management or active personal labor shall be considered to be actively engaged in farming if such person's contribution to the farming operation is at risk and is commensurate with the person's share of the profits and losses from such operation.

Section 1001A(b)(4) of the 1985 Act provides that a landowner who is contributing land to the farming operation will not be considered to be actively engaged in farming if the landowner receives cash rent or a crop share guaranteed to be paid as rent. This section also provides that any other person who does not meet the actively engaged requirements for individuals, entities, landowners, family members, or sharecroppers shall not be considered to be actively engaged in farming.

Accordingly, 7 CFR 1497.3 sets forth the following definitions which will be used in determining whether a person is actively engaged in farming: "active personal labor;" "active personal management;" "capital;" "equipment;" "family member;" and "land." 7 CFR 1497.6–1497.15 sets forth the regulations which will be used to determine whether a person is actively engaged in farming.

Section 1001(5)(B)(iii) of the 1985 Act provides that, with respect to any married couple, the husband and wife shall be considered to be one person. However, any married couple consisting of spouses who prior to their marriage were separately engaged in unrelated farming operations shall be treated as separate persons with respect to such operations so long as the operations remain separate. Accordingly, 7 CFR 1497.19 sets forth the regulations with respect to farming operations conducted by a husband and wife.

The regulations currently set forth at 7 CFR part 795 with respect to minor children, charitable organizations, and

Indian tribal ventures are generally the same as the regulations set forth in 7 CFR part 1497. However, 7 CFR 1497.22 provides payments to Indian tribal ventures may be made in excess of a one "person" payment limitation determination, only with respect to land which is owned by the tribal venture or held in trust for the tribal council, when BIA or the tribal council certify that no individual Indian will receive more than the applicable limitation.

An estate is currently considered to be the same person as the sole heir of the estate. 7 CFR 1497.12 provides that an estate would be a separate person if the heirs or the personal representative of the estate make a significant contribution of active personal labor or active personal management and the estate makes a significant contribution of capital, equipment, or land. An estate will not be considered to be actively engaged in farming after three years unless the heirs or the personal representative provide evidence that the estate is still in effect for substantive reasons unrelated to the application of the payment limitation provisions. In addition, 7 CFR 1497.12 provides that if the deceased would have been combined with another person for purposes of 7 CFR part 1497, such person and the estate will continue to be combined.

Section 1001(5)(E) of the 1985 Act requires that a change in a farming operation which results in an increase in the number of persons must be bona fide and substantive. Accordingly, 7 CFR 1497.18 sets forth provisions applicable to changes in farming operations. Section 1305(b) of the 1987 Act provides that the Secretary may waive these provisions in order to allow for the equitable reorganization of farming operations so long as the reorganization is completed prior to the final date by which producers must execute a contract to participate in the 1989 commodity programs and the reorganization will not result in an increase in the amount of program payments. Accordingly, 7 CFR 1497.26 provides that the Deputy Administrator may approve such reorganizations as bona fide and substantive to the extent that payments are not increased.

Section 1305(d) of the 1987 Act provides that this part shall apply to all Conservation Reserve Program contracts entered into on or after December 22, 1987. However, since the final rule which will set forth the regulations which implement this section did not become effective until after the execution of such contracts, the provisions of 7 CFR part 795 will apply to such contracts unless the producer elects in writing to use the provisions of 7 CFR part 1497 for contracts entered into before August 1, 1988. Accordingly, 7 CFR 1497.1 provides that this part will apply to contracts entered into with respect to the program specified in 7 CFR 1497.1(a)(3) on or after August 1, 1988. Section 1001(7) of the 1985 Act provides that the Secretary shall establish time limits for the various steps involved in administrative appeals with respect to the application of the maximum payment limitation provisions. Accordingly, 7 CFR 1497.2(f) and 1497.27 set forth the time limits which apply to initial determinations and disputes rising under 7 CFR part 1497.

In accordance with the final provisions of 7 CFR part 1497, the following determinations would be made:

Permitted Entities

Example 1. Individual A owns more than 50 percent of Corporation AB, which is a producer on a farm. Therefore, Individual A and Corporation AB are considered to be one "person." Individual A also owns 50 percent of Corporation AC and is a 50 percent beneficiary of Trust AD. Corporation AC and Trust AD are both producers on separate farms. Corporation AB is a stockholder of Corporation AE, which is a producer on a farm.

Determination. Since Individual A and Corporation AB are combined as one "person," such combined "person" is allowed one allocation of "permitted entities." Individual A does not have any individual farming interests. Since Individual A and Corporation AB are combined as one "person" and Corporation AB is a producer on a farm, Individual A's share of Corporation AB may be paid without a designation and will serve as the "Individual" permitted designation for the combined "person." The combined "person" of Individual A and Corporation AB may designate two additional "permitted entities." Since there are three possible "permitted entity" selections, one entity may not be designated.

Example 2. Corporation AB and Corporation BA both consist of Individuals A and B. Therefore, Corporation AB and Corporation BA are combined as one "person." Corporation AB has a 50 percent interest in Corporation DE and has a 25 percent interest in Limited Partnership FG. Corporation BA does not have any other farming interest. Individuals A and B must designate their "permitted entities."

Determination. If two or more entities are combined as one "person," each share of all entities must be designated by individual stockholders or members just as if they were NOT combined. Therefore, if both Corporation AB and Corporation BA are to receive full payment, both Member A and Member B must use two of their three "permitted entity" designations. If either Member A or B chooses to designate Corporation DE or Limited Partnership FG, both must be made through Corporation AB and each entity designated will require another "permitted entity" designation by such member.

Landowner

Example 1. Landowner A rents land for one-fourth of the crop to Corporation B. Landowner A's share of the profits or losses from the farming operation are commensurate with the landowner's contribution to the operation and the contributions are at risk.

Determination. Landowner A is considered to be actively engaged in farming. The actively engaged determination for Corporation B will be determined separately.

Example 2. AB Partnership consists of Individual A and Individual B. AB Partnership owns land and rents the land to Individual E for one-third of the crop. Individual A's and Individual B's share of the profits or losses from the farming operation are commensurate with Individual A's and Individual B's contributions to the operation and the contributions are at risk.

Determination. A general partnership is not considered to be a "person" for payment limitation purposes and, therefore, would not be considered to be actively engaged in farming with respect to the landowner provision. However, Individual A and Individual B may be considered actively engaged in farming under the landowner provision if the provisions of the partnership agreement provide that each would have an interest in the land when the partnership is dissolved. If any partner is specified in the partnership agreement as not receiving a share of the land when the partnership dissolves, such partner would be required to make a significant contribution of either active personal management and/or active personal labor in order to be considered actively engaged in farming. A separate determination will be made for Individual E.

Example 3. Individual A is the owner and operator of all land in the farming operation. Individual A hires the management needed for the farming operation from a management company.

Individual A hires a custom farmer for all labor that is needed for the farming operation. Individual A borrows capital from a source who has no interest in the farm or farming operation.

Determination. Individual A is considered to be actively engaged in farming due to the landowner provision.

Example 4. Corporation B owns a farm that is share rented to another producer. Corporation B does not contribute capital, equipment, active personal labor or active personal management to the farming operation.

Determination. Corporation B is considered to be actively engaged in farming due to the landowner provision.

Example 5. Individual C owns a farm that is leased on a share rent basis to Producer D. Individual C also is a tenant on land rented from Corporation A on a share rent basis. On the land rented from Corporation A, Individual C contributes a significant amount of capital and hires all the labor and management.

Determination. Individual C is considered to be actively engaged in farming with respect to the land owned by Individual C. However, on the land Individual C rents from Corporation A, Individual C would not be considered to be actively engaged in farming since such individual does not contribute a significant amount of either active personal labor or active personal management. Individual C's payments would be reduced because Individual C is not actively engaged in farming on Individual C's entire farming operation.

Example 6. Individual E, Trust F, Individual G, and Estate H own land each with a 25 percent undivided interest. All land owned in this farming operation is leased to a tenant on a share rent basis. None of the landowners contribute capital, equipment, active personal labor, or active personal management to the farming operation.

Determination. Since each individual and entity has an ownership interest in the land, each will be considered to be actively engaged in farming due to the landowner provision.

Example 7. Individual A is a one third partner in Partnership ABC. Individual A contributes 50 percent of all the cropland which is in Partnership ABC's farming operation. The cropland which Individual A contributes is all owned by Individual A. Individual A also contributes capital, but does not contribute any active personal labor or active personal management.

Determination. Individual A is not actively engaged in farming with respect to Partnership ABC's entire farming operation. Individual A is; however, actively engaged in farming with respect to Partnership ABC's farming operation on the owned land which Individual A contributes to Partnership ABC. Individual A is eligible to receive 50 percent of Individual A's one third of the total payment which Partnership ABC would otherwise receive.

Landlord

Example 1. Landowner A cash leases land to Individual B. Individual B subleases the land to Operator C for a share of the crop. Individual B contributes land and does not contribute a significant amount of active personal labor or active personal management to the farming operation.

Determination. Individual B is not actively engaged in farming. Individual B cannot be considered to be actively engaged in farming due to the landowner provision, since Individual B is a landlord and not a landowner. Landowner A is not actively engaged on this farming operation since cash rent is received for the use of the land, but may be actively engaged with respect to another farming operation. Because of the cash rent tenant rule Landowner A and Individual B are combined as one person for payment limitation purposes. A separate determination will be made for Operator C.

Example 2. Individual D cash leases land from Landowner E. Individual D subleases the land to Producer C on a share rent basis. Individual D contributes the land and active personal management to the farming operation.

Determination. Since Individual D cash rents the land, Individual D cannot be considered to be a landowner and, therefore, cannot be considered actively engaged in farming due to the landowner provision. However, since Individual D has provided a significant contribution of land and active personal management, Individual D will be considered to be actively engaged in farming but will be combined with Landowner E due to the cash rent tenant rule. A separate determination will be made for Producer C. Landowner E is not considered to be actively engaged in farming with respect to this farming operation.

Individual

Example 1. Individual Z, a producer, rents 1,500 acres of land on a share rent basis. Individual Z owns the equipment and contributes at least 50 percent of the producer's commensurate share of active personal labor and contributes 100 percent of the farming operation's management. In this situation, Individual Z's share of the profits or losses from the farming operation are commensurate with Individual Z's contributions to the operation and the contributions are at risk.

Determination. Individual Z is considered to be actively engaged in farming.

Example 2. Individual A rents land on a share rent basis. Individual A contributes a significant amount of leased equipment and a significant amount of active personal management to the farming operation. Capital is borrowed from another producer on the farm at the prevailing interest rate. The labor needed for Individual A's farming operation is hired. Individual A's share of the profits or losses from the farming operation are commensurate with individual A's contribution to the operation and the contributions are at risk.

Determination. Individual A is considered to be actively engaged in farming since Individual A contributes a significant amount of both equipment and active personal management. A contribution of capital, equipment, or land used to meet the significant contribution provision must be provided from a fund or account separate from that of any individual or entity who has a direct or indirect interest in the farming operation. The fact that the capital, in this example, is borrowed from a person that has an interest in the farming operation has no bearing on the significant contribution requirement since capital was not a contribution to meet the significant contribution provision. However, if the equipment lease was financed by a producer with an interest in the farming operation, Individual A would not be considered to be actively engaged in farming since none of the contributions were provided from a fund or account separate from that of any individual or entity having a direct or indirect interest in the farming operation.

Example 3. Individual B share leases and participates in the Conservation Reserve Program on a farm that is owned by Landowner C. Individual B contributes a significant amount of both active personal labor and active personal management in the planting and maintaining of pine trees which are used to control erosion. Individual B also contributes a significant amount of capital by paying the cost of the trees that is not covered by the cost share practice or Landowner C. Individual B also hires some labor to plant the pine trees.

Determination. Individual B is considered to be actively engaged in farming since such individual contributes a significant contribution of

capital, active personal labor, and active personal management. Landowner C is also considered to be actively engaged in farming on the basis that C is a landowner.

Example 4. Individual W provides water with respect to a rice crop produced on Individual Z's farming operation. Individual W owns the equipment needed to pump and deliver the water for the rice crop and makes management decisions with respect to the pump, motor, and delivery system maintenance. Individual W receives a share of the rice crop in payment for the water. In this situation, Individual W's share of the profits or losses from the farming operation are commensurate with Individual W's contribution's to the farming operation and the contributions are at risk.

Determination. Individual W is considered actively engaged in farming since Individual W has provided a significant contribution of equipment and active personal management.

Sharecropper

Example 1. Individual Y provides labor for Landowner Z on 500 acres of rice in exchange for a share of the crop. Individual Y only contributes active personal labor to the farming operation. Landowner Z provides Individual Y with housing. Individual Y also receives a cash advance that will be set off from the proceeds of the crop after harvest.

Determination. Individual Y is considered to be actively engaged in farming since Individual Y is a sharecropper. Landowner Z is considered to be actively engaged in farming since Z is a landowner.

Joint Operation

Example 1. Partnership AB farms 2,000 acres of land. The partnership owns the equipment and the individual partners provide at least 50 percent of their commensurate share of active personal labor and a significant amount of active personal management. Each partner's share of the profits or losses from the farming operation are commensurate with the partner's contribution to the operation and their contributions are at risk.

Determination. Partner A and Partner B are considered to be actively engaged in farming.

Example 2. Partnership CD farms 2,000 acres of land. Each of the individual partners contribute a significant amount of both capital and active personal management to thé farming operation. Labor is hired. Equipment and land are rented from third parties. Each partner's share of the profits or losses from the farming operation are commensurate with the partner's contribution to the operation and their contributions are at risk.

Determination. Partner C and Partner D are considered to be actively engaged in farming.

Example 3. Partnership X consists of 3 partners who are Corporation D, Individual A, and Partnership BC. Corporation D provides a significant amount of capital to the farming operation and a significant amount of active personal management is provided by Corporation D's stockholders. Corporation D finances Individual A's equipment contribution at the prevailing interest rate. Individual A also contributes a significant amount of land and a significant amount of active personal labor. Partnership BC contributes most of the equipment used in the farming operation and Partners B and C contribute a significant amount of both active personal labor and active personal management.

Determination. Assuming that each partner's share of Partnership X is commensurate and at risk, Corporation D, Individual A, and partnership members B and C are each considered to be actively engaged in farming. Despite the fact that Individual A is financed by Corporation D for the equipment contribution, Individual A is considered to be actively engaged in farming because of the significant contribution of land and active personal labor to the farming operation.

Example 4. Partnership ABC consists of 3 partners. Each of the partners claim a one third share of the partnership. Partner A provides a significant amount of owned equipment and a significant amount of active personal labor. Partner B provides a significant amount of capital and a significant amount of active personal labor. Partner C provides a significant amount of equipment and a significant amount of active personal labor and active personal management. Partner B's and Partner C's contributions to the partnership are commensurate with their claimed shares of the partnership. Partner B had informed the county ASC committee that Partner B was going to loan Partner A capital, at the prevailing interest rate, so that Partner A could make a capital contribution to the partnership in order to make Partner A's total contribution to the partnership commensurate with Partner A's claimed share of the partnership. During the end of year review the county ASC committee discovers that Partner B's loan to Partner A was a non interest bearing loan.

Determination. Partners B and C are determined to be actively engaged in farming because of their significant contributions of capital, equipment, labor, and management and because their claimed shares of the partnership are at least commensurate with their contributions and are at risk. Partner A's contribution was not commensurate with Partner A's claimed share of the partnership and, therefore, Partner A is determined to not be actively engaged in farming even though Partner A made a significant contribution of equipment and active personal labor. The loan which Partner B made to Partner A was not at the prevailing interest rate and was, therefore, not a contribution by Partner A.

Example 5. Individual A is a one third partner in Partnership ABC. Partnership ABC produces program crops as well as milk. Individual A provides a significant contribution of capital and active personal management to the farming operation. He also contributes the use of one half of all of the dairy cows on the farm. Individual A's contributions are commensurate to Individual A's claimed share of the operation and the contributions are at risk.

Determination. Individual A is actively engaged in farming because Individual A has made a significant contribution of capital and active personal management to the farming operation. Individual A's contribution of cows to the farming operation may be considered as a commensurate contribution, but may not be used as a significant contribution as cows do not meet the definition of capital, land, or equipment.

Example 6. Individual A is a partner in Partnership AB. Individual A makes a significant contribution of active personal labor. Individual A's contribution of capital, land, or equipment is not enough to equal a significant contribution as an individual nor does Individual A's share of Partnership AB's contribution equal a significant contribution for Individual A. However, when Individual A's share of the contribution of capital made by Partnership AB is added to the capital contribution made by Individual A as an individual it does add up to the amount necessary for a significant contribution for Individual A.

Determination. Individual A is actively engaged in farming as Individual A has made a significant contribution of capital and active personal labor.

Limited Partnerships, Corporations, and Other Similar Entities

Example 1. Corporation XYZ rents 3,000 acres of land for one-fourth share

of the crop. Corporation XYZ contributes a significant amount of capital to the operation. Stockholders, owning a total of 50 percent of Corporation XYZ, contribute a significant amount of active personal labor. The corporation's share of the profits or losses from the farming operation are commensurate with its contributions to the operation and the contributions are at risk.

Determination. Corporation XYZ is considered to be actively engaged in farming and is one "person" for payment limitation purposes.

Example 2. Corporation AB consists of Father A and Son B, each having a 50 percent share. Father A is a retired farmer who created the corporation for tax reasons and to aid in the transfer of the farm to Son B. The corporation contributes a significant amount of capital and equipment to the farming operation. Son B contributes a significant amount of both active personal labor and active personal management to the farming operation; however, most of the labor is provided by hired laborers. Father A lives on the farm and contributes a token amount of active personal management.

Determination. Since the corporation provides a significant contribution of at least one of the required contributions of capital, equipment, or land and Son B, one of the corporation's stockholders, who has a 50 percent ownership interest, contributes a significant contribution of active personal labor and active personal management, Corporation AB is considered to be actively engaged in farming and is considered to be one "person" for payment limitation purposes.

Example 3. Corporation GH consists of Husband G owning 25 percent of the stock in the corporation and Wife H owning 30 percent of the stock in the corporation. Corporation GH provides all the capital, equipment, and cash rented land for the farming operation. Husband G and Wife H collectively provide a significant amount of both active personal labor and active personal management.

Determination. Corporation GH is actively engaged in farming since the Corporation provides a significant contribution of capital, equipment, and land and Husband G and Wife H collectively provide a significant amount of both active personal labor and active personal management. Since Husband G and Wife H collectively own more than 50 percent of the stock of the corporation, Husband G, Wife H, and Corporation GH are considered to be one "person" for payment limitation purposes.

Example 4. Father J conducts an individual farming operation on owned land. Corporation JKL conducts a farming operation on owned land. Father J also owns 50 percent of the stock of Corporation JKL and Trust KL owns 50 percent of the stock. Trust KL is an irrevocable trust for the benefit of Father J's two minor children.

Determination. Father J and Corporation JKL are considered to be actively engaged in farming due to the landowner provision. However, Father J and Corporation JKL are considered to be one "person" for payment limitation purposes because Father J owns more than 50 percent of the stock of the corporation, including stock owned by an irrevocable trust for the benefit of such individual's minor children.

Example 5. Individuals M, N, and O own stock in two corporations and each has a separate and distinct farming operation on land that they individually own. Corporation MN has stockholders M and N, owning 60 and 40 percent, respectively. Corporation MO has stockholders M and O, owning 70 and 30 percent, respectively. Corporations MN and MO each have a separate and distinct farming operation on land owned by each individual corporation.

Determination. Individuals M, N, and O, and Corporations MN and MO are considered to be actively engaged in farming due to the landowner provision. Because Individual M owns more than 50 percent interest in both corporations, Individual M is considered to be one "person" with both corporations. Individuals N and O are considered to be separate persons on their individual farming operations.

Example 6. Corporation X has stockholders A, B, C, and D, owning 30 percent, 20 percent, 15 percent, and 35 percent, respectively. Corporation Y has stockholders A, B, C, and E, owning 10 percent, 20 percent, 25 percent, and 45 percent, respectively. Each corporation farms land owned by the corporation.

Determination. Corporations X and Y are both considered to be actively engaged in farming due to the landowner provision. However, Corporation X and Corporation Y are considered to be one "person" for payment limitation purposes since the same two or more stockholders own more than 50 percent of the stock in each of two corporations having farming interests.

Trusts

Example 1. Irrevocable Trust EF, with Individual E and Individual F, each having an interest of 50 percent, contributes an significant amount of capital to the farming operation. Each beneficiary contributes a significant amount of active personal management. All labor is hired. The land and equipment are leased. The trust's share of the profits or losses from the farming operation are commensurate with the trust's contribution to the operation and the contributions are at risk. Individual E also has another farming interest as an individual.

Determination. EF Trust is considered to be actively engaged in farming, since the trust provides capital, and beneficiaries, with at least a 50 percent interest in the trust, contribute a significant amount of active personal management. The trust is considered to be one "person" for payment limitation purposes. Individual E may also be considered to be a separate person with respect to Individual E's individual farming operation.

Example 2. Individual G is a 100 percent income beneficiary of Irrevocable Trust G. G Trust contributes a significant amount of both equipment and capital to the farming operation. Individual G contributes at least 50 percent of the operation's active personal labor. G Trust leases all land and hires all management and 50 percent of the labor. Individual G also has farming interests as an individual.

Determination. G. Trust is considered to be actively engaged in farming. Individual G and G Trust are considered to be one "person" for payment limitation purposes because Individual G is the sole income beneficiary of the trust.

Example 3. Testamentary Trust Z has beneficiaries A, B, and C, and is the owner and operator of a farming operation. Irrevocable Trust Y has beneficiaries A, B, and C. The corpus of Trust Y consists of stocks, bonds, notes receivable, urban real estate, and cropland that is share leased to a separate individual.

Determination. Testamentary Trust Z and Trust Y are considered to be actively engaged in farming due to the landowner provision. However, Testamentary Trust Z and Trust Y are considered to be one "person" for payment limitation purposes because the same two or more beneficiaries have more than 50 percent interest in two or more irrevocable trusts.

Example 4. Under the will of Widow A's late husband, certain specific bequests of cash and non-farm property were made to persons other than the widow. The balance of the estate, including farmland, is distributed to a testamentary trust. Widow A has the sole right to the income of the trust during her lifetime. At the time of her

death, the trust is to be terminated and the property distributed to her heirs.

Determination. Since Widow A has the sole right to income of the trust during her lifetime, she is considered the sole beneficiary and therefore one person with the trust for payment limitation purposes. The trust would be considered to be actively engaged in farming due to the landowner provision.

Example 5. ST Trust is a revocable trust with Individual S and Individual T as beneficiaries, each having an interest of 50 percent. Individual U is the grantor. ST Trust contributes a significant amount of both capital and equipment to the farming operation. The beneficiaries each contribute a significant amount of active personal management to the operation. All land is leased and all labor is hired. The trust's share of the profits or losses from the farming operation are commensurate with its contribution to the operation and the contributions are at risk.

Determination. ST Trust is considered to be actively engaged in farming. ST Trust and Individual U are considered to be one "person" for payment limitation purposes because Individual U is the grantor of a revocable trust.

Example 6. BP Trust is a revocable trust with Individual B and Minor P as beneficiaries, each having an interest of 50 percent. Grandfather G is the grantor. Individual B contributes a significant amount of active personal management to the farming operation. The trust provides all the capital and land. The trust also hires an individual to provide the labor required for the farming operation. Minor P does not provide any contribution to the farming operation.

Determination. BP Trust is considered to be actively engaged in farming. One beneficiary, with at least a 50 percent interest, provides the required contribution of active personal management and the trust provides the required contribution of capital and land. BP Trust and Grandfather G are considered to be one "person" for payment limitation purposes because Grandfather G is the grantor of the revocable trust.

Estates

Example 1. E Estate is formed upon the death of Individual E in February of the current year. Individual B is the sole heir of the estate and provides a significant amount of active personal management. E Estate provides equipment and cash rented land. All labor is hired. Individual B also has individual farming interests. All contributions are commensurate and are at risk.

Determination. E Estate is considered to be actively engaged in farming for the current year since the heir (Individual B) has provided a significant amount of active personal management and the estate has provided equipment and land. Although Individual B is the sole heir of the estate, Individual B and the estate are not considered to be one "person" because, prior to the death, Individual E and Individual B would not have been combined as one "person." Therefore, if Individual B is determined to be actively engaged in farming with respect to the separate farming operation, Individual B may be considered to be a separate "person" from E Estate.

Example 2. C Estate was formed in October 1988 upon the death of Individual C. The heirs are Individuals E, F, and G, each having one-third interest. Prior to the death of Individual C, Individual C owned equipment and all of the acreage farmed was cash leased. Individual E will serve as executor for the estate. For 1989, C Estate will cash lease land. C Estate will contribute a significant amount of cash rented land, owned equipment, and capital for the farming operation. Individual E will provide a significant amount of active personal management with the estate hiring all labor. All contributions are commensurate and are at risk.

Determination. C Estate is considered to be actively engaged in farming for 1989. The heirs may also be considered to be separate persons with respect to other farming operations if all conditions are met for such operations.

Example 3. Y Estate is formed in August 1989 upon the death of Individual Y. Prior to death, Individual Y had been determined to be actively engaged in farming and had entered into a contract to participate in the 1989 Acreage Reduction Program. Y Estate will continue to farm the acreage that was leased to Individual Y, as a successor-in-interest. Y Estate will hire any labor and management that is needed for the farming operation.

Determination. Y Estate is considered to be actively engaged in farming for 1989 because Individual Y was determined to be actively engaged in farming and had executed a contract to participate in the program prior to death. However, to continue to be actively engaged in farming for the following year, the heirs or personal representative of the estate will have to provide a significant amount of active personal labor or active personal management and the estate will have to provide a significant amount of capital, equipment, or land.

Cash Rent Tenants

Example 1. Individual B cash rents 800 acres of cropland from Landowner C. Individual B contributes 80 percent of all the active personal labor and all capital to the farming operation. 20 percent of the labor is hired and 100 percent of the management is hired. Individual B's share of the profits or losses from the farming operation are commensurate with Individual B's contributions to the operation and the contributions are at risk.

Determination. Individual B is considered to be actively engaged in farming and will be considered a separate "person" from the landowner.

Example 2. Individual C cash rents 800 acres of cropland from Landowner D. Individual C contributes 100 percent of the active personal management and capital needed for the operation. 100 percent of the labor is hired. The equipment is leased from the landowner at a fair market value. Individual C's share of the profits or losses from the farming operation are commensurate with Individual C's contributions to the operation and the contributions are at risk.

Determination. Individual C is considered to be actively engaged in farming. Individual C is contributing a significant amount of both active personal management and equipment. In this situation, Individual C and Landowner D would not be considered to be one person. A cash rent tenant may contribute active personal labor and capital, equipment, or land and be considered to be actively engaged in farming and considered a separate person from the landowner. If a cash rent tenant contributes active personal management and does not make a significant contribution of active personal labor, such tenant must also make a significant contribution of equipment to the farming operation to be considered a separate person from the landowner. The equipment may be owned by Individual C or it may be leased or rented from another source, including the landowner if leased at a fair market value.

Example 3. Individual E is a cash rent tenant. Individual E contributes a significant amount of capital, land, and active personal management to the farming operation. Individual E hires a custom farmer, who provides all of the equipment and labor needed on the farm. The custom farmer is compensated by receiving a share of the crop.

Determination. Individual E is considered to be actively engaged in farming, but will be combined with the

landowner because Individual E is not providing equipment or active personal labor. The custom farmer is no longer considered to be a custom farmer since a share of the crop is received as payment, but Individual E and the custom farmer are considered to be a joint operation since there is a sharing of the crop. The custom farmer shall be considered to be actively engaged in farming and a separate "person" from Individual E.

Example 4. Individual D is a cash rent tenant and contributes a significant amount of both equipment and active personal management to the farming operation. The equipment is leased from a custom farmer who is hired to provide the labor necessary for the farming operation. However, the equipment leased is also used by the custom farmer on other farming operations.

Determination. Individual D is considered to be actively engaged in farming; however, Individual D is considered to be one "person" with the landowner. If the equipment is leased from the same person providing the labor, the equipment must be under the control of Individual D during the current crop year. If the custom farmer used another line of equipment for the other farming operation, Individual D would be considered to be actively engaged in farming and a separate "person" from the landowner. The custom farmer is not considered to be actively engaged with respect to this farming operation because the leased equipment is a contribution of Individual D.

Example 5. Joint Operation ABC contributes a significant amount of land cash leased from Member A and a significant amount of capital. All of the equipment is provided by a custom operator who also provides all labor for the operation. The custom operator also uses the equipment on other farming operations. Members A, B, and C each contribute a significant amount of active personal management.

Determination. Joint Operation ABC is a cash rent tenant. Since a significant contribution of neither equipment or labor is made by the joint operation or its members, the members are considered to be one "person" with the landowner. The landowner in this example is Member A. Therefore, Member A, Member B, and Member C are considered to be one "person." However, if any member contributes a significant amount of active personal labor or a significant amount of equipment, such member shall be excluded from the one "person" combination.

Example 6. Landowner A cash rents 500 acres to Individual B who cash rents the same 500 acres to Individual C. Individual B does not have any interest in any program crops on this 500 acres. Individual C provides a significant contribution of active personal labor on his farming operation, which is this 500 acres.

Determination. Individual C is actively engaged in farming as Individual C makes a significant contribution of land and active personal labor. Individual C is not combined with Landowner A as Individual C provides a significant contribution of active personal labor. As Individual B has no interest in program crops on the acreage rented from Landowner A, the cash rent tenant rule is not applied to Individual B with respect to this 500 acres.

Family Member

Example 1. Father A has been farming owned land and rented land for approximately 15 years. Son B, an adult, is starting to farm with his father. Son B contributes a significant amount of active personal labor. Father A contributes all of the farming operation's capital, equipment, and active personal management.

Determination. Father A and Son B are both considered to be actively engaged in farming and would be considered separate "persons" for payment limitation purposes if the county ASC committee determines the contributions are commensurate with each partner's claimed share of the farming operation and the contributions are at risk.

Example 2. In 1988, Partnership CD consisted of Individual C and Grandfather D. Individual C is not related to Grandfather D. For 1989, however, Grandson E is brought into the farming operation. Individual C contributes all the capital and a significant amount of active personal management. Grandfather D contributes the use of a significant amount of equipment, owned land, and active personal management. Grandson E will provide all the active personal labor.

Determination. Individual C, Grandfather D, and Grandson E will each be considered to be actively engaged in farming if the county ASC committee determines the claimed shares are commensurate with each partner's contribution to the farming operation and the contributions are at risk. Grandson E's determination will be approved under the family member provision.

Example 3. Father Y has a large farming operation, part of which is owned and part of which he shares leases. In 1989, Son Z subleases three farms for cash from Father Y and farms them as a separate farming operation. Son Z pays the rent on these three farms after the crop year. Father Y provides Son Z with all the needed capital and equipment. Son Z contributes a significant amount of both active personal labor and active personal management to the farming operation.

Determination. Son Z is not considered to be actively engaged in farming because the cash rented land does not qualify as a significant contribution when the rent is not paid before April 1 or such other date as announced by the Deputy Administrator, ASCS. Son Z does not qualify with respect to the family member provision since he was not brought into a family joint operation. If Father Y had formed a joint operation with his son, then Son Z would have been considered to be actively engaged in farming with respect to the family member provision. A separate actively engaged in farming determination would need to be made for Father Y.

Example 4. ABC Partnership was a family held partnership consisting of Father A, Son B, and Daughter C. In the current year, Father A brings Son-in-law D into the farming operation. Daughter C, who is married to Son-in-law D, does not provide a significant amount of active personal labor or active personal management to the farming operation. Son B contributes a significant amount of capital, active personal labor, and active personal management. Father A originally contributed his owned equipment to the partnership and contributes some capital and a significant amount of active personal management. Son-in-law D contributes a significant amount of both active personal labor and active personal management to the farming operation.

Determination. Father A, Son B, and Son-in-law D are each considered to be actively engaged in farming. Daughter C is not considered to be actively engaged in farming. Son-in-law D was brought into the farming operation using the family member provision. If Daughter C made a significant contribution of active personal labor or active personal management, then Son-in-law D would not have been considered to be actively engaged in farming with respect to the family member provision.

Example 5. Mother A, Daughter B, and Son C were partners in a family partnership. Son D, a minor, becomes a partner in the current year. Mother A contributes a significant amount of both capital and active personal management. Daughter B contributes a

significant amount of both capital and active personal management. Son C contributes a significant amount of equipment, active personal labor, and active personal management. Son D contributes a significant amount of active personal labor.

Determination. Mother A, Daughter B, and Son C are considered to be actively engaged in farming. However, Son D is not considered to be actively engaged in farming due to the family member provision since he is not an adult family member.

Example 6. This year, Partnership AB consists of two unrelated individual members. Next year, Individual C, an adult son of A, will join the partnership. Individual A and B each will provide a significant contribution of active personal labor and active personal management. Individual C will provide a significant contribution of active personal labor. Individual A and B will provide all of the capital and equipment. The land is share leased by the partnership from five different landowners.

Determination. Based on the contributions of each member, B and C are each considered to be actively engaged in farming if the county committee determines the contributions are at risk and the claimed shares are commensurate with the contributions of each member. Individual C is actively engaged in farming under the family member provision, since the joint operation consists of three persons, a majority of whom are individuals that are family members.

Husband and Wife

Example 1. Husband A and Wife B both were involved in separate unrelated farming operations prior to their marriage. Husband A rents 1,000 acres of cropland for one-fourth of the crop. Wife B owns land that was given to her by her father before her marriage to Husband A. Both operations have been kept separate and distinct during the marriage. Both individuals have been determined to be actively engaged in farming.

Determination. Husband A and Wife B are each considered to be separate persons for payment limitation purposes.

Example 2. Husband G owns 500 acres of land that he rents to Producer Z for one-third of the crop. Wife D also owns 500 acres of land which was given to her before her marriage by her grandfather and is rented to Producer Z for one-third of the crop. The financing and accounting for each individual has been kept totally separate and distinct.

Determination. Husband G and Wife D are each considered to be actively engaged in farming due to the landowner provision. Each will be considered to be a separate "person".

Example 3. Husband C owns 500 acres of land that is rented to Producer Y for one-fourth of the crop. Wife E owns 600 acres of land which was bought by her before her marriage and is rented to Producer Y for one-fourth of the crop. Both farms were reconstituted as one farm when both rented their land to Producer Y because they were being farmed as a single farming unit. Accounting and farming operations were not kept separate after the reconstitution.

Determination. Husband C and Wife E are each considered to be actively engaged in farming with respect to the landowner provision; however, because the farming operations were not kept separate and distinct, they would be considered to be one "person" for payment limitation purposes.

Example 4. Husband A and Wife B are members of a joint operation. Each has 25 percent of the joint operation. Husband A contributes a significant amount of active personal labor and active personal management that is sufficient to cover the significant contribution requirement for both Husband A and Wife B. Wife B does not contribute any active personal labor or active personal management. The joint operation contributes capital and equipment.

Determination. Both Husband A and Wife B are considered to be "actively engaged in farming" because of the combined contribution of Husband A and Wife B. However, Husband A and Wife B are considered to be one "person" because each has not maintained his or her farming operation separate and apart from the farming operation conducted by the other spouse.

Minor Children

Example 1. Minor A has a farming operation in which Parents B and C have no interest. Minor A maintains housing separate from Parents B and C. Minor A contributes a significant amount of equipment leased from an unrelated party, active personal labor, and active personal management to the farming operation.

Determination. Minor A is considered to be actively engaged in farming. Minor A is considered to be a separate "person" from Parents B and C.

Example 2. Minor D has a farming operation in which neither parent has an interest. However, Minor D does not have a separate household. Minor D's parents are divorced and Minor D's mother has custody of Minor D. Minor D contributes a significant amount of leased equipment, active personal labor, and active personal management to the farming operation.

Determination. Minor D is determined to be actively engaged in farming but will be combined as one person with Minor D's mother because Minor D does not maintain a separate household. Minor D is not combined as one person with Minor D's father because Minor D's mother has custody of Minor D.

Indian Tribal Ventures

Example 1. Indian tribal venture AB farms owned land. The Bureau of Indian Affairs (BIA) has certified that payments exceeding the applicable payment limitation with respect to such land will not accrue directly or indirectly to any individual Indian, including the spouse or minor children of such Indian. Individual Indians also farm land owned by third parties.

Determination. The BIA certification is effective only for land owned by the Indian tribal venture. Each individual Indian farming land owned by third parties must certify that individually they will not receive payments exceeding the applicable payment limitation with respect to both the earnings from the tribal venture's farming operation and their individual farming operation.

Example 2. Indian tribal venture CD farms both owned land and land that is leased to the tribal venture. The tribal venture provides all the capital and equipment, but only a few members of the tribal venture contribute a significant amount of active personal labor or active personal management to the farming operation on the leased land. BIA certifies that no one Indian accrues directly or indirectly more than the applicable limitation for land that is owned by the tribal venture. Some members of the tribal venture lease land and farm as individuals, contributing significant amounts of leased equipment, active personal labor, or active personal management.

Determination. The tribal venture is considered to be actively engaged in farming with respect to land that is owned and may earn payments in excess of the applicable payment limitation since no individual Indian receives payments in excess of the applicable payment limitation. The land that is leased by the tribal venture must qualify under the same provisions that apply to joint operations. Therefore, for land leased to the tribal venture, each member of the joint venture must

contribute a significant amount of active personal labor or active personal management to the farming operation to be considered actively engaged in farming. Each individual Indian must certify that individually they will not receive payments exceeding the applicable payment limitation with respect to both the earnings from the tribal venture's farming operation and their individual farming operation. BIA's certification is only applicable for the land that is owned by the Indian tribal venture. The tribal venture must complete the necessary forms for the county ASC committee to determine if the members of the tribal venture are actively engaged with respect to the leased land. The individual Indian must also complete the necessary forms for the county ASC committee to determine if such individual is actively engaged in farming.

States, Political Subdivisions, or Agencies Thereof

Example 1. The State of X, City Y of State X, and Agency Z of the State of X each own cropland. The land is leased to individuals for a share of the crop.

Determination. The State of X, City Y, and Agency Z are considered to be one "person" and are actively engaged in farming due to the landowner provision.

Bona Fide and Substantive Changes

Example 1. Corporation A, owned equally by Stockholders B, C, D, and E, owns and operates a farm. Individuals C, D, and E form General Partnership X that leases land from Corporation A for a share of the crop. General Partnership X also leases land from Individual S, on which Corporation A has never farmed, for a share of the crop. The land leased from Individual S reflects approximately a 20 percent increase in cropland from the land being farmed by Corporation A. The crop acreage bases on the increased land are normal for the area. Partnership X provides a significant amount of both equipment and capital. Partners C, D, and E each provide a significant contribution of active personal labor and active personal management.

Determination. A bona fide and substantive change has occurred, as the size of the farming operation has been increased by at least 20 percent with crop acreage bases normal for the area by leasing additional cropland from Individual S. Corporation A is considered actively engaged in farming due to the landowner provision and is considered a separate person. Members C, D, and E are each considered to be actively engaged in farming, since each member provides a significant amount of active personal labor and active personal management and Partnership X provides a significant amount of equipment and land. Individual S is considered to be actively engaged in farming due to the landowner provision. Corporation A, Members C, D, and E, and Individual S are each considered to be separate "persons" for payment limitation purposes.

Example 2. Father A has previously conducted an individual farming operation consisting of owned land. For the current year, Father A proposes to expand the operation by forming a joint venture with his adult daughters B and C, with each member having equal shares. No additional acreage is farmed, but Father A has gifted to each daughter one-third of the owned land.

Determination. A bona fide and substantive change has occurred since a gift of land commensurate with the individuals' share of the farming operation has been received. Father A and Daughters B and C are considered to be actively engaged in farming due to the landowner provision, but only with respect to the land that they individually own.

Example 3. Brother D has conducted an individual farming operation consisting of owned land. For the current year, Brother D proposes to expand the operation by forming a partnership with Sister E. Brother D will receive 75 percent of the partnership earnings and Sister E will receive 25 percent of the partnership earings. Brother D sold the equipment that will be used to plant and harvest the crop to Sister E who receives financing from a commercial lending institution. Brother D provides a significant amount of both active personal labor and active personal management. Sister E provides a significant amount of active personal management.

Determination. A bona fide and substantive change has occurred since a sale of equipment commensurate with the individual's share of the farming operation has taken place. Brother D is considered to be actively engaged in farming on the entire farming operation due to both the landowner and individual provisions. Sister E is considered to be actively engaged in farming since she provides a significant amount of both equipment and active personal management.

Section 1001C of the 1985 Act provides with respect to the 1989 and 1990 crops that any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence shall be ineligible to receive any type of production adjustment payment, price support program loan, payment, or benefit made available under the 1949 Act, the Commodity Credit Corporation Charter Act, as amended (the "Charter Act"), or subtitle D of title XII of the 1985 Act with respect to any commodity produced, or any land set aside from production, on a farm that is owned or operated by such person. However, such an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such a farm would not be ineligible to receive such payments, loans, and benefits.

Section 1001C of the 1985 Act also provides that a corporation or other entity shall be ineligible to receive such payments, loans, or other benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted to the United States for permanent residence unless such persons provide a substantial amount of active personal labor in the production of crops produced on the farm. The Secretary is also authorized to make payments, loans, and other benefits to such an ineligible entity in an amount which the Secretary determines to be representative of the percentage interests in the entity that is owned by citizens of the United States and aliens lawfully admitted to the United States for permanent residence.

Accordingly, 7 CFR part 1498 sets forth the regulations which implement section 1001C of the 1985 Act with respect to the 1989 and 1990 crops. For purposes of 7 CFR part 1498, the terms "person," "entity," "capital," "land," and "active personal labor" are defined in 7 CFR 1498.3 in virtually the same manner as in 7 CFR 1497.3. Those payments, loans, and benefits which are subject to the provisions of 7 CFR part 1498 are defined in 7 CFR 1498.3 as any cash or in-kind payment, loan disbursement or other benefit made in accordance with the 1949 Act, the Charter Act, and subtitle D of title XII of the 1985 Act which results in an expenditure by the Commodity Credit Corporation or any other Federal agency.

The regulations at 7 CFR 1497.25, 1497.27 and 1497.28 set forth provisions which are applicable to: determinations of a scheme or device which are designed to evade 7 CFR part 1497; the granting of equitable relief by the Deputy Administrator; and the right to seek an administrative appeal in accordance with 7 CFR part 780. Similar provisions are set forth at 7 CFR 1498.6, 1498.7, and 1498.8.

In determining whether more than 10 percent of the beneficial ownership of an entity is held by persons who are not citizens of the United States or by aliens lawfully admitted into the United States for permanent residence, 7 CFR 1498.4 provides that such a determination is made based upon such ownership interest which is the higher of such amount on the date the applicable program contract or agreement is executed or, as determined by the Deputy Administrator, the final harvest date which is normal in the area for the applicable program crop. Accordingly, any increase in the foreign ownership of an entity after the date of execution of such a contract or agreement would affect the eligibility of an entity to receive a payment, loan, and benefit. Any payment, loan, and benefit which had been made prior to the date on which the beneficial ownership requirement was exceeded would be required to be refunded by the entity.

In accordance with 7 CFR 1498.4, payments, loans, and benefits may be received by: (1) A citizen of the United States; (2) an alien legally admitted to the United States for permanent residence; and (3) an entity which is not subject to 7 CFR part 1498 who, through such means as a lease, is in lawful possession of a farm owned by an entity or individual who is ineligible to receive payments, loans and benefits. Similarly, such individual or entity who is a successor-in-interest to a program contract or agreement executed by a foreign individual or entity with respect to such a farm may be eligible to received payments, loans, and benefits.

In accordance with 7 CFR 1498.5, an entity who is subject to the provisions of 7 CFR part 1498 or other party who is executing the program contract or agreement, is required to provide to the county ASC committee the names and social security or tax identification numbers of all foreign individuals and foreign entities who have a beneficial ownership interest in an entity. Failure to provide such information will result in the ineligiblity of the entity to receive any payment, loan, and benefit.

Foreign Individual

Example. Individual A is a foreign person who does not have an Alien Registration Receipt card. Individual A lives in another country and makes yearly visits to the farm as well as making monthly phone calls to the foreman of the farming operation. Individual A hires all the labor required for the farming operation. Individual A contributes most of the management, all of the capital, and all of the land required for the farming operation.

Determination. Individual A is not eligible to receive any type of a production adjustment program payment, price support loan or benefit with respect to any commodity produced, or land set aside from production on a farm owned or operated by such individual. Individual A must provide a significant contribution of active personal labor as well as capital and land to be considered eligible for program payments as specified in 7 CFR § 1498.3 since Individual A is not a U.S. citizen or an alien lawfully admitted into the U.S. Individual A must also meet the requirements of 7 CFR part 1497 to be eligible to receive a payment.

Corporations in Which a Foreign Individual Has an Interest

Example. Corporation ABC consists of Individual A having a 25 percent share, Partnership B having a 25 percent share, and Foreign Individual C having a 50 percent share. Individual A and the members of Partnership B contribute a significant amount of active personal labor, active personal management, and equipment. Foreign Individual C contributes capital and owned land to the farming operation. The county ASC committee has determined that the corporation is actively engaged in farming.

Determination. Even though the county ASC committee has determined the corporation to be actively engaged in farming, the corporation may not receive a full payment since Foreign Individual C does not contribute a substantial amount of active personal labor. The stockholders who are U.S. citizens or aliens who are lawfully admitted into the U.S. may request a payment which represents their share of the corporation's payment.

List of Subjects:

7 CFR Part 719

Acreage Allotments.

7 CFR Part 793

Price support programs, Loan programs—agriculture, Grant programs—Agriculture.

7 CFR Part 1405

Price support programs, Loan programs—agriculture, Grant programs—Agriculture.

7 CFR Part 1421

Grains, Loan programs—agriculture, Price support programs, Warehouses.

7 CFR Part 1413

Feed grain, rice, upland and extra long staple cotton, and wheat, and related programs.

7 CFR Part 1497

Price Support Programs.

7 CFR Part 1498

Aliens, Loan programs—agriculture, Grant programs—agriculture.

Accordingly, 7 CFR is amended to read as follows:

PART 719—[AMENDED]

1. The authority citation for part 719 is revised to read as follows:

Authority: 7 U.S.C. 1375, 1378, 1379, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 719.2, paragraph (t) is revised to read as follows:

§ 719.2 Definitions.

* * * * *

(t) *Producer* means a person who, as owner, landlord, tenant, or sharecropper, shares in the risk of producing the crop, or would have shared had the crops been produced.

* * * * *

3. In § 719.3, paragraph (d)(3) is revised to read as follows:

§ 719.3 Farm constitution.

* * * * *

(d) * * *

(3) An owner requests in writing that the owner's land no longer be included in a farm which is composed of tracts under separate ownership. If tracts in land is a multiple-ownership farm are owned by more than one person who have an undivided interest in any tract, only one such owner's written request is required to request a division of the farm.

* * * * *

PART 793—[AMENDED]

4. The authority citation for Part 793 is revised to read as follows:

Authority: 7 U.S.C. 1153, 1375, 1379, 1421 *et seq.*, 1785, 1838; 15 U.S.C. 714b and 714c; and 16 U.S.C. 590d and 590p.

5. Section 793.2 is amended by adding the following sentence as the first sentence of the pargraph to read as follows:

§ 793.2 Basic rule of fractions.

Rounding of fractions shall be done after the completion of the entire computation which is being made. * * *

* * * * *

PART 1405—[AMENDED]

6. The authority citation for part 1405 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c.

7. A new § 1405.5 is added to read as follows:

§ 1405.5 Special rules for 1989 and prior year loans.

With respect to all 1989 and prior crop year CCC loans made in accordance with parts 1421 through 1474 of this title, all references to interest accrued in accordance with 7 CFR part 1403 shall be deemed to be references to the regulations set forth in 7 CFR part 1403 as of December 1, 1989.

PART 1413—[AMENDED]

8. The authority citation for part 1413 is revised to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–1, 1444–1, 1444b, 1445b–2, 1445b–3, 1445b–4, 1445d, 1445h, 1421, 1423, and 1461–1469; 15 U.S.C. 714b and 714c.

9. In § 1413.1, paragraph (a) is amended by removing "1988 and subsequent year" and adding in their place "1990".

§ 1413.1 [Amended]

10.–11. In § 1413.1, paragraph (b) is amended by removing "795" and in its place adding "1497".

12. Section 1413.3 is amended by revising paragraph (r)(1) to read as follows:

§ 1413.3 Definitions.

* * * * *

(r) *Nonprogram crop* means any crop other than a crop of rice, upland or ELS cotton, feed grains, wheat, or soybeans as determined in accordance with instructions issued by the Deputy Administrator.

(1) *Approved nonprogram crop* means:

(i) Any nonprogram crop, including any crop which is grown for experimental purposes, which is approved by the Deputy Administrator, or a designee, after determining:

(A) That the production of such crop is not likely to increase the cost of the price support program, and will not affect farm income adversely, and

(B) The production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

(ii) The list of approved nonprogram crops which may be planted on a farm in a county shall be available at the respective county and State office. Any restrictions on the planting of such a crop and other applicable terms and conditions for such planting shall be specified on Form CCC–477 and any appendix and addendum thereto.

* * * * *

13. Section 1413.6 is amended by adding a new paragraph (f) to read as follows:

§ 1413.6 Farm yields.

* * * * *

(f) *Fees for proven yields.* A producer shall pay to CCC a service fee for each actual yield computed for a farm for a crop of barley, corn, grain sorghum, oats, rice, upland cotton, ELS cotton, or wheat to be used in computing a proven yield in accordance with this section. The amount of the fees shall be determined and announced by the Executive Vice President, CCC, or the Executive Vice President's designee.

14. Section 1413.7 is amended by adding a new paragraph (h) to read as follows:

§ 1413.7 Crop acreage bases.

* * * * *

(h) Corn and grain sorghum crop acreage bases shall be combined for purposes of determining the total permitted acreage which may be planted on a farm to corn or grain sorghum, or to both such crops. No other crop acreage bases shall be combined for such purposes.

15. Section 1413.50 is amended by adding a new paragraph (d) to read as follows:

§ 1413.50 Contracting procedures.

* * * * *

(d) A producer who executes a Form CCC–477 in order to participate in the 1990 Wheat Price Support and Production Adjustment Program may execute an addendum to such Form which sets forth the terms and conditions by which a producer may plant wheat in excess of the permitted wheat acreage for the farm and receive reduced wheat deficiency payments with respect to such farm.

16. Section 1413.102 is amended by revising paragraph (e)(3) to read as follows:

§ 1413.102 Determination of farm program acreage.

* * * * *

(e) * * *

(3) The amount of acreage of other nonprogram crops shall be limited to 20 percent of the permitted acreage of the program crop for the 1990 crop year; and

* * * * *

17. Section 1413.104, is amended by revising paragraph (d)(2) to read as follows:

§ 1413.104 Advance payments.

* * * * *

(d) * * *

(2) In addition to the provisions of § 1413.103(e), interest as determined in accordance with part 1403 of this title, shall be charged on the amount of the advance payment if a producer obtains an advance deficiency or land diversion payment, or both, for a crop on a farm but does not comply with the requirements for any acreage limitation, set-aside, or land diversion program required for the crop on the farm for the year. Interest at the rate determined in accordance with part 1405 of this title shall be computed from the date of issuance of the payment to the earlier of:

(i) The date of the repayment; or

(ii) The date of delinquency, as determined in accordance with part 1403 of this title.

§ 1413.108 [Amended]

18. Section 1413.108 is amended by removing and reserving paragraph (a)(3).

19. A new § 1413.110 is added to read as follows:

§ 1413.110 Eligibility of hybrid seed producers.

(a) A person who grows hybrid seed pursuant to a contract with a hybrid seed company may be considered to be a producer only if such person:

(1) Retains control over all cropping and cultural practice decisions;

(2) Does not receive a guaranteed payment for producing the hybrid seed;

(3) Provides a copy of the hybrid seed contract to the county committee; and

(4) All other provisions of § 1413.3(a) are met.

PART 1421—[AMENDED]

20. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441, 1441–1, 1444b, 1445b–2, 1445c–2, 1445e, 1446 and 1447; 15 U.S.C. 714b and 714c.

21. Section 1421.750(f) is revised to read as follows:

§ 1421.750 Storage payments

* * * * *

(f) Notwithstanding paragraph (a) of this part or any other provision of this part, producers who extend for six months 1985-crop corn and grain sorghum grain reserve loans, which mature on or after August 31, 1989, shall receive storage payments earned as a result of this extension at the time the

loan is settled by the producer through forfeiture of the loan collateral, the repayment of the loan or at the time the loan is further extended by CCC if further extensions are authorized by CCC.

PART 1497—[AMENDED]

22. The authority citation for 7 CFR part 1497 is revised to read as follows:

Authority: 7 U.S.C. 1308; 16 U.S.C. 3834.

23. Section 1497.3 is amended to read as follows:

§ 1497.3 Definitions.

* * * * *

A. The definition "active personal management" is amended by removing the word "providing" from the introductory text.

B. The definition of "payment" is amended by removing in paragraph (1) the word "paragraph" and adding in its place "paragraphs" and by redesignating paragraph (1)(vii) as paragraph (2).

C. The definitions of "capital", "equipment", "farming operation", and "land" are revised and the definitions, "sharecropper" and "irrevocable trust" are added to read as follows;

Capital. Capital consists of the funding provided by an individual or entity to the farming operation in order for such operation to conduct farming activities. In determining whether an individual or entity has contributed capital to the farming operation, such capital must have been derived from a fund or account separate and distinct from that of any other individual or entity involved in such operation. Capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the individual or entity.

(1) With respect to a farming operation conducted by an individual, a joint operation in which the capital is contributed by a member of the joint operation under the provisions of § 1497.8(b), or entity, such capital contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the individual or entity and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any other individual, joint operation, or entity that has an interest in such farming operation.

(B) Such individual, joint operation, or entity by any other individual, joint operation, or entity which has an interest in such farming operation.

(C) Any other individual, joint operation, or entity in whose farming operation such individual, joint operation, or entity has an interest.

(ii) Section 1497.6(d) must be contributed directly by the individual or entity and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, joint operations, or entities provided in items (1)(i)(A) through (1)(i)(C) of this definition, the loan must bear the prevailing interest rate.

(2) With respect to a farming operation conducted by a joint operation in which the capital is contributed by such joint operation under the provisions of § 1497.8(c), such capital contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any individual, entity, or other joint operation which has an interest in such farming operation, including either joint operation's members.

(B) Such joint operation by any individual, entity, or other joint operation which has an interest in such farming operation.

(C) Any individual, entity, or other joint operation in whose farming operation such joint operation has an interest.

(ii) Section 1497.6(d) must be contributed directly by the joint operation and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, entities, or joint operations provided in items (2)(i)(A) through (2)(i)(C) of this definition, the loan must bear the prevailing interest rate.

* * * * *

Equipment. Equipment is the machinery and implements needed by the farming operation to conduct activities of the farming operation including machinery and implements involved in land preparation, planting, cultivating, harvesting, or marketing of the crops involved. Equipment also includes machinery and implements needed to establish and maintain conservation cover crops or conservation use acreages and those needed to conduct livestock operations.

(1) With respect to a farming operation conducted by an individual, a joint operation in which the equipment is contributed by a member of the joint operation under the provisions of § 1497.8(b), or entity, such equipment contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the individual or entity and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any other individual, joint operation, or entity that has an interest in such farming operation.

(B) Such individual, joint operation, or entity by any other individual, joint operation, or entity which has an interest in such farming operation.

(C) Any other individual, joint operation, or entity in whose farming operation such individual, joint operation, or entity has an interest.

(ii) Section 1497.6(d) must be contributed directly by the individual or entity and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, joint operations, or entities provided in items (1)(i)(A) through (1)(i)(C) of this definition, the loan must bear the prevailing interest rate.

(2) With respect to a farming operation conducted by a joint operation in which the equipment is contributed by such joint operation under the provisions of § 1497.8(c), such equipment contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any individual, entity, or other joint operation which has an interest in such farming operation, including either joint operation's members.

(B) Such joint operation by any individual, entity, or other joint operation which has an interest in such farming operation.

(C) Any individual, entity, or other joint operation in whose farming operation such joint operation has an interest.

(ii) Section 1497.6(d) must be contributed directly by the joint operation and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, entities, or joint operations provided in items (2)(i)(A) through (2)(i)(C) of this definition, the loan must bear the prevailing interest rate.

* * * * *

Farming operation. A farming operation is a business enterprise engaged in the production of agricultural products which is operated by an individual, entity, or joint operation which is eligible to receive payments, directly or indirectly, under one or more of the programs specified in § 1497.1. An entity or individual may have more than one farming operation if such individual

or entity is a memeber of one or more joint operations.

* * * * *

Irrevocable trust. An irrevocable trust is a trust which:

(1) May not be modified or terminated by the grantor;

(2) The grantor does not have any future, contingent or remainder interest in the corpus of the trust; and

(3) Does not provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent upon the remainder beneficiary achieving majority or is contingent upon the death of the grantor or income beneficiary. All other trusts shall be considered to be revocable trust.

* * * * *

Land. Land is farmland consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program. (1) With respect to a farming operation conducted by an individual, a joint operation in which the land is contributed by a member of the joint operation under the provisions of § 1497.8(b), or entity, such land contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the individual or entity and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any other individual, joint operation, or entity that has an interest in such farming operation.

(B) Such individual, joint operation, or entity by any other individual, joint operation, or entity which has an interest in such farming operation.

(C) Any other individual, joint operation, or entity in whose farming operation such individual, joint operation, or entity has an interest.

(ii) Section 1497.6(d) must be contributed directly by the individual or entity and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, joint operations, or entities provided in items (1)(i)(A) through (1)(i)(C) of this definition, the loan must bear the prevailing interest rate.

(2) With respect to a farming operation conducted by a joint operation in which the land is contributed by such joint operation under the provisions of § 1497.8(c), such land contributed to meet the requirement of:

(i) Section 1497.6(b) must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any individual, entity, or other joint operation which has an interest in such farming operation, including either joint operation's members.

(B) Such joint operation by any individual, entity, or other joint operation which has an interest in such farming operation.

(C) Any individual, entity, or other joint operation in whose farming operation such joint operation has an interest.

(ii) Section 1497.6(d) must be contributed directly by the joint operation and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, entities, or joint operations provided in items (2)(i)(A) through (2)(i)(C) of this definition, the loan must bear the prevailing interest rate.

* * * * *

Sharecropper. An individual who performs work in connection with the production of the crop under the supervision of the operator and who receives a share of such crop in return for the provisions of such labor.

* * * * *

24. Section 1497.5 is revised to read as follows:

§ 1497.5 Limitation on the number of entities through which an individual or entity may receive a payment and required notification.

(a) An individual shall receive payments under programs specified in § 1497.1 either directly or indirectly from no more than three permitted entities. An individual which receives such payments shall notify the county committee in the county in which such individual maintains a farming operation whether or not the farming operation is to be considered a permitted entity. An individual shall only receive such payments as a result of a farming operation conducted by:

(1) The individual and by no more than two entities in which the individual holds a substantial beneficial interest; or

(2) No more than three entities in which the individual holds a substantial beneficial interest.

(b) Except for entities specified in paragraph (c) of this section, each entity entering into a contract or agreement under programs specified in § 1497.1 shall, by the date the contract or agreement is submitted to the county committee, notify in writing:

(1) Each individual or other entity that acquires or holds an interest in such entity of the requirements and limitations provided in this part; and

(2) The county committee of the name and social security number of each individual and the name and taxpayer identification number of each entity that holds or acquires a substantial beneficial interest in such entity.

(c) Entities shall not be subject to the provisions of paragraph (b) of this section if, as determined by the Deputy Administrator:

(1) Because of the number of members of such entity no member is likely to have a substantial beneficial interest in such entity; and

(2) Such provisions would cause undue financial hardship on such entity.

(d)(1) An individual or entity that holds a substantial beneficial interest in more than the number of permitted entities specified in paragraph (a) of this section, for which a contract or agreement has been submitted to the county committee, shall notify the county committee, in each county in which they conduct a farming operation, in writing of those entities that shall be considered as permitted entities by a date as determined by the Deputy Administrator following the date the contract or agreement was submitted to the county committee.

(2) The remaining entities in which the individual or entity holds a substantial beneficial interest shall be notified that such entity is subject to reductions in the payments earned by the remaining entity. Such a reduction shall be made in an amount that bears the same relationship to the full payment that the individual's interest in the entity bears to all interest in the entity. The remaining entity's members shall have the opportunity to adjust among themselves their proportionate shares of the program benefits in the designated entity or entities before such reductions are made.

(e) If an individual or entity fails to make such a notification as specified in paragraph (d) of this section, all entities in which the individual or entity holds a substantial beneficial interest shall be subject to a reduction in payments in the manner specified in paragraph (d)(2) of this section.

25. Section 1497.10 is revised including the section heading to read as follows:

§ 1497.10 Trusts.

(a) A trust shall be considered to be actively engaged in farming with respect to a farming operation if:

(1) The entity separately makes a significant contribution to the farming operation of capital, equipment, or land, or a combination of capital, equipment, or land;

(2) The income beneficiaries collectively make a significant contribution of active personal labor or active personal management, or a

combination of active personal labor and active personal management to the farming operation. The combined interest of all the income beneficiaries providing active personal labor or active personal managment, or a combination of active personal labor and active personal management must be at least 50 percent; and (3) The trust has provided a tax identification number for the trust to the county committee.

(b) A trust shall be considered to be a person separate from the individual income beneficiaries of the trust except that a trust which has a sole income beneficiary shall not be considered to be a separate person from such income beneficiary.

(c) Where two or more trusts have common income beneficiaries (including a spouse and minor children) with more than a 50 percent interest, all such trusts shall be considered to be one person.

(d) A revocable trust and the grantor of such revocable trust shall be considered to be one person.

§ 1497.11 [Removed and Reserved]

26. Section 1497.11 is removed and reserved.

27. Section 1497.13 is revised to read as follows:

§ 1497.13 Landowners.

A person who is a landowner, including landowners with an undivided interest in land, making a significant contribution of owned land to the farming operation, shall be considered to be actively engaged in farming with respect to such owned land, if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results. A landowner also includes a member of a joint operation when the joint operation holds title to land in the name of the joint operation if the joint operation or its members submit adequate documentation to determine that, upon dissolution of the joint operation, the title to the land owned by the joint operation will revert to such a member of such joint operation.

28. Section 1497.16 is revised to read as follows:

§ 1497.16 Cash rent tenants.

(a) Effective for the 1989 crops, except as provided in paragraph (b) of this section, any tenant that is actively engaged in farming under the provisions of §§ 1497.6 through 1497.12 and conducts a farming operation in which the tenant rents the land for cash or a crop share guaranteed as to the amount of the commodity and receives benefits, including planted history credit under part 1413 of this chapter, with respect to such land under a program specified in § 1497.1 shall be considered to be the same person as the landlord unless the tenant makes a significant contribution to the farming operation of:

(1) Active personal labor and capital, land or equipment; or

(2) Active personal management and equipment. If such equipment is leased by the tenant from:

(i) The landlord, the lease must reflect the fair market value of the equipment leased.

(ii) The same individual or entity that is providing hired labor to the farming operation, the contracts for the lease of the equipment and for the hired labor must be two separate contracts which reflect the fair market value of the leased equipment and the hired labor and the tenant must exercise complete control over the use of a significant amount of the equipment during the current crop year.

(b) Any cash rent tenant that because of any act or failure to act would not meet the provisions of either paragraph (a) (1) or (2) of this section and would therefore be considered to be the same person as the landlord under provisions in paragraph (a) of this section shall not be considered the same person if the county committee had previously determined the tenant and landlord to be separate persons, and the landlord did not consent to or knowingly participate in the tenant's failure to meet the provision of either paragraph (a) (1) or (2) of this section.

(c) Any cash rent tenant that would be considered to be the same person as the landlord except for the provisions of paragraph (b) of this section shall be eligible to receive payments with respect to such cash rented land only to the extent that the cash rent tenant would have received such payments if the provisions of paragraph (b) of this section did not apply.

(d) Effective only for the 1990 crops, any tenant that is actively engaged in farming under the provisions of §§ 1497.6 through 1497.12 and conducts a farming operation in which the tenant rents the land for cash or a crop share guaranteed as to the amount of the commodity and receives benefits, including planted history credit under part 1413 of this chapter, with respect to such land under a program specified in § 1497.1 shall be ineligible to receive any payment with respect to such cash rented land unless the tenant makes a significant contribution to the farming operation of:

(1) Active personal labor and capital, land or equipment; or

(2) Active personal management and equipment. If such equipment is leased by the tenant from:

(i) The landlord, the lease must reflect the fair market value of the equipment leased.

(ii) The same individual or entity that is providing hired labor to the farming operation, the contracts for the lease of the equipment and for the hired labor must be two separate contracts which reflect the fair market value of the leased equipment and the hired labor and the tenant must exercise complete control over the use of a significant amount of the equipment during the current crop year.

29. Section 1497.18 is revised to read as follows:

§ 1497.18 Changes in the operation of a farm.

Any change in a farming operation that would otherwise increase the number of persons to which the provisions of this part apply to the programs specified in § 1497.1 are applied must be bona fide and substantive. A change in a farming operation in a previous year that was not considered to be bona fide and substantive shall not increase the number of persons in a subsequent year. If bona fide, the following shall be considered to be substantive changes in the farming operation:

(a) The addition of a family member to a farming operation in accordance with § 1497.14, except that such an addition will not affect the status of any other individual or entity which is added to the farming operation.

(b) With respect to a landowner only, a change from a cash rent to a share rent.

(c) An increase through the acquisition of land not previously involved in the farming operation of approximately 20 percent or more in the total cropland involved in the farming operation if such cropland has crop acreage bases which are at least normal for the area.

(d) A change in ownership by sale or gift of a significant amount of equipment from an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in any farming operation. The sale or gift of equipment will be considered to be bona fide and substantive only if the transferred amount of such equipment is commensurate with the new individual's or entity's share of such farming operation.

(e) A change in ownership by sale or gift of a significant amount of land from

an individual or entity who previously has been engaged in a farming operation to an individual or entity who has not been involved in any farming operation. The sale or gift of land will be considered to be bona fide and substantive only if the transferred amount of such land is commensurate with the new individual's or entity's share of such farming operation.

(f) The Deputy Administrator may determine other bona fide changes to be substantive.

§ 1497.19 [Amended]

30. Section 1497.19 is amended by removing the word "remains" and adding in its place the word "remain".

§ 1497.22 [Amended]

31. Section 1497.22 is amended by adding the following sentence at the end of the paragraph to read as follows:

§ 1497.22 Indian tribal ventures.

* * * * *

Individual American Indians which receive payments through an Indian tribal venture as well as under the provisions found in §§ 1497.6 to 1497.15 are required to certify that they will not accrue total payments, including payments made to the Indian tribal venture and to the individual American Indian, in excess of the applicable payment limitation for programs specified in § 1497.1.

PART 1498—[AMENDED]

32. The authority citation for 7 CFR part 1498 is revised to read as follows:

Authority: 7 U.S.C. 1308, *et seq.*

33. In § 1498.3, the definition of "payment, loan, and benefit" is revised by removing "XIII" and adding in its place "XII".

34. In § 1498.3, the definitions of "capital" and "land" are revised to read as follows:

§ 1498.3 Definitions.

* * * * *

Capital. Capital consists of the funding provided by an individual or entity to the farming operation in order for such operation to conduct farming activities. In determining whether an individual or entity has contributed capital to the farming operation, such capital must have been derived from a fund or account separate and distinct from that of any other individual or entity involved in such operation. Capital does not include the value of any labor or management which is contributed to the farming operation. A capital contribution may be a direct out-of-pocket input of a specified sum or an amount borrowed by the individual or entity. (1) With respect to a farming operation conducted by an individual, a joint operation in which the capital is contributed by a member of the joint operation under the provisions of § 1497.8(b), or entity, such capital contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the individual or entity and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any other individual, joint operation, or entity that has an interest in such farming operation.

(B) Such individual, joint operation, or entity by any other individual, joint operation, or entity which has an interest in such farming operation.

(C) Any other individual, joint operation, or entity in whose farming operation such individual, joint operation, or entity has an interest.

(ii) Section 1497.6(d) must be contributed directly by the individual or entity and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, joint operations, or entities provided in items (1)(i)(A) through (1)(i)(C) of this definition, the loan must bear the prevailing interest rate.

(2) With respect to a farming operation conducted by a joint operation in which the capital is contributed by such joint operation under the provisions of § 1497.8(c), such capital contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any individual, entity, or other joint operation which has an interest in such farming operation, including either joint operation's members.

(B) Such joint operation by any individual, entity, or other joint operation which has an interest in such farming operation.

(C) Any individual, entity, or other joint operation in whose farming operation such joint operation has an interest.

(ii) Section 1497.6(d) must be contributed directly by the joint operation and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, entities, or joint operations provided in terms (2)(i)(A) through (2)(i)(C) of this definition the loan must bear the prevailing interest rate.

* * * * *

Land. Land is farmland consisting of cropland, pastureland, wetland, or rangeland which meets the specific requirements of the applicable program.

(1) With respect to a farming operation conducted by an individual, a joint operation in which the land is contributed by a member of the joint operation under the provisions of § 1497.8(b), or entity, such land contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the individual or entity and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any other individual, joint operation, or entity that has an interest in such farming operation.

(B) Such individual, joint operation, or entity by any other individual, joint operation, or entity which has an interest in such farming operation.

(C) Any other individual, joint operation, or entity in whose farming operation such individual, joint operation, or entity has an interest.

(ii) Section 1497.6(d) must be contributed directly by the individual or entity and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, joint operations, or entities provided in items (1)(i)(A) through (1)(i)(C) of this definition the loan must be a loan bearing the prevailing interest rate.

(2) With respect to a farming operation conducted by a joint operation in which the land is contributed by such joint operation under the provisions of § 1497.8(c), such land contributed to meet the requirements of:

(i) Section 1497.6(b) must be contributed directly by the joint operation and must not be acquired as a result of a loan made to, guaranteed, or secured by:

(A) Any individual, entity, or other joint operation which has an interest in such farming operation, including either joint operation's members.

(B) Such joint operation by an individual, entity, or other joint operation which has an interest in such farming operation.

(C) Any individual, entity, or other joint operation in whose farming operation such joint operation has an interest.

(ii) Section 1497.6(d) must be contributed directly by the joint operation and if acquired as a result of a loan made to, guaranteed, or secured by the individuals, entities, or joint operations provided in items (2)(i)(A) through (2)(i)(C) of this definition the loan must bear the prevailing interest rate.

* * * * *

35. Section 1498.4 is amended by revising paragraph (b)(1) to read as follows:

§ 1498.4 Ineligibility.

* * * * *

(b)(1) A corporation or other entity shall be ineligible to receive payments, loan, and benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or lawful aliens unless such persons provide a substantial amount of active personal labor in the production of crops on a farm owned or operated by such an entity. However, upon the written request of the entity, the Deputy Administrator may make payments in an amount determined by the Deputy Administrator to be representative of the percentage interest of the entity which is owned by citizens of the United States and lawful aliens.

* * * * *

Signed at Washington, DC, on January 9, 1990.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation and Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 90-948 Filed 1-16-90; 8:45 am]

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Farmers Home Administration

7 CFR Part 1900

Adverse Decisions and Administrative Appeals

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to provide for a review of a hearing officer's decision when the decision is in conflict with applicable FmHA regulations or the decision will result in unauthorized assistance being granted to an appellant. The need for this action is to avoid implementation of hearing officer decisions that may be in conflict with applicable law or regulations until, and if, such decisions are determined invalid. The major effect of this rule will be to delay implementation of certain decisions pending review of the Director, National Appeals Staff.

EFFECTIVE DATE: February 16, 1990.

FOR FURTHER INFORMATION CONTACT: John Gleason, Deputy Director, National Appeals Staff, Farmers Home Administration, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, telephone (703) 756-7008.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

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

Intergovernmental Consultation

This activity affects all FmHA financial assistance programs. The activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultations with State and local officials. Those FmHA financial assistance programs subject to intergovernmental consultation are delineated in subpart J of 7 CFR part 1940.

Programs Affected

These changes affect the following FmHA Programs as listed in the catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.427 Rural Rental Assistance Payments
10.428 Economic Emergency Loans
10.433 Housing Preservation Grants
10.434 Nonprofit National Corporations Loan and Grant Program
10.439 Intermediary Relending Program

The Administrator, Farmers Home Administration, has determined this action will not have significant economic impact on a substantial number of small businesses because of conducting administrative appeals is substained by the Agency.

Discussion of Final Rule

On May 11, 1989, FmHA published a proposed rule in the **Federal Register** (54 FR 20395-20396) with a comment period ending July 10, 1989. Twenty-one comments were received including one late comment, which was also reviewed and considered. Ten respondents were Agency employees, five respondents were members of the public, and five respondents represented various farm and rural housing public interest groups and one comment was received signed by two United States Senators.

All Agency respondents felt the standard for requesting a review set forth in the proposed rule was too restrictive in scope and the time frame for requesting a review was too short. Members of the public and public interest groups responded that the standard for requesting a review was too broad. One respondent specifically stated the time frame for requesting a review was in violation of statutory time frames for reaching decisions on appeal requests. The two United States Senators responded that their experience had been that Agency decision makers may issue decisions based on a misinterpretation of laws or regulations, which resulted in Congress creating a National Appeals Staff within FmHA.

The Agency agrees in part that the standard for requesting a review under the section for decisions which are based on a misinterpretation or error of law or "appears to be otherwise clearly erroneous" is too broad. The Agency is adopting this comment and restricting review under this section to cases where the hearing officer's decision is in conflict with applicable regulation or law or would result in unauthorized assistance being granted to an appellant.

One respondent claimed that the proposed rule would violate statutory procedure that sets forth a four stage appeal process, i.e., an informal meeting, an appeal hearing, a review by the State Director and a review by the Director, National Appeals Staff. The Agency recognizes this requirement, and is amending the final rule to require a new hearing, if the Director, National Appeals Staff, determines the hearing officer's decision is in error. The revision also addresses comments and suggestions from other respondents regarding an appellant's right of rebuttal to the Agency's request for review under this section.

One respondent claims that the proposed rule violates two statutory provisions regarding implementation of a hearing officer's decision and issuance of the appeal decision itself. Specifically, 7 U.S.C. 1983a(c) states, in part, that when applications for loans or loan guarantees are denied but subsequently reversed or revised as a result of an appeal, the Secretary shall act on the application and notify the applicant of such action within 15 days after return of the application. To comply with this provision the Agency is amending this rule to require that a request for review under this section from the appropriate Assistant Administrator be received by the Director, National Appeals Staff, no later than nine working days after receipt of the hearing officer's decision letter. The Director, National Appeals Staff, must then make a decision under this section within three working days after receipt of a request from the Assistant Administrator. Therefore, the total time taken to determine if the hearing officer's decision is final, will be 12 working days from receipt of the hearing officer's decision. Twelve working days will normally fall within the 15 calendar days required by statute.

Additionally, 7 U.S.C. 2001(h) states that once an appeal has been filed, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review. To be in strict compliance with the provision, the Agency would have to insure that the hearing officer's decision and subsequent review, if necessary, under this section, all occurred within 45 days of an appellant's appeal request. While the Agency will always work toward this goal, the large backlog of appeal cases received thus far will preclude this in many cases. By revision of the proposed rule to require a final decision on a request for review under this section to twelve working days, the Agency is providing for as minimum a delay as possible.

Respondents representing the housing industry commented that applicants competing for limited funding would be penalized by the length of time allowed in the proposed rule for a review under this section since an appellant could prevail at the appeal hearing, and subsequent review under this section, but lose ranking in the funding process as a result of the delay. The Agency believes that reducing the review time under this section to 12 working days addresses this concern. The Agency is also considering further guidance to field offices on the ranking and funding of applications while an appeal is pending.

List of Subjects in 7 CFR Part 1900

Administrative practice and procedure, Appeals, Credit, Grant programs-agriculture, Grant programs-housing and community development, Loan programs-agriculture, Loan programs-housing and community development.

Therefore, FmHA amends chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 continues to read as follows:

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

Subpart B—Adverse Decisions and Administrative Appeals

2. Section 1900.57 is amended by revising paragraph (i) and the first sentence of paragraph (j) to read as follows:

§ 1900.57 Hearing rules.

* * * * *

(i) If the initial decision is reversed, the hearing officer will inform the appellant, original decision maker, the appropriate Assistant Administrator, and any other official servicing the account, by letter of the decision, the reason for it, and what action will be taken.

(j) If the initial decision is upheld or modified but not reversed, the hearing officer will inform the appellant by letter of the decision giving specific reasons, with a copy to the decision maker, the appropriate Assistant Administrator, and any other official servicing the account. * * *

* * * * *

3. Section 1900.61 is added to read as follows:

§ 1900.61 Review of hearing officer's decision on request of the appropriate Assistant Administrator.

(a) In extraordinary circumstances, when the decision of a hearing officer is in conflict with applicable FmHA regulations or law or the decision will result in unauthorized assistance being granted to an appellant, the appropriate Assistant Administrator may request review of the decision of a hearing officer by the Director, National Appeals Staff.

(b) Review under this section may be requested only by the appropriate Assistant Administrator and any request must be made within 9 working days after receipt of the hearing officer's decision to the appellant and the decision maker. It is the responsibility of the decision maker and the State Director to insure that a request for review under this section is received by the Assistant Administrator in sufficient time to allow such a request to be forwarded to the National Appeals Staff by the Assistant Administrator within the 9 working days stated above. Request by the Assistant Administrator shall be made to the Director, National Appeals Staff by telefax and a copy of the request must be mailed (or delivered) to the appellant. The request must explain why the decision falls within the standards specified in paragraph (a) of this section.

(c) The Director, National Appeals Staff, upon receiving such a request, has three working days to determine if the request has merit. If the Director, National Appeals Staff, determines the request has merit, a new hearing will be required at which the appellant may offer rebuttal to the Agency's claim.

(d) If the Director, National Appeals Staff determines the request is unsubstantiated, the State Director and the appellant will be so notified and the decision of the hearing officer will be implemented without further delay.

Dated: December 11, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 90–1057 Filed 1–16–90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

[INS Number: 1244-89]

RIN 1115-AA88

Contracts With Transportation Lines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends both the listing of transportation lines which have entered into agreements with the Immigration and Naturalization Service (Service) for the preinspection of their passengers and crew at locations outside the United States and the listing of carriers which have entered into agreements with the Service to guarantee the passage through the U.S. in immediate and continuous transit of aliens destined to foreign countries. This action is necessary to publish and record approved transportation line contracts to make this information available to the public. This action will allow the line to begin the services agreed to in the contract.

EFFECTIVE DATE: January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Donna Kay Barnes, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, Washington, DC 20536, Telephone: (202) 633-2694.

SUPPLEMENTARY INFORMATION: The Commissioner of the Immigration and Naturalization Service entered into agreements with Aspen Airways (dba United Express) and Vacationair, Inc. on July 24, 1989, to provide for the preinspection of their passengers and crew as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crew upon arrival at a U.S. port of entry and is a convenience to the traveling public.

The Commissioner further entered into agreements with Aspen Airways on July 17, 1989, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is unnecessary because the amendment merely updates and amends the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that the rule will not have a significant impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612. This rule constitutes a notice to the public under 5 U.S.C. 552.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government Contracts, Travel, Travel restrictions, and Transportation lines.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for part 238 continues to read as follows:

Authority: 8 U.S.C. 1103, 1228.

2. Section 238.3(b) is amended by adding in alphabetical sequence the following transportation line:

§ 238.3 [Amended]

* * * * *

(b) * * *

Aspen Airways (dba United Express)

* * * * *

3. Section 238.4 is amended by adding in alphabetical sequence the following transportation lines under the following headings.

§ 238.4 [Amended]

* * * * *

At Toronto

* * * * *

Vacationair

* * * * *

At Winnipeg

* * * * *

Aspen Airways (dba United Express)

* * * * *

Dated: December 14, 1989.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 90-1033 Filed 1-16-90; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 242

[INS Number: 1210-89]

RIN 1115-AB22

Delegations of Authority To Issue Orders To Show Cause and Warrants of Arrest in Proceedings To Determine Deportability

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends 8 CFR part 242, by adding the positions of Deputy Assistant District Director for Investigations, Deputy Assistant District Director for Deportation and Deputy Assistant District Director for Examinations to the list of officials authorized to issue Orders to Show Cause and warrants of arrest. This is an internal change only and is necessitated by the increasing workload at Service field offices. This modification is intended to provide for further dispersion of that workload.

EFFECTIVE DATE: January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Ira L. Frank, Senior Special Agent, Investigations Division, Room 7240, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 786-4502.

SUPPLEMENTARY INFORMATION: This rule adds the position of Deputy Assistant District Director for Investigations, Deputy Assistant District Director for Deportation and Deputy Assistant District Director for Examinations to the list of Immigration and Naturalization Service officials authorized to issue Orders to Show Cause, thereby initiating deportation proceedings pursuant to 8 CFR 242.1(a). It also amends 8 CFR 241.2(c)(1) to permit the same officials to sign warrants of arrest. The positions of Assistant District Director for Investigations (ADDI), Assistant District Director for Deportation (ADDD) and Assistant District Director for Examinations (ADDE) in districts where there are large populations of aliens, can be extremely demanding. To assist the assistant district directors cope with the considerable amount of paperwork and other duties, some districts have appointed a deputy to the assistant district director in the Investigations, Deportation, and Examinations branches. The sizeable volume of Orders to Show Cause, warrants of arrest, and other paperwork generated in those districts makes review and signature by the ADDI, ADDD and/or ADDE, extremely time consuming

delaying attention to other important matters. This rule will help alleviate the demands on the Assistant District Directors for Investigations, Deportation, and Examinations by permitting their respective deputies to issue Orders to Show Cause and warrants of arrest.

Compliance with 5 U.S.C. 533 as to notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule will not have a significant economic impact on a substantial number of small entities. This is not a major rule as defined in section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Deportation.

Accordingly, part 242 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1254, 1362; 8 CFR part 2.

2. In § 242.1, paragraph (a) is revised to read as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the filing of an Order to Show Cause with the Office of the Immigration Judge, except an alien who has been admitted to the United States under the provisions of section 217 of the Act and part 217 of this chapter other than such an alien who as applied for asylum in the United States. In the proceeding, the alien shall be known as the respondent. Orders to show cause may be issued by:

(1) District directors;
(2) Acting district directors;
(3) Deputy district directors;
(4) Assistant district directors for investigations;
(5) Deputy assistant district directors for investigations;
(6) Assistant district directors for deportation;
(7) Deputy assistant district directors for deportation;
(8) Assistant district directors for examinations;
(9) Deputy assistant district directors for examinations;
(10) Assistant district directors for anti-smuggling;
(11) Officers in charge (except foreign);
(12) Chief patrol agents;
(13) Deputy chief patrol agents;
(14) Associate chief patrol agents;
(15) Assistant chief patrol agents; or
(16) The Assistant Commissioner, Investigations.

* * * * *

3. In § 242.2, paragraph (c)(1) is revised to read as follows:

§ 242.2 Apprehension, custody, and detention.

* * * * *

(c) *Warrant of arrest.* (1) At the time of issuance of the Order to Show Cause or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. However, such warrant may be issued by no other than a:

(i) District director;
(ii) Acting district director;
(iii) Deputy district director;
(iv) Assistant district director for investigations;
(v) Deputy assistant district director for investigations;
(vi) Assistant district director for deportation;
(vii) Deputy assistant district director for deportation;
(viii) Assistant district director for examinations;
(ix) Deputy assistant district director for examinations;
(x) Assistant district director for anti-smuggling;
(xi) Officer in charge (except foreign);
(xii) Chief patrol agent;
(xiii) Deputy chief patrol agent;
(xiv) Associate chief patrol agent;
(xv) Assistant chief patrol agent; or
(xvi) The Assistant Commissioner, Investigations.

* * * * *

Dated: December 18, 1989.

Clarence M. Coster,

Associate Commissioner, Enforcement, Immigration and Naturalization Service.

[FR Doc. 90-1032 Filed 1-16-90; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-185-AD; Amendment 39-6482]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive inspections to detect cracks and damage to various structural components associated with the wing center box, and repair, if necessary. This amendment is prompted by full-scale fatigue testing by the manufacturer, which identified certain significant structural components which are prone to cracking. This condition, if not corrected, could result in reduced structural integrity of the fuselage.

EFFECTIVE DATE: February 23, 1990.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A300 series airplanes, which requires repetitive inspections to detect cracks and damage to various structural components associated with the wing center box, and repair, if necessary, was published in the **Federal Register** on September 26, 1989 (54 FR 39396).

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

The commenters objected to the rule since the referenced service bulletins, in time, will become a part of the Supplemental Structural Inspection Program (SSIP). The FAA acknowledges that the service bulletins may be part of the SSIP; however, the SSIP document is under preparation and its date of issuance is not known. Once the SSIP is finalized and issued, the FAA may consider further, separate rulemaking to address it. Since some operators may currently have airplanes which are approaching the specified number of cycles where the actions described in the service bulletin are necessary, the FAA has determined that it is appropriate to proceed with this rulemaking to require those actions.

This commenter also noted that the service bulletin does not have an equivalency provision which allows operators to purchase equivalent parts manufactured in the United States, and once the rule is adopted the operator must then request prior approval from the FAA to purchase equivalent parts under the alternate means of compliance provision. The commenter recommends that the FAA add a new provision which would allow operators to make minor changes in the accomplishment instructions of an AD without prior approval from the FAA. Such deviations could be approved by the manufacturer's Designated Engineering Representative (DER) or the appropriate FAA Principal Maintenance Inspector (PMI). The FAA does not concur with the commenter's suggestion. Where parts equivalency (or repair) data does not exist, it is essential that the FAA have feedback as to the type of parts being installed (or repairs being made). The FAA has determined that the Manager of the Standardization Branch should approve any such deviations to AD requirements. Given that possible new relevant issues might be revealed during this process, it is imperative that the FAA, at this level, have such feedback. Only by reviewing deviation approvals, can the FAA be assured of this feedback and of the adequacy of the installed parts (or repair methods).

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

It is estimated that 66 airplanes of U.S. registry will be affected by this AD, that it will take approximately 52 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $137,280.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Applies to Model A300 series airplanes, as listed in Airbus Industrie Service Bulletins A300–53–241 and A300–53–243, both dated February 3, 1989; and A300–53–244, Revision 1, dated January 25, 1989, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural capability of the wing center box, accomplish the following:

A. Prior to the accumulation of the number of landings indicated below, or within 750 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals indicated below, perform an ultrasonic or visual inspection of the rear spar underneath the internal angle at Rib 1 area, in accordance with Airbus Industrie Service Bulletin A300–53–241, dated February 3, 1989.

1. For airplanes identified as Configuration 1 in the service bulletin, the initial inspection must be performed prior to the accumulation of 17,000 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 7,700 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 5,200 landings.

2. For airplanes identified as Configuration 2 in the service bulletin, the initial inspection must be performed prior to the accumulation of 18,800 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 7,700 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 5,200 landings.

3. For airplanes identified as Configuration 3 in the service bulletin, the initial inspection must be performed prior to the accumulation of 26,100 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 14,700 landings.

b. If the immediately preceding inspection was performed by visual inspection, the next inspection must be performed within 11,000 landings.

4. For airplanes identified as Configuration 4 in the service bulletin, the initial inspection must be performed prior to the accumulation of 19,600 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 11,100 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 8,300 landings.

5. For airplanes identified as Configuration 5 in the service bulletin, the initial inspection must be performed prior to the accumulation of 42,400 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 22,100 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 12,400 landings.

B. If cracks are found as a result of the inspections required by paragraph A., above, repair prior to further flight, in accordance with Airbus Industrie Service Bulletin A300–53–241, dated February 3, 1989. Repeat inspections thereafter at intervals specified in paragraph A., above.

C. Prior to the accumulation of the number of landings indicated below, or within 750 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals indicated below, perform an ultrasonic or visual inspection of the forward rear lower panel left-hand and right-hand stringers at crossing areas, in accordance

with Airbus Industrie Service Bulletin A300-53-243, dated February 3, 1989.

1. For airplanes identified as Configuration 1 in the service bulletin, the initial inspection must be performed prior to the accumulation of 26,500 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 11,000 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 5,100 landings.

2. For airplanes identified as Configuration 3 in the service bulletin, the initial inspection must be performed prior to the accumulation of 24,600 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 10,500 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 5,000 landings.

3. For airplanes identified as Configuration 5 in the service bulletin, the initial inspection must be performed prior to the accumulation of 18,100 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 7,700 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 3,700 landings.

4. For airplanes identified as Configuration 6 in the service bulletin, the initial inspection must be performed prior to the accumulation of 20,200 landings.

a. If the immediately preceding inspection was performed using ultrasound, the next inspection must be performed within 8,500 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 3,900 landings.

D. If cracks are found as a result of the inspections required by paragraph C., above, repair prior to further flight, in accordance with Airbus Industrie Service Bulletin A300-53-243, dated February 3, 1989. Repeat inspections thereafter at intervals specified in paragraph C., above.

E. Prior to the accumulation of the number of landings indicated below, or within 750 landings after the effective date of this AD, whichever occurs later, and thereafter at intervals indicated below, perform a rotating probe or visual inspection of all drain holes in the forward and rear lower panel stringers, in accordance with Airbus Industrie Service Bulletin A300-53-244, Revision 1, dated January 25, 1989.

1. For airplanes identified as Configuration 1 in the service bulletin, the initial inspection must be performed prior to the accumulation of 20,600 landings.

a. If the immediately preceding inspection was performed using rotating probe, the next inspection must be performed within 17,800 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 13,700 landings.

2. For airplanes identified as Configuration 3 in the service bulletin, the initial inspection must be performed prior to the accumulation of 15,200 landings.

a. If the immediately preceding inspection was performed using rotating probe, the next inspection must be performed within 13,100 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 10,300 landings.

3. For airplanes identified as Configuration 4 in the service bulletin, the initial inspection must be performed prior to the accumulation of 17,600 landings.

a. If the immediately preceding inspection was performed using rotating probe, the next inspection must be performed within 15,900 landings.

b. If the immediately preceding inspection was performed visually, the next inspection must be performed within 11,900 landings.

F. If cracks are found as a result of the inspections required by paragraph E., above, repair prior to further flight, in accordance with Airbus Industrie Service Bulletin A300-53-244, Revision 1, dated January 25, 1989. Repeat inspections thereafter at intervals specified in paragraph E., above.

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

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

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

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

This amendment becomes effective February 23, 1990.

Issued in Seattle, Washington, on January 8, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 90-1045 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26102; Amdt. No. 1417]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs

Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on January 5, 1990.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—[AMENDED]

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

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

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

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

Effective March 8, 1990

Springdale, AR—Springdale Muni, ILS RWY 18, Amdt. 2

Oxnard, CA—Oxnard, ILS RWY 25, Amdt. 6

Sidney, NE—Sidney Muni, VOR/DME or TACAN RWY 12, Amdt. 3

Sidney, NE—Sidney Muni, VOR/DME or TACAN RWY 30, Amdt. 3

Beaumont/Port Arthur, TX—Jefferson County, VOR/DME or TACAN, RWY 34, Amdt. 6

Beaumont/Port Arthur, TX—Jefferson County, VOR RWY 12, Amdt. 8

Beaumont/Port Arthur, TX—Jefferson County, VOR-A, Amdt. 6

Beaumont/Port Arthur, TX—Jefferson County, VOR-B, Amdt. 6

Beaumont/Port Arthur, TX—Jefferson County, VOR-C, Amdt. 5

Beaumont/Port Arthur, TX—Jefferson County, VOR/DME-D, Amdt. 2

Beaumont/Port Arthur, TX—Jefferson County, NDB RWY 12, Amdt. 18

Ashland, VA—Hanover County Muni, LOC RWY 16, Orig.

Ashland, VA—Hanover County Municipal, SDF RWY 16, Amdt. 2, CANCELLED

Effective February 8, 1990

Ottumwa, IA—Ottumwa Industrial, VOR/DME RWY 13, Amdt. 6

Ottumwa, IA—Ottumwa Industrial, VOR RWY 31, Amdt. 14

Ottumwa, IA—Ottumwa Industrial, LOC/DME BC RWY 13, Amdt. 2

Ottumwa, IA—Ottumwa Industrial, ILS RWY 31, Amdt. 4

Ottumwa, IA—Ottumwa Industrial, RNAV RWY 22, Amdt. 3

Bunkie, LA—Bunkie Muni, VOR/DME-A, Amdt. 2

Patterson, LA—Harry P. Williams Memorial, LOC/DME RWY 23, Amdt. 1

Patterson, LA—Harry P. Williams Memorial, NDB RWY 5, Amdt. 7

Cabool, MO—Cabool Memorial, VOR/DME RWY 21, Amdt. 2

Cabool, MO—Cabool Memorial, NDB RWY 3, Amdt. 2

Cabool, MO—Cabool Memorial, NDB RWY 21, Amdt. 2

Festus, MO—Festus Meml, NDB RWY 36, Amdt. 2

Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, VOR RWY 3, Amdt. 3

Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, NDB RWY 21, Amdt. 5

Marshall, MO—Marshall Meml Muni, NDB RWY 18, Amdt. 1

Marshall, MO—Marshall Meml Muni, NDB RWY 36, Amdt. 1

St. Louis, MO—Spirit of St. Louis, VOR RWY 8R, Amdt. 5

St. Louis, MO—Spirit of St. Louis, VOR RWY 26L, Amdt. 3

St. Louis, MO—Spirit of St. Louis, LOC RWY 26L, Amdt. 2

St. Louis, MO—Spirit of St. Louis, NDB RWY 8R, Amdt. 8

St. Louis, MO—Spirit of St. Louis, ILS RWY 8R, Amdt. 9

St. Louis, MO—Spirit of St. Louis, RNAV RWY 26L, Amdt. 3

Columbus, NE—Columbus Muni, VOR RWY 14, Amdt. 13

Columbus, NE—Columbus Muni, VOR RWY 32, Amdt. 13
Columbus, NE—Columbus Muni, VOR/DME RWY 32, Amdt. 2
Columbus, NE—Columbus Muni, LOC RWY 14, Amdt. 6
Columbus, NE—Columbus Muni, NDB RWY 14, Amdt. 12
Greenville, NC—Pitt-Greenville, SDF RWY 19, Amdt. 5 CANCELLED
Greenville, NC—Pitt-Greenville, ILS RWY 19, Orig.

Effective January 2, 1990

Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 10R, Amdt. 5

Effective December 7, 1989

Fresno, CA—Fresno Air Terminal, ILS RWY 29R, Amdt 32
Ontario, CA—Ontario Intl, NDB RWY 26L, Amdt. 3

[FR Doc. 90-1046 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

28 CFR Part 0

Appendix to Subpart R, Redelegation of Functions, Section 10, Deputization of State and Local Law Enforcement Officers; Delegation of Authority to DEA Official

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This final rule amends DEA regulations relating to the redelegation of functions to authorize the Deputy Assistant Administrator for Investigative Support, DEA, to deputize state and local law enforcement officers as Task Force Officers of DEA pursuant to 21 U.S.C. 878(a).

EFFECTIVE DATE: January 17, 1990.

FOR FURTHER INFORMATION CONTACT: William R. Nelson, Chief, Task Force Section, Office of Investigative Support, DEA, (202) 307-8918 (FTS 367-8918).

SUPPLEMENTARY INFORMATION: The Controlled Substances Act, as amended, 21 U.S.C. 878(a), provides that any state or local law enforcement officer designated by the Attorney General may exercise the powers of Federal law enforcement personnel. The Attorney General has delegated the functions vested in him by that Act to the Administrator of DEA. 28 CFR 0.100(b). The Attorney General has also authorized the Administrator to redelegate those functions to any of his subordinates. 28 CFR 0.104.

The Administrator certifies that this action will have no impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U S C. 601). Pursuant to sections 1(a)(3) and 1(b) of E.O 12291, this rule is not a major rule and relates only to the organization of functions within DEA. Accordingly, it has not been reviewed by the Office of Management and Budget. This action has been analyzed in accordance with E.O 12616 and it has been determined that this matter has no federalism implications which would warrant the preparation of a Federalism Assessment.

By virtue of the authority vested in the Administrator of DEA by 28 CFR 0.100 and 0.104, the following section is added to title 28, appendix to subpart R, Redelegation of Functions, of the Code of Federal Regulations.

List of Subjects in 28 CFR Part 0

Organization of the Department of Justice, Drug Enforcement Administration, Redelegation of authority.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 is revised to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 3624, 4001, 4041, 4042, 4044, 4082, 4201 et seq., 4241 et seq., 6003(b); 21 U.S.C. 871, 878(a), 881(d), 904, 965; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108; 50 U.S.C. App. 2001-2017p; Pub. L. 91-513, sec. 501; E.O. 11919; E.O. 11267; E.O. 11300.

2. The Appendix to subpart R is amended by adding section 10 as follows:

Subpart R—Drug Enforcement Administration

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 10. Deputization of State and Local Law Enforcement Officers. The Deputy Assistant Administrator for Investigative Support is authorized to exercise all necessary functions with respect to the deputization of state and local law enforcement officers as Task Force Officers of DEA pursuant to 21 U.S.C. 878(a).

Date: January 9, 1990.

John C. Lawn,
Administrator, Drug Enforcement Administration

[FR Doc. 90-987 Filed 1-16-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 90-002]

33 CFR Parts 100 and 165

Safety and Security Zones

AGENCY: Coast Guard, DOT

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between October 1, 1989 and December 31, 1989 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the past published list.

ADDRESSES: The complete text of any temporary regulation may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-LRA-2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Executive Secretary, Marine Safety Council at (202) 267-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not required to

place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1989 through December 31, 1989 unless otherwise indicated.

Docket No.	Location	Type	Date
1-89-124	East Passage, Narragansett Bay, R.I.	Safety Zone	9 November 89.
1-89-130	East River, N.Y., N.Y.	Safety Zone	24 October 89.
1-89-133	Westchester Creek, N.Y., N.Y.	Safety Zone	10 November 89.
1-89-134	Upper Bay, N.Y., N.Y.	Safety Zone	10 November 89.
1-89-135	Upper Bay, N.Y., N.Y.	Safety Zone	10 November 89.
1-89-137	Flushing Bay, N.Y., N.Y.	Safety Zone	16 November 89.
1-89-138	Upper Bay, Gowanus Canal, N.Y., N.Y.	Safety Zone	16 November 89.
1-89-150	Norwich, CT.	Safety Zone	20 December 89.
7-89-03	Biscayne Bay, FL.	Security Zone	17 November 89.
7-89-49	Atlantic Intracoastal Waterway, S.C.	Drawbridge Operation	20 November 89.
7-89-58	Charleston Harbor, Charleston, S.C.	Safety Zone	30 November 89.
7-89-57	City of Stuart	Special Local	07 December 89.
7-89-60	City of Fort Lauderdale	Special Local	12 December 89.
9-89-03	Lake Michigan at Chicago Harbor	Security Zone	17 November 89.
9-89-02	Lake Superior—Keweenaw Point, MI	Security Zone	04 December 89.
13-89-05	Moving Safety Zone	Safety Zone	18 October 89.
13-89-06	Moving Safety Zone	Safety Zone	26 October 89.
13-89-08	Moving Safety Zone	Safety Zone	26 October 89.

Dated: January 10, 1990.

Bruce P. Novak,

Executive Secretary, Marine Safety Council.

[FR Doc. 90-991 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD11-89-20]

Termination of Regulated Navigation Area; San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is terminating the regulated navigation area requiring mandatory participation in the Vessel Traffic Service system that has been in effect since October 25, 1989 in San Francisco Bay. The regulated navigation area had been established due to the increase in vessel ferry traffic operating in the Bay while the normal traffic corridors in the Bay area were closed for repair of damage sustained in the October 17 earthquake. Now that many of the normal traffic corridors have reopened and the increased volume of vessel ferry traffic has subsided, the regulated navigation area is no longer required. The San Francisco Vessel Traffic Service is returned to a system of voluntary compliance.

EFFECTIVE DATE: The regulated navigation area which became effective on October 25, 1989 (CGD11-89-20) is cancelled effective January 8, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Van Houten, Eleventh Coast Guard District Aids to Navigation and Waterways Management Branch, Long Beach, California. Telephone number (213) 499-5414.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553 a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since the need for the regulated navigation area no longer exists.

Drafting Information

The drafters of this regulation are Mr. Mike Van Houten, project officer for the Eleventh District Aids to Navigation and Waterways Management Branch, and Lieutenant Allen Lotz, project attorney for the Eleventh District Legal Office.

This regulation was issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Safety measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

§ 165.T1193 [Removed]

2. Section 165.T1193 is removed in its entirety.

Dated: January 8, 1990.

J.W. Kime,

Commander, Eleventh Coast Guard District.

FR Doc. 90-990 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 755

RIN 1850-AA34

National Program for Mathematics and Science Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR part 755 to add the Office of Management and Budget (OMB) control

number to § 755.32 of the regulations. This section contains information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: Section 755.32 and this amendment are effective on January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Richard LaPointe, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue NW., Room 522, Washington, DC 20208-5524, Telephone: (202) 357-6496.

SUPPLEMENTARY INFORMATION: On August 10, 1989, final regulations for the National Program for Mathematics and Science Education were published in the Federal Register at 54 FR 32946. The effective date of § 755.32 of these regulations was delayed until information collection requirements contained in this section were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and this section of the regulations is now effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(b)(3).

List of Subjects in 34 CFR Part 755

Historically underserved and underrepresented populations, Gifted and talented students, Grant programs—Education, Instruction, Mathematics, Reporting and recordkeeping requirements, Science.

Dated: January 9, 1990.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance No: 84.168, Mathematics and Science Education Programs)

The Secretary amends part 755 of Title 34 of the Code of Federal Regulations as follows:

PART 755—NATIONAL PROGRAM FOR MATHEMATICS AND SCIENCE EDUCATION

1. The authority citation for part 755 continues to read as follows:

Authority: 20 U.S.C. 2992, unless otherwise noted.

§ 755.32 [Amended]

2. Section 755.32 is amended by adding "(Approved by the Office of Management and Budget under control number 1850-0642)" following that section.

[FR Doc. 90-944 Filed 1-16-90; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP9E3737/R1048; FRL-3667-2]

Pesticide Tolerance for Fluazifop-Butyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for the residues of the herbicide fluazifop-butyl in or on the raw agricultural commodity macadamia nuts. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: This regulation becomes effective January 17, 1990.

ADDRESSES: Written objections, identified by the document control number, [PP9E3737/R1048], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 1, 1989 (54 FR 46081), EPA issued a proposed rule that gave notice that the the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 9E3737 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of Hawaii.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the herbicide (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (resolved isomer of fluazifop), both free and conjugated, and of butyl (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (resolved isomer of fluazifop-p-butyl), all expressed as fluazifop, in or on the raw agricultural commodity macadamia nuts at 0.10 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 21, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.411(c), by adding and alphabetically inserting the raw agricultural commodity macadamia nuts, to read as follows:

§ 180.411 Fluazifop-butyl; tolerances for residues.

* * * * *

(c) * * *

Commodities	Parts per million
* * * *	*
Macadamia nuts	0.1
* * * *	*

[FR Doc. 90-745; Filed 1-16-90; 8:45 am]

BILLING CODE 6560-50-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 74-14; Notice 63]

49 CFR Part 571

Evaluation Plan; Federal Motor Vehicle Safety Standards; Passenger Car Front Seat Occupant Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Evaluation plan for standard; Request for comments.

SUMMARY: This notice incorporates NHTSA's Evaluating Plan concerning Safety Standard No. 208, *Occupant Crash Protection.* Safety Standard No. 208 was amended on July 17, 1984 (49 FR 28962) to require the provision of automatic occupant protection in passenger cars on a phased-in basis beginning September 1, 1986. The Evaluation Plan consists of a series of data gathering and analysis projects scheduled for 1990-94. NHTSA will analyze the actual road experience of vehicles equipped with automatic occupant protection (automatic seat belts, air bags or other automatic devices) to measure the reduction of fatalities and injuries, observe operational performance and assess public acceptance and costs. The plan was developed in response to Executive Order 12291, which provides for Government-wide review of existing major Federal regulations. The agency seeks public review and comment on this evaluation plan. Comments received on the plan will be used to improve the evaluation required by Executive Order 12291.

DATE: Comments must be received no later than: May 16, 1990.

ADDRESSES: All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590 (202-366-4949). [Docket hours, 9:30 a.m.-4:00 p.m., Monday through Friday.]

FOR FUTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Standards Evaluation, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC, 20590 (202-366-1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 208 (49 CFR 571.208) requires automatic occupant protection for the front outboard seats of all passenger cars produced for sale in the United States after September 1, 1989. Now that Standard 208 has been implemented, it will be evaluated in accordance with Executive Order 12291. Three distinct types of automatic protection—air bags, 2 point belts and 3 point belts—are being produced in millions. The primary purpose of the evaluation is to determine their costs, benefits and performance. This evaluation plan summarizes the principal issues and questions to be asked about automatic occupant protection and the activities that NHTSA will undertake to address the issues.

Issues and Questions

The primary objectives of the evaluation are:

• To measure the actual overall effectiveness of automatic occupant protection in reducing fatalities and injuries in highway crashes.

• To observe the operational performance of automatic occupant protection and its effectiveness in specific crash situations.

• To assess the public acceptance, sales and utilization of automatic occupant protection.

• To assess the industrial consequences of Standard 208.

• To perform a cost analysis of automatic occupant protection, including manufacturing, repair, replacement and insurance cost effects.

These 5 general objectives subsume a larger number of specific issues and questions. Some issues that will have high priority throughout the evaluation are:

Fatality reduction. What is the overall fatality reducing effectiveness of air bags, 2 point belts and 3 point automatic belts—e.g., what is the fatality risk in cars with air bags relative to the risk in comparable cars with manual restraints? Also, what is the fatality risk of a person using a particular type of automatic occupant protection (air bag with belts, air bag only, 2 point belt with lap belt, 2 point belt only, 3 point automatic belt) relative to an unrestrained occupant? How many lives are saved?

Injury reduction. What is the overall injury reducing effectiveness of air bags, 2 point belts and 3 point automatic belts? Also, what is the injury risk of a person using a particular type of automatic occupant protection relative to an unrestrained occupant? The analyses should be performed for injuries exceeding a specified level of severity on the Abbreviated Injury Scale or the scales used by States.

Injury patterns. What specific types of injuries (body region, lesion, injury source; fatal and nonfatal) do people in crashes receive with automatic occupant protection? What sorts of injuries are occurring in contacts with deploying air bags? How do they compare with injuries that would have occurred if the occupants had been unrestrained or using manual belts?

Malfunctions. Are there any instances of automatic occupant protection not functioning properly in crashes, such as air bags not deploying in moderately severe frontals, occupant ejections with automatic belts when doors open in crashes, excessive automatic belt slack? Are there any malfunctions during normal vehicle operations, such as noncrash deployments, air bag diagnostic light problems, or automatic belt motor or retractor failures?

Usage. What are the initial and subsequent usage rates for various types of automatic belts? What is the usage rate for manual belts in cars with air bags and for normal lap belts in cars with 2 point automatic belts? Are automatic belts used in the "automatic" or "manual" mode? How do State buckle-up laws influence automatic belt use and manual belt use in air bag cars?

Cost and market analysis. How many cars are sold with each type of automatic occupant protection? What is the manufacturing cost of each system? What cost is passed on to the consumer?

What are the effects of the availability or price of automatic occupant protection on car sales? Are there adequate supplies of air bags and automatic belts?

Other issues and questions that should be addressed if possible are:

Effectiveness in specific situations. What is the fatality and injury reducing effectiveness of automatic occupant protection by crash mode (frontal, side impact, rollover, etc.)? At various levels of crash severity? For drivers vs. right front passengers? For occupants of unusual size, out-of-position occupants, or under extreme operating conditions?

Repair and replacement. How often are deployed air bags replaced? What is the cost of replacing them? To what extent is it paid by insurance companies? What is the frequency and cost of repairs to systems that malfunction or are damaged in crashes (e.g., belt motors)? Are there any routine maintenance costs?

Air bag issues. Do air bags pose any hazards (e.g., burns, abrasions) to persons exposed to deployments? How are underployed air bags disposed of when vehicles are scrapped? Do vehicle disposal techniques pose any health or environmental hazard? What is the frequency of air bag deployments in various makes and models? What types of crashes (speed, direction of force, etc.) result in deployments?

Background

Standard No. 208, "Occupant Crash Protection," includes a phase-in requirement for automatic occupant protection in passenger cars: 10 percent of all cars manufactured during the year beginning on 9/1/86, 25 percent of all cars built during the year beginning on 9/1/87, 40 percent of the next year's production, and all cars manufactured after 9/1/89. The phase-in has been completed as scheduled. Until 9/1/93, Standard 208 exempts the right front passenger position from automatic protection if an air bag (or other nonbelt technology) is installed for the driver; thereafter, automatic protection is required at both positions in all cars.

One factor that drives the evaluation and its timetable is the variety of automatic systems that are actually available on production vehicles and the number of cars sold with each type of automatic occupant protection. The more cars sold with a particular system, the sooner it will be possible to amass a large enough sample of observational or accident data for statistically meaningful results on belt usage, fatality reduction, etc. Since it is uncertain how many cars will be sold with each system in future years, it is impossible to provide an exact timetable on when statistically significant results might be achieved. At best, it is possible to review the numbers of cars that have already been sold and the manufacturers' projections for the immediate future.

Notwithstanding those words of caution, it is evident that three types of automatic occupant protection are likely to be produced by the millions during model year 1990, allowing a detailed evaluation shortly thereafter: driver air bags, motorized 2 points belts and nonmotorized 3 point belts. Nonmotorized 2 point belts will be produced in smaller numbers during 1990, but enough may have been sold in earlier years to allow a detailed evaluation. Passenger air bags are only beginning to appear by the hundreds of thousands and may be hard to evaluate until close to 1994. No other distinct technologies, such as "passive interiors," are currently near production. A further distinction among 2 point automatic belts is readily "detachable" vs. relatively "nondetachable" design.

The manufacturers' response during the 1987–90 phase-in period was as follows. During model year 1987, driver air bags were standard on all Mercedes-Benz cars and were available in smaller quantities on a few other cars. Passenger air bags were sold on several thousand Porsches. General Motors and Honda relied on 3 point automatic belts to meet the phase-in requirement. Ford and most of the Japanese manufacturers relied primarily on motorized 2 point belts, while Chrysler, Hyundai, Volkswagen and some other manufactures installed nonmotorized 2 point belts.

Since 1987, availability of driver air bags has steadily increased. In mid-1988, Chrysler phased out nonmotorized 2 point belts in favor of a mix of driver air bags and motorized belts; Chrysler is equipping most of their domestic production with driver air bags in model year 1990. Ford made air bags standard equipment on the Lincoln Continental in 1989 and is extending them to their Taurus/Sable, Crown Victoria/Grand Marquis and Mustang lines, plus all other Lincolns in 1990. GM is making driver air bags standard equipment on all Cadillacs and some other luxury and sports models in 1990. Honda (Acura), Volvo and BMW, among others, are making driver air bags standard equipment on some or all of their models.

The 1989 Lincoln Continental is the first domestic model with passenger air bags as standard equipment, followed by the Lincoln Town Car in 1990.

Table 1 shows the number of cars with automatic occupant protection actually sold through model year 1988, the estimated sales for 1989 and a projection for model year 1990 based on plans announced to date:

TABLE 1.—SALES OF CARS WITH AUTOMATIC OCCUPANT PROTECTION, 1987–90

	Before MY 87	MY 87	MY 88	Estimated MY 89	Projected MY 90
Driver air bag	79,000	132,000	206,000	528,000	2,900,000
Driver/passenger bag	12,000	4,000.	3,000	65,000	200,000
3 pt automatic belt	10,000	538,000	1,342,000	1,939,000	4,000,000
Motorized 2 pt belt	130,000	760,000	1,423,000	1,729,000	3,000,000
Nonmotorized 2 pt belt	450,000	186,000	262,000	391,000	400,000

Table 2 shows the cumulative number of cars on the road with automatic occupant protection:

TABLE 2.—CUMULATIVE SALES, 1987-90

	Thru 9/1/86	Thru 9/1/87	Thru 9/1/88	Thru 9/1/89	Thru 9/1/90
Driver air bag	79,000	211,000	417,000	845,000	3,845,000
Driver/passenger bag	12,000	16,000	19,000	84,000	284,000
3 pt automatic belt	10,000	548,000	1,890,000	3,919,000	7,919,000
Motorized 2 pt belt	130,000	890,000	2,313,000	4,042,000	7,042,000
Nonmotorized 2 pt belt	450,000	636,000	898,000	1,289,000	1,689,000

There already are over a million cars with driver air bags on the road and there are likely to be 4 million within a year. Passenger air bag installations are only a fraction of those numbers.

Table 3 indicates the cumulative exposure, in car years, with automatic occupant protection after 9/1/86 (when the Standard 208 phase-in requirement took effect):

TABLE 3.—CUMULATIVE EXPOSURE AFTER 9/1/86 (CAR YEARS)

	Thru 9/1/87	Thru 9/1/88	Thru 9/1/89	Thru 9/1/90
Driver air bag	145,000	459,000	1,140,000	3,535,000
Driver/passenger bag	14,000	32,000	83,000	267,000
3 pt automatic belt	279,000	1,498,000	4,357,000	10,276,000
Motorized 2 pt belt	510,000	2,112,000	5,289,000	10,831,000
Nonmotorized 2 pt belt	543,000	1,310,000	2,403,000	3,892,000

Cars without automatic occupant protection have an average of 12 driver and 4 right front passenger fatalities per 100,000 car years. In larger cars (the type most likely to get air bags during 1987-90), the rates drop to 8 and 2.67. Based on the exposure figures in Table 3, the number of fatalities that would be expected at the seat positions with automatic occupant protection are shown in Table 4:

TABLE 4.—EXPECTED FATALITY EXPERIENCE AFTER 9/1/86

	Thru 9/1/87	Thru 9/1/88	Thru 9/1/89	Thru 9/1/90
Driver air bag	12	37	91	283
Driver/passenger bag	1	3	9	28
3 pt automatic belt	45	240	697	1,644
Motorized 2 pt belt	82	338	846	1,733
Nonmotorized 2 pt belt	87	210	384	623

Statistically meaningful effectiveness estimates (for one of the types of automatic protection relative to cars with manual restraints) are possible when the "expected" number of fatalities reaches several hundred. Table 4 suggests that the three types of automatic belts already have those levels of experience. Driver air bags are likely to have them in mid-1990, while passenger bags will not even come close by 9/1/90.

Although statistically meaningful, these early estimates need to be treated with caution if the initial exposure with automatic protection is not representative of subsequent experience. For example, most of the early air bag cars are Mercedes, which have higher manual belt use rates and substantially different exposure patterns than the "average" car on the road. Similarly, the early data on automatic belts are limited to new cars, most of which were sold during the phase-in period, when customers could still choose new cars without automatic systems. Automatic belt use may change as the cars get older, as is the case with manual belts. It is not possible, at this time, to predict accurately what the average usage rate will be over the life of a car; effectiveness estimates will have to be updated year by year until they "stabilize."

Evaluation Projects

Each of the issues and questions needs to be addressed by at least one evaluation project. The high priority questions should be addressed by several projects, allowing a quick response followed by more detailed analyses. The scope of the projects comprises event notification, accident investigation, analysis, surveys and laboratory testing.

Event Notification

It is critically important for NHTSA to learn of notable crashes and noncrash events as quickly as possible, given available resources. The agency has many notification systems that are, essentially, already in place.

FARS air bag fatality census. Every fatal accident involving a car with an air bag gets onto the Fatal Accident Reporting System (FARS) within a few months at the latest and can be identified by the car's make, model and VIN. NHTSA will maintain a case file of these accidents, showing time, place and a description of the crash.

Media review. When events involving automatic crash protection (such as inadvertent deployments, ejections with automatic belts, etc.) are reported in the media and come to the attention of NHTSA personnel, they are entered in a case file which notes the date, place,

and description of the event, the information source, and NHTSA's subsequent investigtion findings, if any. NHTSA staff regularly scan selected print media (news clips, among others) for articles about such events.

Hotline review. When comments about the performance of automatic occupant protection are reported to NHTSA's hotline, they are entered in the case file described above.

Manufacturer notification. NHTSA communicates with the auto manufacturers and shares information on fatalities as well as other crash or noncrash events. When the manufacturer reports an event to NHTSA, it is entered in the case file described above.

Accident Investigation

The agency's own accident investigation capability consists of fixed and mobile contract teams. They provide detailed information available from FARS and State files.

NASS—intensified sampling of cars with automatic occupant protection. The National Accident Sampling System (NASS) has 36 teams who perform detailed accident investigations in a fixed sample of counties. Since July 1989, the teams have sampled a high proportion of crashes involving cars with automatic occupant protection. The data provide information on vehicle performance and injury sources.

In-depth accident investigation. NHTSA has 5 in-depth accident investigation teams which can be dispatched quickly to perform clinical investigations of individual accidents anywhere in the United States. In depth investigations may be useful in certain fatal, high severity or high interest crashes or in cases where automatic systems possibly did not perform according to design. In depth investigations might be triggered by information obtained through any of the notification systems described above.

Midlevel follow-up investigation. When an in-depth investigation is unnecessary, it may be appropriate to dispatch one investigator from one of the teams to the site or use the phone for interviews and to request copies of documents.

Accident Analysis

Statistical analysis of accident data is the basis for estimating the effectiveness of automatic occupant protection.

FARS data analysis. The Fatal Accident Reporting System (FARS) provides a census of fatal crashes involving cars with air bags and automatic belts. After adequate sample sizes have accumulated, the fatality rate, per million exposure years, will be calculated for drivers [passenger] of cars with driver [passenger] air bags [for motorized 2 point belts, or automatic 3 point belts, etc.] and compared to fatality rates of drivers [passengers] of similar cars with manual belts. "Similar" cars might be the same makes and models before they got automatic occupant protection, or comparable makes and models of the same model year which still had annual belts. That is one way of calculating the overall effectiveness of an automatic occupant protection system.

Standard 208 allows cars with driver air bags to have manual belts for right front passengers until 9/1/93, resulting in a unique opportunity to estimate effectiveness without recourse to exposure data. The ratio of driver to right front passenger fatalities is calculated in cars with driver air bags and manual belts for right front passengers; it is then compared to the ratio in cars with manual belts for drivers and right front passengers.

This method of analysis, called "double pair comparison," is also used to estimate the fatility reduction for an occupant using a specific automatic configuration (air bag plus manual belt, air bag only, 2 point belt with manual lap belt, 2 point belt without lap belt, 3 point automatic belt) relative to an unrestrained occupant.

FARS data analysis also provides information about the risk of ejection with automatic occupant protection and the effectiveness by crash mode, vehicle size and occupant age.

State data analysis. NHTSA maintains accident files for about half of the States. As many as 17 States could be used for the analysis, since they have make/model or VIN information, allowing the identification of the type of occupant protection. The injury rate, per 100 crash involved occupants of cars with air bags, motorized 2 points belts, etc, is compared to injury rates of occupants of similar cars with manual belts. Alternatively, the ratio of driver to right front passenger injuries is calculated in cars with driver air bags and manual belts for right front passengers; it is then compared to the ratio in cars with manual belts for drivers *and* right front passengers.

Three or four States, in addition to make/model or VIN information, specify the lesion and body region of the most severe injury, permitting statistical analyses of the injury patterns with various types of automatic protection and the effectiveness of air bags and automatic belts by injury type.

NASS and in-depth data analysis. The data will be used to analyze injury types and mechanisms with automatic occupant protection; performance of occupant protection hardware, such as the types of crashes where air bags deploy or the risk of ejection with automatic belts; belt use in crashes; and system performance in extremely severe crashes, unusual crash types or with occupants who are of unusual size or out of position. The analysis is initially based on detailed case by case review, proceeding to statistical methods as the NASS file grows.

Other Projects and Analyses

Other projects needed for the evaluation of automatic occupant protection include a belt use survey, cost and market analyses, acquisition of sales and registration data, insurance analyses and laboratory testing.

Survey of belt usage on the road. Automatic (and manual) belt usage is observed periodically in 19 metropolitan areas throughout the United States. Trained observers look into cars stopped at intersections. In addition to recording belt usage, they write down license plate numbers, which are submitted to State motor vehicle departments to obtain accurate information about the car's make, model, model year and type of occupant protection. Usage is tabulated by type of automatic belt (motorized 2 point, nonmotorized 2 point, 3 point; detachable vs. nondetachable) and by make, model and age of the car. Automatic belt use will be compared in States with and without belt use laws. Manual lap belt usage is observed in cars with 2 point automatic belts; belt usage is also recorded in cars with air bags. Statistics are computed on a quarterly, semiannual or annual basis, depending on the level of detail.

Cost analysis. The incremental cost and weight of automatic occupant protection is estimated by acquiring actual systems, tearing them down to their individual components, and identifying the cost of materials, direct labor and indirect costs. Estimates have already been obtained for systems in model year 1987 cars, including Mercedes and Ford driver air bags and 7 automatic belt systems. Cost estiamtes will be obtained for Chrysler driver air bags, Lincoln driver and passenger bags, plus other designs introduced after 1987.

Market analysis. The effect of automatic occupant protection on car purchase decisions is addressed by a market data analysis. Sales data will be analyzed by make, model and model year to see if sales data will be analyzed by make, model and model year to see if sales are influenced by the availability

and type of automatic protection and/or purchase price increases attributed to occupant protection.

Sales and registration data. Data from R.L. Polk, acquired on an annaul or monthly basis, are used for tallying cars sales by make, model and model year, supplying exposure data needed in calculations of fatality rates per million vehicle years.

Insurance analyses. NHTSA will monitor the trends in insurance premium discounts offered to purchasers of cars with air bags or automatic belts. Additionally, NHTSA may analyze no-fault Personal Injury Protection claim rates and compare the results for various types of automatic occupant protection with manual belts, subject to the availability of such data from the insurance industry.

Laboratory testing. When the operational experience with automatic occupant protection raises questions or issues about performance (e.g., air bag "burns," ejections with automatic belts), laboratory tests may be conducted on a quick respone basis to simulate the phenomenon observed on the highway and explain it.

Studies Completed to Date

The following evaluation projects have been completed as of January 1990 and serve as a reference base for future analyses:

• Air bag effectiveness projections in the Final Regulatory Impact Analysis for Standard No. 208, based on case-by-case analyses of unrestrained fatalities. It was projected that air bags with a manual lap/shoulder belt could reduce fatality risk by 45–55 percent, relative to an unrestrained occupant, while air bags alone could reduce fatality risk by 20–40 percent (49 FR 28985).

• Automatic belt effectiveness analyses, based on FARS and State data, for cars which had automatic belts prior to Standard No. 208. Based on these analyses, it was projected that automatic belts could reduce fatality risk by 35–50 percent, relative to an unrestrained occupant (49 FR 28985).

• Case history files for Government and other air bag fleets

• Automatic belt use, during the phase-in period, based on 19 city survey. In 1988, automatic belt usage ranged from 77 percent with a 3 point system to 98 percent with a motorized, nondetachable 2 point system. Manual belt use in comparable cars was 58 percent.

• A public survey on knowledge and attitudes about occupant protection was conducted in 1986, just before the phase-in period of Standard 208. At that time, over 90 percent of the public had heard of air bags while only 40 percent had heard of automatic belts.

• Reports to Congress titled, "Industry and Consumer Response to New Federal Motor Vehicle Safety Requirements for Automatic Occupant Protection," Phase I and Phase II. Phase I is a manufacturer survey to determine the types of automatic occupant protection planned for model year 1987 (1st year of phase-in for automatic protection). Phase II is an owner survey of new 1987 cars with automatic belts and a market analysis for model year 1987.

The survey indicated that buyers of 1987 cars with automatic belts preferred them over manual belts by a 3 to 1 margin; no specific type of automatic belt system emerged as a clear preference over the others, although motorized systems had slightly higher owner ratings than the others; 90 percent of purchasers of automatic belt cars said that the belts were not a factor in their purchase decision; 86 percent of users of automatic 3 point belts (GM, Honda) said they disconnected the automatic system and used them as manual belts. In general, the survey showed a good consumer reaction to automatic belts in model year 1987, when they were installed on 10 percent of new cars.

• The comfort and convenience of automatic belt systems was evaluated during the phase-in period (1988–89). A sample of volunteers took turns sitting in the cars and trying out the belts. They were asked a series of questions pertaining to the comfort and convenience of the belts. All of the automatic belt systems had some comfort and convenience problems, but the 2 point motorized systems had the fewest.

• A cost analysis of automatic belts and driver air bags available on model year 1987 cars showed a range of $178–290 for the belts (driver plus passenger) and $308–380 for air bags (driver only).

• Sales data, by type of automatic occupant protection, for the 1987–89 phase-in period and projections for 1990

Future Products and Milestones

The following evaluation products are scheduled for completion during 1990–94, given current sales trends and expected availability of resources:

1990

• A chronological listing of air bag fatal crashes to date, as reported in FARS, with a brief description of the crash, based on FARS data plus any follow-up investigation

• A listing and description of events involving automatic occupant protection, as reported to NHTSA through the media, Hotline, manufacturers, etc.

• A discussion paper on air bag performance in low speed crashes, based on crash experience and, possibly, laboratory testing

• A discussion paper on ejection risk with automatic belts

• Early estimates of fatality reduction for driver air bags, based on FARS (double pair comparison and "conventional" analysis methods). These estimates are still based on fairly small samples and may not be representative of later experience since the sample is still heavily Mercedes and other luxury cars.

• Early estimates of fatality and injury reduction for cars with 2 and 3 point automatic belts, relative to similar cars with manual belts, based on FARS and State data. The estimates may change in subsequent years if belt use changes as the cars get older.

• Automatic belt use by model year and type of automatic belt, based on the 19 city survey; also, manual belt use in air bag cars and lap belt use in cars with 2 point automatic belts

• Sales statistics by type of automatic occupant protection

• Market analysis for model years 1987–90

1991

• Cost analysis of Chrysler driver air bags, Lincoln front seat air bags and other systems introduced in model years 1988–91

• A discussion paper on the effectiveness of automatic occupant protection by type of crash and type of injury, based on case-by-case analyses of NASS and in-depth accident investigations

• Updated chronological listings of air bag fatal crashes reported in FARS and other events involving automatic occupant protection, as reported to NHTSA through the media, Hotline, manufacturers, etc.

• Updated estimates of fatality reduction for driver air bags, based on FARS. The samples are substantially larger than the preceding year's but luxury cars are still overrepresented.

• Updated estimates of fatality and injury reduction for cars with 2 and 3 point automatic belts, based on FARS and State data. The estimates may change in subsequent years if belt use changes as the cars get older.

• Updated belt use statistics, based on the 19 city survey

• Sales statistics

1992

• Statistical analyses of the effectiveness of various types of automatic occupant protection "when used," relative to the unrestrained occupant, based on NASS, FARS and State data

• Reliable estimates of fatality reduction for driver air bags, based on FARS. The samples are large and likely to be representative of the "long term" air bag fleet.

• Initial estimates of fatality reduction for passenger air bags, based on FARS

• Updated estimates of fatality and injury reduction for cars with 2 and 3 point automatic belts, based on FARS and State data. The estimates may have stabilized by now or might still change in subsequent years.

• Analysis of the effectiveness of automatic occupant protection in reducing insurance claims for personal injury protection

• Market analysis for model years 1987–92

• Updated belt use statistics, based on the 19 city survey

• Sales statistics

1993

• Updated estimates of fatality and injury reduction, based on FARS, NASS and State data

• Updated belt use statistics, based on the 19 city survey

• Sales statistics

1994

• Market analysis for model years 1987–94

• Updated estimates of fatality and injury reduction, based on FARS, NASS and State data

• Updated belt use statistics, based on the 19 city survey

• Sales statistics

NHTSA welcomes public review of the evaluation plan and invites the public to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on: January 9, 1990.

Michael M. Finkelstein,

Acting Associate Administrator for Plans and Policy.

[FR Doc. 90–974 Filed 1–16–90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 91158-9258]

Foreign Fishing; Corrections

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

ACTION: Final rule; technical amendment; corrections.

SUMMARY: This document corrects telephone numbers for the Director, Southwest Region and the Director, Southwest Fisheries Center that were incorrect in a housekeeping rule, technical amendment, to the foreign fishing regulations published November 16, 1989 (54 FR 47680). A correction to this rule that corrected typographical errors made in publication was published December 5, 1989 (54 FR 50306).

FOR FURTHER INFORMATION CONTACT: Patricia Gerrior (Chief, Foreign and Domestic Sea Sampling Investigation), 508–548–5123, ext. 291.

In rule document 89–26956 beginning on page 47680 in the issue of November 16, 1989, make the following corrections:

PART 611—[AMENDED]

Appendix A to Subpart A—[Corrected]

1. On page 47681, in Table 1, in the first column, in the 18th line of text, "(213) 548–2575" should read "(213) 514–6196".

2. On the same page, in the same table, in the second column, in the 19th line of text, "(619) 453–2820" should read "(619) 546–7000".

Dated: January 9, 1990.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 90–1013 Filed 1–16–90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 11
Wednesday, January 17, 1990

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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3705-5]

Alternative Emission Control Plan for Union Carbide Corp. Taft Plant, Hahnville, LA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; extension of the public comment period.

SUMMARY: On November 17, 1989 (54 FR 47793), EPA invited comment on the proposed disapproval of the Union Carbide Corporation Taft Plant Alternative Emission Reduction Plan ("Bubble") as a revision to the Louisiana State Implementation Plan (SIP). At the request of Union Carbide, in a letter dated December 13, 1989, EPA is extending the public comment period until January 18, 1990, to allow additional time to develop comments on the issues presented in the proposed rulemaking. This will be the final extension request granted for this action.

DATE: Comments may be submitted to EPA at the address below, until January 18, 1990.

ADDRESS: Comments should be submitted to: Bill Riddle, State Implementation Plan Section (6T-AN), EPA Region 6, 1445 Ross Ave., Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Bill Riddle at (214) 655-7214 or FTS 255-7214.

Dated: January 5, 1990.

Joe D. Winkle,

Acting Regional Administrator (6D).

[FR Doc. 90-1070 Filed 1-16-90; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Programs for Assistance to Museums

AGENCY: Institute of Museum Services, HFAH.

ACTION: Proposed regulations.

SUMMARY: The Institute of Museum Services issues a proposed amendment to its regulations governing museum assessments. 45 CFR 1180.70-1180.76. The funding ceiling established for this grand program is not adequate for new types of technical assistance that will be made available through this grant program during fiscal year 1990 and subsequent fiscal years Consequently, the Director will set the ceiling at a level appropriate to the type of technical assistance provided, in accordance with the policy direction of the National Museum Services Board and in consultation with the professional organization designated as the program facilitator.

The Institute of Museum Services issues a proposed amendment to its regulations governing the requirement of audited financial statements. 45 CFR 1180.11(c)(4). The amendment makes permanent the authority to defer the audit for small museums.

DATES: Comments must be received on or before February 16, 1990.

ADDRESSES: Comments should be addressed to Daphne Murray, Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Program Director; Telephone: (202) 786-0539.

SUPPLEMENTARY INFORMATION:

General Background

The Museum Services Act ("the Act") Title II of the Arts, Humanities and Cultural Affairs Act of 1976, as amended, establishes an Institute of Museum Services (IMS). IMS is an independent agency placed in the National Foundation on the Arts and the Humanities. The purpose of the Act is stated in section 202, in pertinent part, as follows:

It is the purpose of the Museum Services Act * * * to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage * * *

The Act lists a number of illustrative activies for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public.

The Need for the Amendment

The Institute's regulations contain provisions relating to the Institute's Museum Assessment Program, which has been conducted since fiscal year 1981. 45 CFR 1180.70-1180.76. MAP is designed to assist museums in carrying out institutional assessments. Grants enable museums to obtain technical assistance in order to evaluate their programs and operations according to generally accepted professional standards. A museum which receives a grant under the program requests assessment through an appropriate professional organization, a term which is defined in the Institute's regulations. See 45 CFR 1180.74(b).

Under present regulations, the amount of a grant to a museum may not exceed $1,400. 45 CFR 1180.73(b). The National Museum Services Board has determined that this ceiling, which was set in 1986, may not meet the reasonable costs of assessment offered under additional initiatives. The Board has, therefore, determined that the ceiling should be established in accordance with the category of museum assessment in question in order to facilitate operation of each type of assessments.

Currently, there are four types of assessments available: (1) A broad assessment of all of the museum's operations and programs; (2) an assessment of the museum's collections management policies; (3) an assessment of the museum's public relations; and (4) a general conservation survey of the museum's collections and environment.

The purpose of the amendment set forth below is to remove the fixed limitation on the ceiling as set forth in current regulations in order to provide for greater flexibility in accordance with the above-described policy determination of the Board. IMS believes that the program has been successful in achieving its stated

objectives and in carrying out the purposes of the Museum Services Act for many museums which otherwise could not be reached by other forms of assistance available under the Act. Accordingly, IMS believes that the amendment will contribute significantly to meeting the purposes of the Act.

The authority in 45 CFR 1180.11(c)(4) to defer the audit requirement for applicants with operating budgets under $50,000 is subject to a time limitation. The proposed amendment eliminates the time limitation and makes permanent the authority of the Director to defer the audit requirement for those museums. IMS believes that granting such a deferral lessens the burden on those applicants without being inequitable to other applicants and that it is therefore appropriate to continue that authority.

Executive Order 12291

This amendment has been reviewed in accordance with Executive Order 12291. It is classified as non-major because it does not meet criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Director certifies that the amendment will not have a significant economic impact on a substantial number of small museums. To the extent that it affects States and State agencies it will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act. The amendment will affect certain museums receiving federal financial assistance under the Museum Services Act. However, it will not have significant economic impact on the small entities affected because it does not impose excessive regulatory burdens or require unnecessary federal supervision.

Paperwork Reduction Act of 1980

These regulations do not contain information collection requirements under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed amendment. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before 30 days will be considered before final regulations are issued.

All comments submitted in response to the proposed amendments will be available for public inspection, during and after the comment period, at the Institute of Museum Services, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC between the hours of 9 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

Dated: January 11, 1990.

Daphne Murray,

Director, Institute of Museum Services.

(Catalog of Federal Domestic Assistance No. 45.301, Museum Services Program)

The Institute of Museum Services proposes to amend part 1180 of title 45 of the Code of Federal Regulations as set forth below:

PART 1180—[AMENDED]

1. The authority citation for part 1180 continues to read as follows:

Authority: 20 U.S.C. 961 et seq.

§ 1180.73 [Amended]

2. Revise § 1180.73(b) to read as follows:

* * * * *

(b) The amount of a grant to a museum under this subpart will be determined by the Director, in accordance with the policy direction of the Board regarding the maximum amount of a grant to be awarded for the various categories of assistance under this subpart and in consultation with the appropriate professional organization arranging for the assessment in question.

* * * * *

§ 1180.11 [Amended]

3. Revise 1180.11(c)(4) to read as follows:

* * * * *

(c) * * *

(c)(4) The Director is authorized to defer the audit requirement set forth in paragraph (c)(2) in the case of a museum with non-federal operating income of $50,000 or less, exclusive of the value of non-cash contributions (in the fiscal period preceding the fiscal period for which the deferral is requested) if the Director finds that exceptional circumstances justify a deferral and that the grant of the deferral will not be inequitable to other applicants. A deferral may be granted only upon those conditions and in light of those assurances which the Director deems appropriate in order to ensure that the purposes of this paragraph are achieved.

[FR Doc. 90-1035 Filed 1-16-90; 8:45 am]

BILLING CODE 7036-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 252

Department of Defense Federal Acquisition Regulation Supplement; Acquisition of Carbon Fiber Manufactured from Domestic-Sourced Polycrylonitrile (PAN) Precursor

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council is considering amending DFARS parts 208 and 252 to add coverage to implement section 8088 of Pub. L. 100-202, which directs the Secretary of Defense to take action necessary to assure that a minimum of 50 percent of the DoD Polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992. The annual goals to achieve this requirement are as follows: 15 percent of the total DoD requirement by 1988; 15 percent by 1989; 20 percent by 1990; 25 percent by 1991; and 50 percent by 1992.

DATE: Comments concerning the proposed rule must be received by March 19, 1990 to be considered in formulating a final rule. Please cite DAR Case 89-108 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mrs. Barbara J. Young, Procurement Analyst, DAR Council, ODADS(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara J. Young, Procurement Analyst, DAR Council, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

It is proposed that DFARS parts 208 and 252 be amended to add coverage to implement section 8088 of Pub. L. 100-202, which directs the Secretary of Defense to take action necessary to assure that a minimum of 50 percent of the DoD Polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992. The annual goals to achieve this requirement are as follows: 15 percent of the total DoD requirement by 1988; 15 percent by 1989; 20 percent by 1990; 25 percent by 1991; and 50 percent by 1992.

B. Regulatory Flexibility Act

The proposed rule is not exected to have a significant economic impact upon

a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq. An initial regulatory flexibility analysis has, therefore, not been performed. Coments are invited from small business and other interested parties. Comments from small entities concerning the affected DFARS part will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DAR Case 89-610 in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any recordkeeping or information collection requirements outside of the Government. Therefore, OMB approval under 44 U.S.C. 3501, et seq. is not required.

List of Subejcts in 48 CFR Parts 208 and 252

Government procurement.

Lucile V. Hughes,
DAR System Analyst, Defense Acquisition, Regulatory Council.

Therefore, it is proposed that 48 CFR parts 208 and 252 be amended as follows:

1. The authority citation for 48 CFR parts 208 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 500.35, and DoD FAR Supplement 201.301.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 208.002-71 is added to read as follows:

208.002-71 Acquisition of carbon fiber manufactured from domestic-sourced Polyacrylonitrile (PAN) Precursor.

(a) Section 8088, Pub. L. 100-202, requires the Secretary of Defense to take such action as necessary to assure by fiscal year 1992 that a minimum of 50% of the annual DoD requirements for carbon fibers shall be manufactured from domestic-sourced polyacrylonitrile (PAN) precursor.

(b) Contracting officers may waive this requirement with approval of the Senior Acquisition Executive (SAE). Approval of a waiver should be based on circumstances such as:

(1) No domestic source,

(2) Domestic source available, but cannot meet scheduling requirements.

(c) The clause at DFARS 252.208-7008 shall be inserted in all major system acquisition programs (as defined in FAR part 34) not yet in production (Milestone III as defined in Section D of DoD Instruction 5000.2, dated September 1, 1987), as of July 14, 1989.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.208-7008 is added to read as follows:

252.208-7008 Acquisition of carbon fiber manufactured from domestic-sourced Polyacrylonitrile (PAN) Precursor.

As prescribed in DFARS 208.002-71, insert the following clause.

ACQUISITION OF CARBON FIBER MANUFACTURED FROM DOMESTIC-SOURCED POLYACRYLONITRILE (PAN) PRECURSOR (1990)

(a) Definitions.

"Domestic source" means manufacturers or producers in the United States and Canada. The term "United States" is defined in FAR 25.101.

(b) This clause applies only if the supplies furnished under this contract contain PAN based carbon fibers (alternately referred to as PAN based graphite fibers).

(c) Materials and components comprised of polyacrylonitrile (PAN) carbon fibers contained in the deliverable product of this contract are required to be comprised of PAN fiber produced by domestic sources.

(d) The requirement in paragraph (c) above may be waived in whole or in part by the Contracting Officer. The waiver request shall include a justification and a plan to use domestic sources on future contracts.

(End of clause)

[FR Doc. 90-641 Filed 1-10-90; 8:45 am]

BILLING CODE 3810-01-M

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48 CFR Parts 252 and 271

Department of Defense Federal Acquisition Regulation Supplement; Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DoD Technical Data

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for public comments.

SUMMARY: The Department of Defense is proposing changes to the DoD FAR Supplement to amend part 271, "Recoupment of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of Dod Technical Data", and the attendant clause at 252.271-7001. The amendments are necessary to ensure compatibility with DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology", and to clarify contractor responsibility and procedures for payment of nonrecurring costs recoupment charges for components of a system, when the components are subject to the changes.

DATE: Comments on the proposed rule should be submitted in writing at the address shown below on or before February 16, 1990 to be considered in the formulation of the final rule. Please cite DAR Case 90-001 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Ms. Barbara Young, Procurement Analyst, DAR Council, ODASD(P)/DARS, c/o OUSD(A) (M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Young, Procurement Analyst, DAR Council, (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

On August 5, 1985, DoD Directive 2140.2, "Recoupment of Nonrecurring Costs on Sales of U.S. Products and Technology" was reissued. This Directive modified DoD policy and procedures for establishing and collecting recoupment charges on commercial, foreign or domestic sales. Those portions of the Directive relating to contracting were rewritten to conform to the DFARS format and to conform to customary contracting practices. DFARS coverage was published as a proposed rule on May 23, 1988 (53 FR 18307), and the final rule was promulgated in DAC 88-5, effective March 1, 1989. Subsequently, certain inconsistencies between the DFARS coverage and the DoD Directive were noted. This proposed rule amends the DFARS to correct those inconsistencies. Additionally, this proposed rule amends 271.003 and the attendant clause at 252.271-7001 to clarify the responsibility and procedures of contractors for paying nonrecurring cost recoupment charges when indiviudual components of a system are subject to recoupment charges.

B. Regulatory Flexibility Act

The proposed rule is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. because these entities make only a small number of commercial sales of defense articles or technology to foreign or domestic customers. However, comments are invited from small businesses and other interested parties.

Comments from small businesses concerning the affects DFARS Subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and must cite DAR Case 89-610D in correspondence.

C. Paperwork Reduction Act

The proposed rule contains no new information collection requirements requiring the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 252 and 271

Government procurement.

Lucile V. Hughes,

DAR System Analyst, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR parts 252 and 271 be amended as follows:

1. The authority citation for 48 CFR parts 252 and 271 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. Section 252.271-7001 is amended by changing the date of the clause to read "(1990)" in lieu of "(FEB 1989)" by revising the first sentence of paragraph (b) of the clause; by revising paragraph (d)(1) of the clause; by substituting in the first sentence of paragraph (d)(3) of the clause the words "may be" in lieu of the word "are"; by adding in the second sentence of paragraph (d)(3) of the clause between the word "the" and the word "applicable" the word "established"; by revising paragraph (d)(4) of the clause; by removing paragraph (e) of the clause; and by redesignating the existing paragraph (f) of the clause as paragraph (e); to read as follows:

252.271-7001 Recovery of Nonrecurring Costs on Commercial Sales of Defense Products and Technology and of Royalty Fees for Use of DoD Technical Data.

* * * * *

(b) The Contractor agrees to reimburse the U.S. Government for a fair share of the U.S. Government's investment in nonrecurring costs on domestic or foreign commercial sales of defense articles and technology (217.003) which may be subject to a recoupment charge. * * *

(d) * * *

(1) Contact the DoD Focal Point to determine if the DoD has or has plans to establish a scheduled nonrecurring recoupment charge for the article or technology being sold or transferred.

(i) The determination by the Government of the amount to be reimbursed pursuant to this clause shall not be subject to the disputes clause.

(ii) The DoD Focal Point shall respond to a Contractor's request for information within thirty (30) days.

* * * * *

(4) Pay the established recoupment charges to the DoD Focal Point within thirty (30) days following delivery to or acceptance of the item by a purchaser (whichever comes first). The seller of the defense product and/or technology to a non-U.S. Government organization is responsible for payment of the established nonrecurring recoupment charge to the DoD. When the sale is made to a prime contractor (seller) and the prime contractor provides a written statement that the U.S. Government is the ultimate customer or the prime contractor assumes responsibility for the payment of the charge to the DoD, the charge is not applicable to the manufacturer. In the case of end item sales, the prime contractor may request an exception from the Defense Security Assistance Agency in order to deduct from the established nonrecurring cost recoupment charge any amount on components paid by lower tier contractors. In the event the Contractor has both manufacturing and rental divisions, the transfer from the manufacturing subsidiary to the rental subsidiary constitutes a sale for the purposes of this clause.

* * * * *

PART 271—RECOVERY OF NONRECURRING COSTS ON COMMERCIAL SALES OF DEFENSE PRODUCTS AND TECHNOLOGY AND OF ROYALTY FEES FOR USE OF DOD TECHNICAL DATA

3. Section 271.003 is amended by redesignating the existing paragraphs (c) and (d) as (d) and (e) respectively; and by adding a new paragraph (c); to read as follows:

271.003 Applicability.

* * * * *

(c) The seller of the defense product and/or technology to a non-U.S. Government organization is responsible for payment of the established nonrecurring recoupment charge to the DoD. When the sale is made by a manufacturer to a prime contractor (seller) and the prime contractor provides a written statement to the manufacturer that the U.S. Government is the ultimate customer or the prime contractor assumes responsibility for the payment of the charge to the DoD, the charge is not applicable to the manufacturer. In the case of end item sales, the prime contractor may request an exception from the Defense Security Assistance Agency (DSAA) in order to deduct from the established nonrecurring cost recoupment charge any amount on components paid by lower tier contractors/manufacturers. Such exceptions shall be considered by DoD on a case-by-case basis to avoid double charging for the nonrecurring recoupment. In the event the contractor has both manufacturing and rental divisions, the transfer from the manufacturing subsidiary to the rental subsidiary constitutes a sale for the purposes of the clause at 252.271-7001.

* * * * *

271.004 [Amended]

4. Section 271.004 is amended by removing the last two sentences of paragraph (b) and by adding a sentence to read: "The determination by the Government of the amount to be reimbursed pursuant to the clause shall not be subject to the disputes clause."

5. Section 271.005 is amended by revising paragraph (a) to read as follows:

271.005 Waivers (Including Reductions).

(a) Waiver or reduction of the charges prescribed may be approved for

(1) A foreign direct sale based upon the same criteria for waivers granted under FMS; or

(2) A domestic direct sale, if the domestic direct sale is in the best interest of the United States to satisfy a demonstrable right of the manufacturer or the purchaser or to obtain advantage to the U.S. Government.

* * * * *

[FR Doc. 90-642 Filed 1-16-89; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 55, No. 11
Wednesday, January 17, 1990

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

Forest Service

Western Livestock Grazing Fees

AGENCY: Forest Service, USDA.

ACTION: Notice of 1990 grazing fees.

SUMMARY: The fee for grazing livestock on certain specified National Forest System lands in the 16 contiguous Western States will be $1.81 per head month for the 1990 grazing year.

EFFECTIVE DATE: March 1, 1990.

FOR FURTHER INFORMATION CONTACT: Edward R. Frandsen, National Resource Specialist, Range Management Staff, Forest Service, U.S. Department of Agriculture, P.O. Box 96090, Washington, DC 20090-6090, (703) 235-8141.

SUPPLEMENTARY INFORMATION: Grazing fees for the use and occupancy of the National Forests and Land Utilization Projects in the 16 Western States, and the Crooked River and Curlew National Grasslands are established and collected annually by the Forest Service under the authority of the Organic Act of June 4, 1897 (16 U.S.C. 473-475, 477-482, 551), the Bankhead-Jones Farm Tenant Act of July 22, 1937 (7 U.S.C. 1010-1012), and Executive Order 12548 of February 14, 1986. The 16 contiguous Western States are Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

The formula for establishing the annual grazing fee for these lands is set forth in regulations at 36 CFR 222.51. Fee adjustments are based on three indexes—private grazing land lease rates added to the price livestock producers receive for the sale of beef cattle less the cost of livestock production. Based on the application of these combined indexes to a 1966 base fair market value of $1.23 per head month, the agency will issue bills to grazing permittees in the affected States for 1990 grazing fees at a rate of $1.81 per head month, a decrease from 1989 fees of five cents. The decrease results from costs of livestock production or the producer price index exceeding the combined increases in the prices farmers and ranchers received for the sale of beef cattle in 1989 and a one percent increase in private grazing land lease rates in the 11 Western States.

Dated: January 10, 1990.

George M. Leonard,

Associate Chief.

[FR Doc. 90-1073 Filed 1-16-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-559-804]

Preliminary Affirmative Countervailing Duty Determination: Certain Computer Aided Software Engineering Products from Singapore

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

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of certain computer aided software engineering products (CASE software) as described in the "Scope of Investigation" section of this notice. We are directing the U.S. Customs Service (Customs) to suspend liquidation of all entries of CASE software from Singapore that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and to require a cash deposit or bond on entries of these products equal to the estimated net bounties or grants. For further information, see the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination on or before March 26, 1990.

EFFECTIVE DATE: January 17, 1990.

FOR FURTHER INFORMATION CONTACT: Ross L. Cotjanle or Roy A. Malmrose, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3534 or 377-5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that there is reason to believe or suspect that benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Singapore of CASE software. We preliminarily determine that the following program confers bounties or grants: Information Technology Institute's (ITI) Development of CASE Software.

Case History

Since publication of the notice of initiation in the **Federal Register** (54 FR 37013, September 6, 1989), the following events have occurred. On September 14, 1989, we presented a questionnaire to the Government of Singapore in Washington, DC concerning petitioner's allegations. On October 11, 1989, we received responses to Section 2 of the questionnaire from the Government of Singapore, and Computer Systems Advisors Research Pte., Ltd. (CSAR). On November 13, 1989, we received responses to Sections 3 and 4 of our questionnaire. On November 7, 1989, November 22, 1989, and December 12, 1989, we issued supplemental questionnaires to the Government of Singapore and CSAR. We received responses to these supplemental questionnaires on December 4, 1989, December 18, 1989, December 20, 1989, and December 21, 1989. Because the responses received by the Department were deficient in certain critical areas, the Department issued another questionnaire on December 27, 1989. A response to this questionnaire was recieved on Janaury 3, 1990.

On October 4, 1989, the petitioner filed a request that the preliminary determination be postponed for 65 days. Pursuant to section 703(c)(1)(A) of the Act, we postponed the preliminary

determination until no later than January 8, 1990. *See Postponement of Preliminary Determination: Certain Computer Aided Software Engineering Products from Singapore*, (54 FR 42009, October 13, 1989).

On October 20, 1989, the Government of Singapore submitted a letter requesting that the Department rescind its initiation of August 29, 1989. We have addressed the Government of Singapore's request in this notice. The Government of Singapore submitted a second letter on January 3, 1990, again requesting recission and raising other issues. We have not had sufficient time to analyze this submission for purposes of this preliminary determination.

Scope of Investigation

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

The products covered by this investigation are "front-end" Computer Aided Software Engineering (CASE) tools, including all updated versions, which have been imported from Singapore, whether labelled or unlabelled, on a carrier medium. These software products are personal computer-based tools which run in the Disk Operating System (DOS) environment and are designed to automate the various stages of the software development tasks of defining user requirements, conducting systems analysis activities, and creating a detailed design specification for the software system under development. There are a number of standardized engineering techniques which front-end CASE tools are designed to automate. These include techniques of "structured analysis," "structured design," and "data modeling," among others. All front-end CASE tools are designed to produce logically validated and documented systems specifications, which in turn are used as detailed "blueprints" for the actual writing of application codes.

These front-end stages of the software development life cycle are contrasted with the "back-end" lifecycle stages of coding, testing, and maintenance. Back-end CASE tools are not covered by this investigation.

Although front-end CASE tools generally are imported on recorded floppy disks, they may also be imported on other carrier media. The subject merchandise is currently classifiable under HTS item numbers 8524.21.30.80, 8524.22.20.00, 8524.23.20.00, and 8524.90.40.80. Merchandise which is imported duty-free is not included in the scope of this investigation.

Treatment of CASE Software on a Carrier Medium As Merchandise

One of the fundamental issues before the Department has been whether software on a carrier medium can be treated as merchandise subject to the countervailing duty law. Congress provided for the imposition of duties by Customs on software on a carrier medium, and determined that the *amount* of duty to be paid will be determined by reference to the recording surface area of the carrier medium. *See* HTS item numbers 8524.21.30.80, 8524.22.20.00, 8524.23.20.00, and 8524.90.40.80. Implicit in Congress' treatment and Customs' practice is the assumption that software on a carrier medium is an article or merchandise. *See U.S. Valuation of Imported Carrier Media Bearing Data or Instructions for Use in Data Processing Equipment*, T.D. 85–124, 50 FR 30558 (July 26, 1985) (T.D. 85–124). Furthermore, general headnote 1 to the tariff schedules provides that "[a]ll goods provided for in this schedule and imported into the customs territory of the United States from outside thereof are subject to duty * * *" unless otherwise exempt. Because the HTS numbers listed above provide for the imposition of duties on software on a carrier medium, and because it is not otherwise exempt from Customs' jurisdiction, the Department has determined that CASE software on a carrier medium is merchandise subject to Customs' jurisdiction. Thus, based on its treatment under the HTS, we believe it is reasonable to conclude that CASE software on a carrier medium may be treated as merchandise for purposes of section 303 of the Act.

The Department also continues to consider the six characteristics of CASE software on a carrier medium as stated in the notice of initiation to be essential to its determination that CASE software can be considered merchandise under the countervailing duty law. However, given the submissions which have been made in this investigation by the interested parties regarding the treatment of software on a carrier medium as merchandise, the Department believes that it is appropriate to further elaborate upon its analysis presented in its notice of initiation.

As stated earlier in this notice, the subject of this countervailing duty investigation is CASE software on dutiable carrier media (*e.g.*, diskette, magnetic tape). It is undeniable that software on a carrier medium exhibits characteristics of both concrete property and abstract knowledge. These dichotomous aspects of software have created uncertainty about whether software is merchandise. Software, or a computer program, begins as an intangible idea for performing a specific function on a computer. This idea must be developed into a set of instructions which then must assume a physical form. The representation of these instructions on a physical medium enables the computer to perform the various steps to carry out particular tasks. The metamorphosis of the intangible idea into a tangible item is essential if the computer is to perform the desired task. Therefore, these instructions are intangible when in the mind of the programmer; the embodiment of those instructions, however, transforms the ideas into tangible merchandise.

The Department, while acknowledging the intangible elements of software, has focused its analysis on the tangibility of software when it is contained on a carrier medium. The Department believes that a tangible object which embodies intellectual property is merchandise. When the idea is transformed into instructions and written into source code, processed into machine-readable object code by computer prorams such as compilers and assemblers, and is embodied on a carrier medium, merchandise is created. Thus, the Department believes that it is reasonable to treat software on a carrier medium as merchandise subject to the countervailing duty law.

Request to Rescind the Investigation

On October 20, 1989, the Government of Singapore (respondent) submitted a letter requesting that the Department rescind its initiation. Respondent bases its request on two broad contentions. Respondent argues, on the implicit assumption that the subject merchandise should be analyzed exclusively in terms of its intellectual property and independent of its carrier medium, that software is not merchandise under the countervailing

duty law. Respondent also argues that, even if the Department were to continue to consider software to be merchandise, software is not dutiable and, therefore, countervailing duties cannot be imposed without a finding of injury.

Most of the specific arguments presented by the respondent supporting its contention that CASE software does not constitute merchandise are contingent upon the treatment of software separately and independently from its carrier medium. Thus, respondent ignores the embodiment of CASE software on a carrier medium, which the Department considers determinative of its treatment as merchandise for purposes of this investigation.

The transference of CASE software onto a carrier medium gives the subject merchandise undeniable characteristics of merchandise. It is similar to such items as books, newspapers, and magazines. Although most of the value of these items resides in the intangible component they contain, they are treated by Customs as merchandise. *See* Chapter 49 of the HTS. The classification of these items is not based on the intellectual property contained on them but according to their physical manifestation. Similarly, it is reasonable for the Department to consider software on a carrier medium as merchandise.

Respondent also raises the following issues: (1) Whether various import entry procedures and requirements, administered by Customs under which the merchandise as imported from Singapore may enter the United States, exempts the subject merchandise from the countervailing duty law, (2) whether there is consistency between the Department's treatment of the subject merchandise in this proceeding and the United States Government's treatment of software in international settings, and (3) the relevance of the six characteristics of CASE software cited by the Department in its initiation notice.

1. Import Entry Exemptions Administered by the U.S. Customs Service

Respondent contends that the imported product from Singapore qualifies for exemption from entry and, therefore, it is not subject to the imposition of countervailing duties, pursuant to General Note 5 of the HTS.

In general, Customs has jurisdiction over all merchandise which is imported. In the General Notes to the HTS, however, Congress has clearly identified those items which are not merchandise subject to the provisions of the tariff schedule. The items listed in General Note 5 of the HTS are:

(a) Corpses, together with their coffins and accompanying flowers,

(b) Telecommunications transmissions,

(c) Records, diagrams and other data with regard to any business, engineering or exploration operation whether on paper, cards, photographs, blueprints, tapes, or other media, and

(d) Articles returned from space within the purview of section 484a of the Tariff Act of 1930.

These are the only items that Congress has declared to be intangibles and not subject to the tariff schedules and entry requirements. *See also* 19 CFR 141.4. All other items, if they fall within a tariff category of the HTS, are merchandise for customs purposes. The subject merchandise, as described in the "Scope of Investigation" section of this notice, falls within four specific HTS subheadings. Therefore, it is merchandise for customs purposes.

Additionally, the CASE software on a carrier medium entering the United States from Singapore in this investigation does not qualify under exemption (c) of General Note 5, which exempts records, diagrams, and other data. This provision applies solely to the business records or documents of a company. The subject merchandise is a commercial product imported for the purpose of duplication and entry into the commerce of the United States for distribution and sale.

Respondent also argues that software is not dutiable because the U.S. Customs Service values software on the basis of its carrier medium.

The Customs Service has valued software on the basis of its carrier medium since the 1960's. By imposing duties on the basis of the recording area of the carrier medium without regard to its software component, it treats such imports as merchandise. *See* T.D. 85-124. This is one of the two sanctioned methods of valuing software on a carrier medium accepted by the Committee on Customs Valuation of the General Agreement on Tariffs and Trade (GATT Committee). *See*, GATT, Committee on Customs Valuation: Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment Adopted By the Committee on Customs Valuation on September 24, 1984 (VAL/8), *31 Supp. GATT Basic Instruments and Documents*, 274 (1985). Contrary to respondent's assertion, the United States did not argue in its proposal to GATT that software on a carrier medium is something other than merchandise. Rather, it argued that the value of the software component of an import should be excluded from the appraised value for customs valuation purposes.

Furthermore, the U.S. Customs Service's policy of valuing software on the basis of its carrier medium evolved because of the considerable difficulty it had in determining the value of the data. *See*, respondent's submission of December 11, 1989, Exhibit 3: *Tariff Classification Study, Explanatory Materials*, U.S. Tariff Commission, Volume I, Schedule 7, part 2, (November 15, 1960). The practice that was proposed by the United States and adopted by the GATT Committee was intended to promote a fair, uniform, and neutral system for the valuation of *goods* consistent with the objective of the GATT Committee. (*See*, GATT, Committee on Customs Valuation, VAL/W/7 (April 23, 1982).)

Citing section 321(a)(2)(c) of the Act, 19 U.S.C. 1321, respondent contends that because the current importations of the subject merchandise are under five dollars in value, they are specifically excluded from all customs entry procedures and duties. Application of section 321(a)(2)(C), however, is at the *discretion* of the Secretary of the Treasury. While section 321(a)(2)(C) permits informal entry, free of duty and tax and without the filing of entry papers of any importation having a fair retail value in the country of shipment not exceeding five dollars, the Secretary of the Treasury, or an appointed delegate, may require otherwise. Even though merchandise valued at less than five dollars is permitted to enter free of duty, tax, and formal entry requirements, the U.S. Customs Service retains jurisdiction over the merchandise and can require, at its discretion, that entry of any merchandise be made in order to ensure compliance with any pertinent laws or regulations (*e.g.*, U.S. countervailing duty and antidumping duty laws). *See*, 19 CFR 10.151. As stated in the "Suspension of Liquidation" section of this notice, we are requesting the U.S. Customs Service to require formal entry of all merchandise subject to this investigation.

2. Consistent Treatment of Software By the U.S. Government

Respondent contends that treating CASE software on a carrier medium as merchandise is inconsistent with the U.S. Government's treatment of software in international fora.

Assuming arguendo their relevance to the interpretation of section 303 of the Act, the Department has examined the U.S. Government documents to which

the respondent referred in its submission and has consulted with the government agencies which generated the documents. Most of the statements in the documents and declarations cited by the respondent either discuss software independent of a carrier medium or reference such generic and general terms as "computer-related services" and software development services."

For example, respondent's submission dated December 11, 1989, cites a GATT document, compiled by the GATT Secretariat, entitled "Reference List of Sectors." *See*, GATT Doc. No. MTN/GNS/W/50 (April 13, 1989). Included under the general heading of "Business Services" and the subheading, "Professional Services" are computer-related services and software development. This extensive list, however, does not provide for software in a carrier medium. It covers such other activities as travel, interior design, and legal services. Therefore, the Department sees no conflict or contradiction between the GATT listing and our treatment of software on a carrier medium in this investigation. Furthermore, respondent has also asserted that the U.S. Government included computer software in its services proposal to the GATT in October 1989. We have reviewed the proposal made by the U.S. Government and have concluded that there is no provision in the proposal for software on a carrier medium and no indication that the Department's treatment of software on a carrier medium is inconsistent with this proposal.

With respect to the U.S.-Canada Free Trade Agreement (FTA), the respondent asserts that pre-packaged software is listed as a service in Chapter 14 of that agreement. However, Annex 1404, Section C, Article 7 of the FTA refers to the utilization of pre-packaged software as a computer service. The language of Article 7 clearly suggests that the term "computer services" encompasses *activities* such as data preparation, facility management, programming, design, maintenance, repair, and rental, not end-products. Thus, Article 7 refers to activities that involve the utilization of pre-packaged software, rather than to the pre-packaged software itself. Moreover, pre-packaged software is covered by the duty-reduction provisions of Chapter 4, which apply to trade in merchandise. Given the treatment of pre-packaged software in the FTA and our consultations with other Departmental agencies involved in the negotiation of the FTA, the Department's treatment of software contained on a carrier medium is consistent with this agreement.

3. The Six Characteristics of CASE Software Previously Cited By the Department

Respondent asserts that, since draft evaluation disks containing the CASE software are imported and not the final pre-packaged product, the six characteristics of CASE software, discussed in the Department's notice of initiation and below, are not evidenced by the merchandise actually imported from Singapore.

In our notice of initiation we stated that CASE software is merchandise because it is:

(1) A pre-packaged copyrighted software product that can be purchased off-the-shelf,

(2) Typically contained on a carrier medium,

(3) A pre-written product with broad application, which does not need additional servicing by the seller of the software prior to use by the end-user,

(4) Marketed similarly to other types of merchandise,

(5) Maintained in inventory by vendors, and

(6) Treated differently than non-recorded carrier media by the U.S. Customs Service.

According to the questionnaire responses, draft evaluation disks are imported from Singapore. They are generally tested and evaluated for marketability in the United States. Any changes required to be made to the software itself are made in Singapore. Once a draft evaluation disk is deemed marketable, it is designated as the master and subsequently copied and packaged in the United States. Therefore, the master disk used for the production of the final pre-packaged merchandise is imported, in fact, from Singapore. This master disk contains the essence of the final pre-packaged CASE software merchandise. Consequently, we determine that the six characteristics of CASE software are still applicable to those entries of the subject merchandise imported from Singapore.

Finally, respondent argues that we should rescind this investigation because the merchandise is non-dutiable and the petition did not contain any allegation or information to support an injury finding.

An injury determination is not required in this investigation because Singapore is not a "country under the Agreement," within the meaning of section 701(b) of the Act, and the subject merchandise, CASE software on a carrier medium, is dutiable. *See*, Section 303(b) of the Act, as amended, 19 U.S.C. 1303.

In summary, the Department considers CASE software on a carrier medium to be dutiable merchandise.

Analysis of Programs

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination. For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is January 1, 1988, to December 31, 1988, which corresponds to the fiscal year of CSAR. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Program Preliminarily Determined to Confer Bounties or Grants

We preliminarily determine that the following program confers bounties or grants on the manufacture, production, or exportation of CASE software from Singapore.

Information Technology Institute (ITI) Development of CASE Software

According to the Government of Singapore's responses, the Committee on National Computerization (CNC) was formed in 1980 to study and recommend a policy for national computerization. This committee's report, which was completed in October 1980, contained a series of recommendations, including the creation of a National Computer Board (NCB), to implement CNC's recommendations. The three major tasks of the NCB are (1) to promote national computerization by taking the lead in computerizing the public sector, (2) to coordinate the training and development of computer software professionals, and (3) to promote the growth of the computer software and services industry.

With the launching of the national computerization efforts in 1981, the NCB and the Singapore Ministry of Defense (MOD) conducted two parallel and coordinated initiatives in software

engineering. The MOD established the Information Engineering Centre (IEC) to address the productivity and quality issues in software development life cycles. The NCB established a Software Engineering Department (SED) to develop software creation methodologies and productivity tools. The efforts of the IEC and the SED were combined in 1983 into the Joint Software Engineering Program (JSEP). In 1985, the JSEP initiated an effort to develop high performance and graphics-oriented tools running on personal computers. The result of this initiative was the CASE product known as Picture Oriented Software Engineering (POSE).

In April, 1986, the JSEP became the Information Technology Institute (ITI), as part of the NCB. The ITI undertakes applied research and development in information technology. According to the questionnaire responses, ITI has five major functions: (1) To promote the creative and productive use of information technology in industry and society, (2) to build an indigenous capability in exploiting state-of-the-art information technology, (3) to help achieve the computerization of the Singapore Government ministries, (4) to transfer technology and expertise from international technology leaders to both local industry and the computer community, and (5) to collaborate with companies in all sectors of the economy, universities, and research organizations in joint research projects.

In February, 1986, the NCB invited 20 companies in Singapore to bid for the rights to market the POSE prototypes and join in the continued development of the product. Of the 20 companies invited, seven responded. Two responded negatively, indicating that they were not capable of undertaking such a project. Five responded positively. Two of the parties that responded did not follow up with any proposal, one provided only a one-page proposal, and two provided "comprehensive" proposals. All three of the proposals received by ITI provided for varying royalty rates. However, according to the Government of Singapore, only the proposal of Computer Services Advisors Pte., Ltd. (CSA), the parent company of CSAR, met ITI's threshold criteria by addressing each factor listed in ITI's "Invitation to Tender." Therefore, ITI "shortlisted" and entered into negotiations with CSA.

According to the questionnaire responses, after CSA had been shortlisted for negotiations, CSA's proposal was rejected in part by ITI because its proposed marketing efforts were inadequate and its sales projections were too low to provide for an adequate return to ITI. Consequently, CSA submitted a revised proposal which contained an enhanced marketing plan and increased sales projections. As a result of these changes, CSA's revised proposal projected a return on ITI's development costs, which was considered adequte by ITI. Based on CSA's revised proposal, the parties reached agreement in October 1986 for the worldwide marketing and continued commercial development of POSE. Subsequently, CSA assigned its rights and delegated its obligations under the agreement to its subsidiary, CSAR.

Ascertaining the existence and degree of any benefit to CSAR under these circumstances presents the Department with a number of novel issues. Essentially, the Government of Singapore has undertaken research and has sold the right to commercialize that research through a tendering process. Recognizing this, the Department sought information from the Government of Singapore and CSAR about the nature of the bidding process and whether the government of Singapore acted reasonably from a commercial standpoint in entering into the agreement with CSA. Despite our repeated requests, respondents have failed to supply certain critical information. Specifically, respondents have failed to provide adequate information on: (a) The analysis ITI performed in evaluating all proposals, especially those presented by CSA, (b) the basis for shortlisting CSA and the nature and chronology of the subsequent negotiations with CSA, (c) the basis for CSA's revised proposal, (d) the basis for accepting that revised proposal, (e) other bid proposals received by ITI concerning the POSE program, and (f) the terms and conditions of other licensing agreements between ITI and private industry.

Because the Department has not received the above information, we have relied on the best information available for purposes of this preliminary determination. *See* 19 CFR 355.37. Since respondents failed to explain adequately the basis for CSA's revised proposal and its acceptance, we have been forced to rely upon CSA's initial proposal for analyzing whether and to what extent CSAR has benefitted from the agreement with ITI.

On the basis of CSA's initial proposal, ITI was in a position to evaluate the total expected royalties it would earn under the agreement and the total costs it would incur. The discounted value of expected revenues was less than the discounted value of expected future costs plus the actual costs already incurred. On this basis we preliminarily conclude, using the best information available, that no sound commercial basis existed for ITI to enter into the agreement with CSA.

To calculate the benefit to CSAR from the agreement, we calculated the royalty rate that would have been necessary under the initial proposal to make the discounted value of total expected royalties equal to the discounted value of total past and expected future costs. The difference between this royalty rate and the rate actually offerred in the initial proposal is 15.25 percent. Since royalties are expressed as a percentage of the sales value of the merchandise, this difference in royalty rates constitutes the net estimated bounty or grant. (For further information regarding the Department's instructions to Customs, see the "Suspension of Liquidation" section of this notice.)

II. Program Preliminarily Determined not To Confer Bounties or Grants

We preliminarily determine that the following program does not confer bounties or grants on the manufacture, production, or exportation of CASE software in Singapore.

Operational Subsidy

Petitioner alleged that the Government of Singapore provided a $15 million grant to CSAR and loaned government employees to CSAR, at no cost to CSAR, for the purpose of launching POSE software in the U.S. market. According to the responses, no monetary grant was provided to the respondent company. However, for a period of one year, commencing in November, 1987, one ITI staff member worked for CSAR's U.S. subsidiary providing training and technical support. According to the responses, the employee's work at CSAR was intended to contribute to ITI staff development, the continued technical development of the product, and the overall coordination of the venture between CSAR and ITI. According to the responses, the employee remained on the payroll of the NCB during the assignment to CSAR.

However, under the terms of a memorandum of understanding, CSAR agreed to reimburse the NCB for the employee's remuneration and all benefits to which the employee was entitled as an employee of the NCB. We received as part of a response, a listing of the expenses CSAR was billed for by the NCB and the date of payment by CSAR. Since CSAR reimbursed the NCB

for all expenses associated with the employee who worked on its behalf, the Department has preliminarily determined that this program is not countervailable.

II. Programs Preliminarily Determined not To Be Used

We preliminarily determine that the following programs were not used by maufacturers, producers, or exporters in Singapore of CASE software during the review period.

A. Double Deduction of Research and Development Expenses

This program was established under section 14(e) of the Income Tax Act. It allows manufacturing companies to take a double deduction for approved research and development expenses. According to the responses, CSAR did not participate in this program during the review period.

B. Expansion of Established Enterprises

This program was established under part IV of the Economic Expansion Incentives Act of 1985 (EEIA). It provides a tax exemption to established and approved manufacturing enterprises incurring new capital expenditures of at least $10 million for increased production. Any profits in excess of the pre-expansion level are exempted from income tax during the tax relief period. The tax relief is provided for a period not exceeding five years. According to the responses, CSAR did not participate in this program during the review period.

C. Investment Allowance

This program was established under Part X, section 67(1) of the EEIA. Under this program, companies are granted tax exemption on profits equal to a percentage of the investment in plant and equipment in a specific project. All manufacturing and manufacturing-related service companies investing in new plant and machinery, including those for research and development, are eligible for benefits under this program. According to the responses, CSAR did not participate in this program during the review period. Respondents have also indicated in its response that this program was found not countervailable in the *Final Negative Countervailing Duty Determination: Carbon Steel Wire Rod from Singapore* (*Wire Rod*) (53 FR 16304, May 6, 1988). Contrary to respondents' claim, the Department stated in *Wire Rod* that this program was not used. While Part VI A of the original Economic Expansion Incentives Act (EEIA) had been previously found not countervailable in *Certain Textile Mill Products and Apparel from Singapore*, (50 FR 9840, March 12, 1985), (*Textiles*), Part VI A, as amended by Part X, includes a new research and development provision. In *Wire Rod*, Part VI A was investigated due to the substantial amendments in the law. Because it was later determined not to have been used, it left open the question of countervailability because the program, as amended, was not further investigated. We will continue to investigate Part X, as amended, although, as discussed above, respondents have stated that CSAR did use this program during the review period.

D. Initiatives in New Technologies

This program was established under and is administered by the Economic Development Board (EDB). It provides grants that are based on 50 percent, 70 percent, or 90 percent of total allowable manpower costs for a specific period of up to five years. It encourages investments in new technologies through the provision of manpower training and start-up assistance. According to the responses, CSAR did not participate in this program during the review period.

E. Software Development Assistance Scheme

This program was established as part of the National Information Technology Plan. It is jointly administered by the NCB and the EDB. The aim of the program is to encourage the development of indigenous software. It provides grants for certain software development expenses with at least 30 percent ownership by Singaporeans to carry out software development programs. According to the responses, CSAR did not participate in this program during the review period.

F. Product Development Assistance Scheme

This program was established under and is administered by the EDB. The aim of this program is to encourage local companies to develop and design new products and processes, or improve existing ones. It confers grants, allows companies to deduct research and development expenditures for tax purposes, provides funding to defray costs of marketing and technical studies, and provides funds for the purchase of equipment to be used to develop new products and processes. According to the responses, CSAR did not participate in this program during the review period.

G. Capital Assistance Scheme

This program was established under and is administered by the EDB. It offers long-term, fixed-rate loans at favorable interest rates, secured by bank guarantees, to companies investing in new productive activities in Singapore. According to the responses, CSAR did not participate in this program during the review period.

H. Research and Development Assistance Scheme

This program, administered by the Singapore Science Council, confers grants for public, private, and joint research that have national and technological significance with a specific mission and time frame. Research manpower, equipment, and consumable costs are also eligible for financing. According to the responses, CSAR did not participate in this program during the review period.

I. Skills Development Fund

This program was established under and is administered by the EDB. It provides grants to employers undertaking to upgrade employee skills or increase efficiency of production. Petitioner included this program in its petition and we included it in our initiation in this investigation. Respondents have stated that although this program was not used, it was previously found not countervailable. Department practice requires that we not initiate on programs previously found not to be countervailable, unless changes in the program or its administration justify further investigation. In *Textiles*, we determined that this program did not confer a bounty or grant. We have received no new information justifying a change in the *Textiles* determination. Therefore, we are rescinding the investigation as it relates to this program.

J. OHQ Operational Headquarters Program

This program, administered by the EDB and approved by the Minister of Finance, provides up to ten years of tax concessions on income arising from overseas subsidiaries of companies with headquarters based in Singapore. Income from the provision of qualifying services by the headquarters company would be subject to a tax rate of ten percent. According to the responses, CSAR did not participate in this program during the review period.

K. Double Deduction of Export Promotion Expenses

This program was established under sections 14 (b) and (c) of the Income Tax Act. It is administered by the Trade Development Board and the Inland Revenue Department (IRD). The program provides a double deduction for approved overseas and domestic market trade fair expenses, overseas trade office maintenance, approved publications and advertising, foreign market development, and trade missions. Any unused deduction may be carried forward to be used against income of subsequent years. According to the responses, CSAR did not participate in this program during the review period.

L. Production for Export

This program was established under part VI of EEIA and administered by the EDB and the IRD. It is available to any manufacturing company whose export sales are not less than 100,000 Singapore dollars (S$) and the export sales must not be less than 20 percent of the value of its total sales. Under this program, 90 percent of a qualifying company's incremental export profit above a predetermined export base is exempt from corporate income tax. According to the responses, CSAR did not participate in this program during the review period.

M. Warehousing and Servicing Incentives

This program was established under part XI of EEIA and is administered by the EDB and the IRD. Any company intending to incur fixed capital expenditures not less than S$2 million for warehousing facilities for the purpose of providing technical or engineering services to persons outside Singapore may be eligible to apply for benefits under this program. The program allows a five-year tax exemption on 50 percent of qualifying export profits in excess of a fixed base. According to the responses, CSAR did not participate in this program during the review period.

N. Small Industries Technical Assistance Scheme

This program, which is administered by the EDB, is designed to encourage and assist small- and medium-sized local enterprises in seeking external expertise for modernizing their operations. Assistance is provided through funding to cover selected costs of engaging external consultants and manpower, and training costs directly related to the consultancy project. According to the responses, CSAR did not participate in this program during the review period.

O. Small Industries Finance Scheme

Under this program the EDB provides fixed interest rates to financial institutions participating in the program for onward lending to qualifying small companies. Petitioner included this program in its petition and we included it in our initiation in this investigation. Respondents have stated that although this program was not used, it was previously found not countervailable. Department practice requires that we not initiate on programs previously found not to be countervailable, unless changes in the program or its administration justify further investigation. In *Textiles*, we determined that this program did not confer a bounty or grant. We have received no new information justifying a change in the *Textiles* determination. Therefore, we are rescinding the investigation as it relates to this program.

P. Accelerated Depreciation

This program was established under section 19A of the ITA and is administered by the IRD. It allows a company a three-year write-off for capital expenditures on plant and machinery, except automobiles, and a one-year write-off for capital expenditures on computers, proscribed automation equipment and robotics. Respondents have stated that although this program was not used, it was previously found not countervailable. Petitioner included this program in its petition and we included it in our initiation of this investigation. Department practice requires that we not initiate on programs previously found not to be countervailable, unless changes in the program or its administration justify further investigation. In *Wire Rod*, we determined that this program did not confer a bounty or grant. We have received no new information justifying a change in the *Wire Rod* determination. Therefore, we are rescinding the investigation as it relates to this program.

Verification

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

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of CASE Software from Singapore (as described in the Scope of Investigation section of this notice) which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** We are also requesting that the U.S. Customs Service require all importations of the subject merchandise into the United States from CSA, CSAR, and any of their affiliates, be subjected to formal entry requirements to ensure compliance with the countervailing duty law in accordance with section 311(a)(2)(C), 19 U.S.C. 1321. We are instructing U.S. Customs, pursuant to T.D. 85–145 (September 5, 1985), to require a countervailing duty continuous entry bond sufficient to cover the lump sum estimated net bounty or grant we determined to have been granted by the Government of Singapore to CSAR. Such a bound should be wholly or partially applicable to each entry made after publication of this notice in the **Federal Register,** depending upon the number of entries made prior to publication in the **Federal Register** of our notice of final determination. The lump sum amount of the required cash deposit or bond will be US $42,891.57.

Public Comment

In accordance with 19 CFR 355.38 of the Code of Federal Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment. For the date of this hearing please contact those persons listed under the "**FOR FURTHER INFORMATION CONTACT**" section of this notice. Individuals who wish to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, Room B–099, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of the case griefs and rebuttal briefs must be submitted. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with § 355.38 of the Department Regulations.

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

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

January 8, 1990.

[FR Doc. 90-1026 Filed 1-16-90; 8:45 am]

BILLING CODE 3510-DS

National Oceanic and Atmospheric Administration

Intent To Conduct a Public Meeting on the Preparation of a Draft Environmental Impact Statement and Draft Management Plan for Sites Which Comprise the Chesapeake Bay National Estuarine Research Reserve in Virginia

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Notice of intent to conduct public meeting and prepare a draft environmental impact statement and draft management plan (DEIS/MP).

SUMMARY: In accordance with section 315 of the Coastal Zone Management Act of 1972 as amended, the Commonwealth of Virginia and the National Oceanic and Atmospheric Administration (NOAA) intend to conduct a public meeting to present the draft management plan for the Chesapeake Bay Estuarine Research Reserve in Virginia (CBNERR-VA) and to discuss significant issues related to the preparation of a draft environmental impact statement. The DEIS/MP addresses research, monitoring, education, and resource protection needs at four sites on the York River which comprise the first components of the CBNERR-VA. These sites are Goodwin Islands (representing polyhaline conditions at the mouth of the York River in York County), Catlett Islands (representing mesohaline conditions of the lower estuary of the York River in Gloucester County), Taskinas Creek (representing mesohaline to oligohaline conditions of the transition zone of the York River in James City County), and Sweet Hall Marsh (representing tidal freshwater conditions in the Pamunkey River, a tributary of the York River, in King William County).

Discussion

In May 1989, NOAA approved the nomination of Goodwin Islands, Catlett Islands, Taskinas Creek, and Sweet Hall March as the first components of a multiple-site research reserve system in the Virginia portion of the Chesapeake Bay and its tributaries. Research reserves will provide natural coastal habitats as field laboratories for baseline ecological studies and education programs. Research and monitoring programs will be designed to enhance basic scientific understanding of coastal environments and aid in resource management decisionmaking. Information derived from sponsored studies will provide a basis for measuring progress in Chesapeake Bay clean-up efforts and will be used to increase public awareness of coastal issues. The Virginia Institute of Marine Science (VIMS) has the lead role in developing and managing the reserve system.

VIMS has developed a draft management plan for the reserve system. The draft plan identifies specific needs and priorities related to research, monitoring, education, and resource protection at the approved sites. It also contains a five-year administration plan and budget as well as a discussion of volunteer programs, public access and visitor use policies, and facilities development needs. The draft plan will be available for review at the public meeting.

At the public meeting, VIMS and NOAA will provide a synopsis of the draft management plan and will solicit comments on significant socioeconomic and environmental issues which will be incorporated into a draft environmental impact statement.

The public meeting will be held on: Wednesday, January 24, 1990, at 7:00 p.m. in Waterman's Hall, Virginia Institute of Marine Science, Gloucester Point, Virginia.

Interested parties who wish to submit suggestions, comments, or substantive information regarding the scope or content of this proposed environmental impact statement are invited to attend. The DEIS will be prepared in compliance with the Council on Environmental Quality Regulations (40 CFR 1502.1-1502.25 (1988)).

Comments may be submitted in writing to Mr. Reed M. Bohne, Regional Manager, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, NOAA, 1825 Connecticut Avenue NW, Washington, DC 20235 (Telephone (202) 673-5122).

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Estuarine Reserves)

Dated: January 9, 1990.

Virginia K. Tippie,

Assistant Administrator, National Ocean Service.

[FR Doc. 90-1009 Filed 1-16-90; 8:45 am]

BILLING CODE 3510-08-M

COMMISSION OF FINE ARTS

1990 National Capital Arts and Cultural Affairs Program

Notice is hereby given that Public Law 99-190, as amended, authorizing the National Capital Arts and Cultural Affairs Program, has been funded by the Congress for 1990 in the amount of $5,427,000. All requests for information and applications for grants should be addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, 708 Jackson Place, NW., Washington, DC 20006, Phone: 202-566-1066.

Deadlines for receipt of submission of grants applications is 2 March 1990.

This program provides grants for general operating support of organizations whose primary purpose is performing, exhibiting, and/or presenting the arts. To be eligible for these grants, organizations must be located in the District of Columbia, must be not-for-profit, non-academic institutions of demonstrated national repute, and must have annual income, exclusive of federal funds, in excess of one million dollars for the current year and for the past three years.

Charles H. Atherton,

Secretary.

[FR Doc. 90-1020 Filed 1-16-90; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

January 10, 1990.

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

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

EFFECTIVE DATE: January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the

quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

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

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 4883, published on January 31, 1989; and 54 FR 7245, published on February 17, 1989.

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

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 10, 1990.

Commissioner of Customs

Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directives issued to you on January 25, 1989 and February 14, 1989, by the Chairman, Committee for the Implementation of Textile Agreements. These directives concern imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1989 and extends through January 31, 1990.

Effective on January 11, 1990, the directives of January 25, 1989 and February 14, 1989 are amended further to increase the limits for cotton and man-made fiber textile products in the following categories, as provided under the provisions of the current bilateral textile agreement between the Governments of the United States and Bangladesh:

Category	Adjusted twelve-month limit [1]
331	692,818 dozen pairs
335	138,562 dozen
341	1,413,472 dozen of which not more than 620,727 dozen shall be in Category 341-Y [2]
635	187,931 dozen
641	608,927 dozen
645/646	226,812 dozen

[1] The limits have not been adjusted to account for any imports exported after January 31, 1989.
[2] In Category 341-Y, only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-1024 Filed 1-16-90; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Polish People's Republic

January 10, 1990

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

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 18, 1990.

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

SUPPLEMENTARY INFORMATION:

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

During recent negotiations, the Governments of the United States and the Polish People's Republic agreed to extend their bilateral textile agreement through December 31, 1992. In the letter published below, the Commissioner of Customs is being directed to establish limits for the period January 1, 1990 through December 31, 1990.

A copy of the current agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the Untied States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

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

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 10, 1990

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984, as amended and extended, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 18, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following levels of restraint:

Category	Twelve-month restraint limit [1]
Levels not in a Group	
334	289,327 dozen of which not more than 25,000 dozen shall be in Catgegory 334-O [2]
335	56,995 dozen
338/339	1,000,000 dozen
340/640	118,000 dozen
341/641	90,000 dozen
347/348	170,000 dozen
611	1,250,000 square meters
645/646	144,747 dozen
Group II	
400, 410/624, 414, 431-436, 438-440, 442, 443/643/644, 444-448, 459, 464, 465 and 469, as group	5,200,000 square meters equivalent
Sublevels in Group II	
410/624	2,500,000 square meters of which not more than 2,100,000 square meters shall be in Category 410

Category	Twelve-month restraint limit [1]
433	8,216 dozen
434	5,500 dozen
435	8,000 dozen
436	2,034 dozen
438	6,689 dozen
440	7,896 dozen
442	5,574 dozen
443/643/644	185,000 numbers
444	62,602 numbers
445	17,560 dozen
446	11,285 dozen
447	12,397 dozen
448	5,574 dozen
459	50,606 kilograms
Group III	
200–239, 300–333, 336, 342, 345, 349–369, 600–607, 613–622, 625–639, 642, 647–654, 659, 665–670 and 831–859, as a group	13,000,000 square meters equivalent

[1] The limits established have not been adjusted to account for any imports exported after December 31, 1989.
[2] In Category 334–O, all HTS numbers except 6101.20.0010, 6101.20.0020 and 6112.11.0010.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The restraints limits set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and the Polish People's Republic.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-1025 Filed 1-16-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Retirement Homes Advisory Board; Open Meeting

AGENCY: Assistant Secretary of Defense (Force Management and Personnel), DOD.

ACTION: Notice of board establishment and open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Assistant Secretary of Defense (Force Management and Personnel) announces the establishment of the Retirement Homes Advisory Board (Charter date: December 27, 1989) under section 345 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, Public Law 101-189 dated November 29, 1989, and its initial meeting.

Date and Time: January 24, 1990, 0800–1200.

Address: Room 3E752 (ASD(FM&P) Conference Room), Pentagon, Washington, DC 20301-4000.

Purpose: To brief board members on their charter and administrative responsibilities, as well as provide them with an overview of the retirement homes.

Agenda: The initial meeting will include welcoming remarks by Christopher Jehn, ASD(FM&P), and LTG Donald Jones, DASD(MM&PP), an orientation on each retirement home by its Governor, and a working session for the board members to begin developing milestones and an action plan.

The entire meeting is open to the public. This notice is submitted with less than 15 days notice because of the need to initiate the study immediately. Congress mandates that the board submit its final report no later than April 1, 1990. Hence, the board must convene rapidly in order to meet Congressional deadlines.

FOR FURTHER INFORMATION CONTACT: LTC K. Deutsch at 697-7197.

Dated: January 10, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-988 Filed 1-16-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Movement of Department of Defense Petroleum Products by Pipeline Carrier

AGENCY: Military Traffic Management Command, Directorate of Inland Traffic, Army, DOD.

ACTION: Notification of procedural changes in DOD freight rate aquisition programs.

SUMMARY: The Military Traffic Management Command (MTMC), on behalf of the Department of Defense (DOD), intends to modify the procedures used to acquire rates and changes from the commercial pipeline industry for the movement of its refined petroleum products by pipeline. This modification is the issuance of a rules publication designed to standardize and simplify the procurement of rates and services for Government traffic moving by petroleum pipeline carriers under section 22 of the Interstate Commerce Act (section 22 was recodified as 49 U.S.C. 10721 for all regulated modes except petroleum pipeline carriers.) This publication, MTMC Pipeline Rules Publication No. 6, is now available in draft form for public review and comment. A copy of MTMC Pipeline Rules Publication No. 6 may be obtained by writing HQ, Military Traffic Management Command, ATTN: MTIN-NG, Room 629, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, or telephone (703) 756-1585. Written comments concerning the proposed publication will be considered if received not later than March 5, 1990. Address comments to Commander, Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, Virginia 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mr. David Hannaford, HQ Military Traffic Management Command, ATTN: MTIN-NG, 5611 Columbia Pike, Falls Church, Virginia 22041-5050, or telephone (703) 7856-1585.

SUPPLEMENTARY INFORMATION: This transportation regulatory reform legislation enacted over the past several years has brought an influx of new carriers doing business with DOD, a corresponding proliferation of rate publications, and a great diversity in the manner in which carriers' rates, rules, and services are expressed within those publications. As a result, the standardization and automation of carriers' rates and charges are essential to the formulation of a successful and manageable rate comparison program. Automation is feasible, of course, only if carriers' rates and charges are expressed in a uniform manner compatible with electronic data processings.

MTMC Pipeline Rules Publication No. 6 (MPRP No. 6) contains both rules and accessorial service requirements to govern the rates and services of all pipeline carriers doing business with DOD. The purpose in developing this publication is to define and clearly express the transportation needs of DOD for the movement of its refined petroleum products by pipeline and to provide the standardization necessary for achieving a fully automated system for routing and auditing DOD traffic.

This publication is designed to be used with DOD Standard Tender of Freight Services, MT Form 364-R, and will apply to DOD shipments in

intrastate commerce and shipments from, to, or between points in the continental United States (CONUS), and from, to, or between points in CONUS and points in Alaska and/or Canada which are specified in carriers' individual tenders filed with HQ, MTMC. Except as otherwise provided in the proposed publication, tenders of carriers subject to MPRP No. 6 may not refer to any other publication for application of rates and charges therein.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 90-1040 Filed 1-16-90; 8:45 am]

BILLING CODE 3710-08-M

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCY: Department of Defene (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Mangement and Budget (OMB) a request to review and approve a request for a new information collection requirement concerning Notice of Radioactive Materials.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, (202) 523-3775.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* The proposed clause at FAR 52.223-7, Notice of Radioactive Materials, requires contracts to notify the Government prior to delivery of items containing radioactive materials. The purpose of the notification is to alert receiving activities that appropirate safeguards may need to be instituted. The notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondent, *500*; responses per respondent, *5*; total annual responses, *2500*; preparation hours per response, *1*; and total response burden hours, *2500*.

Obtaining Copies of Proposals: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0XXX, Notice of Radioactive Materials.

Dated: January 8, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90-1021 Filed 1-16-90; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 16, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: January 10, 1990.

Carlos Rice,

Director for Office of Information Resources Management.

Office of Vocational and Adult Education

Type of Review: New Collection
Title: Application for the Education for Homeless Children and Youth Program—Exemplary Projects Operated by State and Local Educational Agencies
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 50
Burden Hours: 1200
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State agencies to apply for funding the Homeless Children and Youth Program. The Department uses the information to make grant awards.

[FR Doc. 90-995 Filed 1-16-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bartlesville Project Office; Intent To Negotiate a Grant With the State of Kansas

AGENCY: Bartlesville Project Office Department of Energy (DOE).

ACTION: Notice of intent to negotiate a grant with the State of Kansas/Kansas Geological Survey (Annex I).

SUMMARY: "Depositional Sequence Analysis and Sedimentologic Modeling for Improved Prediction of Pennsylvania Reservoirs." 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 with the State of Kansas/Kansas Geological Survey. The action is prompted by the consummation of Annex I to the October 13, 1988 Memorandum of Understanding between the DOE and the State of Kansas which defines the research proposal and the participants and specifies cost sharing. The grant will be used by the Kansas Geological Survey to refine recognition, interpretation, and modeling of Pennsylvanian depositional sequences from reservoir fields, near-surface analogue sites, and from ancillary studies. One objective of this project is to locate and produce petroleum not currently being produced because of technological problems or the inability to identify the details of reservoir compartmentalization associated with larger accumulations. Other objectives include decreasing the risk in field development by independent oil and gas operators and accelerating the retrieval and analysis of baseline geoscience information for initial reservoir description. The major tasks of the effort include: (1) Field screening and analogue identification, (2) depositional sequence characterization, (3) correlation methods, (4) subsidence patterns/rates, (5) computer modeling, (6) reservoir development, prediction, and play potential, and (7) technology transfer to oil operators through publications and workshops. The Kansas Geological Survey 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 600.7(b)(2)(i), criteria (B), (C) & (D). The activities proposed in Annex I to the agreement between the U.S. Department of Energy and the State of Kansas are in support of a public purpose and are as directed by the agreement. This activity would be conducted by the State of Kansas 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 a governmental function within the subject jurisdiction, thereby precluding DOE provisions of support to another entity. The Kansas Geological Survey has exclusive domestic capability to perform the activity successfully based on unique equipment, proprietary data, technical expertise or other such unique qualifications. The applicant has access to data relative to the proposed activities that will be identified and structured and made available to developers, decision-makers, and researchers. The applicant has technicians and reseachers skilled in high resolution seismic profiling.

The grant term is for three years at an estimated value of $1,086,151 which will be cost shared equally by DOE and the State of Kansas/Kansas Geological Survey. 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: January 9, 1990.

J. Roger Gonzales,

Director, Contracts Management Division.

[FR Doc. 90-1064 Filed 1-16-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF90-6-000]

Formosa Utility Venture; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 9, 1990.

On December 28, 1989, Formosa Utility Venture (Applicant), of 66 Hanover Road, Florham Park, New Jersey 07932, 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 will be located at City of Point Comfort, Texas. The facilty will consist of five combustion turbine generating units, five waste heat recovery boilers equipped with duct burners for supplemental firing, and three extraction/condensing steam turbine generating units. Steam produced by the facility will be used for process usage. The net electric power production capacity of the facility will be 490 MW. The primary energy sources will be natural gas and hydrogen. Installation was scheduled to begin in December, 1989.

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. 90-1007 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-22-002]

Algonquin Gas Transmission Co.; Compliance Filing

January 9, 1990.

Take notice that January 2, 1990, Algonquin Gas Transmission Company (Algonquin) filed revised compliance tariff sheets to be effective May 1, 1990, as identified in Appendix A.

Algonquin states that the filing was made in compliance with the requirements of Ordering Paragraphs (D) and (E) of the Commission's Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions, and Establishing a Hearing (issued November 30, 1989) in the above-captioned proceeding.

Algonquin states that the tariff sheets submitted eliminate the reference to the price adjustment clauses in Algonquin's gas purchase contracts and the references to the reimbursement of transportation and compression charges.

Algonquin states that the tariff sheets were submitted without prejudice to Algonquin's rights or position on rehearing or review. Algonquin expressly reserved the right to recover such amounts as would have been recovered under the originally filed tariff sheets by such surcharges, direct bills or other means as may be permitted.

Any person desiring to protest said filing should file a protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1000 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-20-000]

Algonquin Gas Transmission Co.; Proposed Changes In FERC Gas Tariff

January 9, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 4, 1990, 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 March 1, 1990

Thirty-ninth Revised Sheet No. 201
Fortieth Revised Sheet No. 203
Thirty-sixth Revised Sheet No. 204
Thirty-third Revised Sheet No. 205

Algonquin states that it is filing the above listed tariff sheets pursuant to section 17, Purchased Gas Adjustment Provision of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volumne No. 1 and as part of its Annual Purchased Gas Adjustment ("Annual PGA") to update its estimated cost of purchased gas, as more fully set forth in the instant filing. The proposed effective date for the revised tariff sheets filed herein is March 1, 1990.

Algonquin states that the combination of the surcharge adjustment and rate changes reflected in the Annual PGA represent an increase in the demand-1 charge of 1.9¢ per MMBtu, a decreases in the demand-2 charge of 1.42¢ per MMBtu and a decrease in the commodity charge of 1.36¢ per MMBtu.

Algonquin notes that copies of this 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 rules §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 29, 1990. 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. 90-1001 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-137-003]

ANR Pipeline Co.; Proposed Changes In FERC Gas Tariff

January 9, 1990.

Take notice that ANR Pipeline Company ("ANR") on December 18, 1989 tendered for filing six copies of a proposed new Original Volume No. 3 of its FERC Gas Tariff. ANR states that although it originally filed Pro Forma tariff sheets in its application to be Original Volume No. 1-B, ANR is revising such volume to be Original Volume No. 3, pursuant to § 154.33 of the regulations.

In addition, ANR tendered for filing as part of its Original Volume No. 1-A FERC Gas Tariff, six copies each of the following tariff sheets.

Original Volume No. 1-A

First Revised Sheet No. 134A
Fourth Revised Sheet No. 135
First Revised Sheet No. 166
First Revised Sheet No. 167

The proposed effective date of the above-referenced tariff sheets is January 17, 1990. Thereafter, ANR will conduct a fifteen-day open season for FSS and DDS storage service requests.

ANR states that the storage rates included in this compliance filing reflect the FSS and DDS rates filed with the Commission on October 31, 1989, in ANR's Motion Filing in RP89-161 *et al.* Further, ANR states that the storage rates filed reflect a retention of a "saturated" method of Btu measurement.

ANR states that the above-referenced tariff sheets are being filed to comply with the Commission's orders dated March 23, 1989 and October 11, 1989, and requests any necessary waiver of the Commission's regulations to permit such tariff sheets to become effective as proposed.

ANR states that copies of the filing were served upon all of the parties listed on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 by January 16, 1990, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1004 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-2-33-001, TM90-2-33-001 and TF90-2-33-001]

El Paso Natural Gas Co.; Correction to Tariff Sheet Designation

January 9, 1990.

Take notice that on January 4, 1990, El Paso Natural Gas Company ("El Paso") filed with the Federal Energy Regulatory Commission ("Commission") a correction to its Quarterly Adjustment in Rates and decrease to the Gas Research Institute funding unit adjustment component of El Paso's rates at Docket Nos. TQ90-2-33-000 and TM90-2-33-000 and Interim Adjustment at Docket No. TF90-2-33-000 filed with the Commission on December 1, 1989 and December 29, 1989, respectively.

El Paso states that by order dated December 21, 1989, the Commission accepted, effective January 1, 1990, its Quarterly PGA subject to refund and certain conditions. The order directed El Paso to refile, within fifteen (15) days from the date of the order, tendered Twenty-eighth Revised Sheet No. 100 to correct the pagination to such sheet. El Paso states that in compliance with the Commission's directive, it has submitted renumbered First Revised Twenty-eighth Revised Sheet No. 100 to its First Revised Volume No. 1 Tariff. In addition, after further review, El Paso determined that tendered Fifty-second Revised Sheet No. 1-D also filed at Docket Nos. TQ90-2-33-000 and TM90-2-33-000 had a similar pagination

problem. Accordingly, El Paso also submitted renumbered First Revised Fifty-second Revised Tariff Sheet No. 1-D to its Third Revised Volume No. 2 Tariff.

El Paso states that on December 29, 1989 at Docket No. TF90-2-33-000 it tendered a Notice of Interim Adjustment in Rates effective January 1, 1990 which is currently pending approval by the Commission. El Paso states that the Inerim Adjustment contained tariff sheets which superseded Twenty-eighth Revised Sheet No. 100 and Fifty-second Revised Sheet No. 1-D. El Paso has resubmitted Twenty-ninth Revised Sheet No. 100 and Fifty-third Revised Sheet No. 1-D to reflect the correct superseded tariff sheets pagination as referenced at Docket Nos. TQ90-2-33-000 and TM90-2-33-000. El Paso requested that said tariff sheets be substituted for those tariff sheets currently pending Commission approval at Docket No. TF90-2-33-000.

El Paso states that copies of the filing were served upon all interstate pipeline system sales customers and all interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1005 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-1-41-001]

Paiute Pipeline Co.; Quarterly Notice of Change in Rates Pursuant To Purchased Gas Cost Adjustment Provision

January 9, 1990.

Take notice that on January 4, 1990, Paiute Pipeline Company (Paiute) tendered for filing pursuant to part 154 of the Commission's regulations, a Quarterly Adjustment in Rates for jurisdictional gas service rendered to sales customers served under rate schedules affected by and subject to the PGA provisions contained in section 9 of the General Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1 and on January 3, 1990, Paiute tendered for filing a proposed substitute tariff sheet for the purpose of correcting a typographical error on Twelfth Revised Sheet No. 10 contained in Paiute's quarterly PGA filing. Paiute has requested that its proposed tariff sheet, Substitute Twelfth Revised Sheet No. 10, become effective February 1, 1990.

Paiute states that its quarterly PGA filing reflected a decrease of 10.04 cents per dekatherm in commodity rates compared with those in effect on November 1, 1989. Paiute's demand charges do not contain gas costs and no demand gas costs are included in this filing.

Paiute states that in a previous quarterly PGA filing, the Commission ordered Paiute to provide in future PGA filings a breakdown of purchases from its suppliers by NGPA category. In accordance with the Commission's Order, Paiute has included the required information, which was provided by its suppliers in its filing. Paiute states that the projected rate reflected in its filing for purchases from the suppliers is not based on NGPA category, but rather upon the total projected supply delivered by each supplier into Paiute's system.

The proposed effective date for the tendered tariff sheet is February 1, 1990.

Copies of the filing were served on Paiute's jurisdictional sales customers, interested parties and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1002 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-25-004; TM90-2-42-003]

Transwestern Pipeline Co.; Tariff Change

January 9, 1990.

Take notice that Transwestern Pipeline Company (Transwestern) on January 4, 1990 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Effective December 1, 1989

1st Substitute Original Sheet No. 5E(i)

Transwestern states that Substitute Original Sheet No. 5E(i) was filed on December 29, 1989, in compliance with the Commission's order issued November 29, 1989 in the above dockets. Subsequent to the filing, Transwestern discovered that it had inadvertently placed an incorrect effective date on Substitute Original Sheet No. 5E(i). The effective date stated on Substitute Original Sheet No. 5E(i) was "December 1, 1990". However, Substitute Original Sheet No. 5E(i) should have stated "December 1, 1989", as approved in the November 29, 1989 Commission order. Therefore, 1st Substitute Original Sheet No. 5E(i) was substituted in place of Substitute Original Sheet No. 5E(i).

Transwestern respectfully requests that the Commission grant any and all waivers of its rules, regulations and orders that as may be necessary as to permit the above listed tariff sheet to become effective December 1, 1989, as provided in the November 29, 1989 Order.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commissions' Rules of Practice and Procedure. All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-1003 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-25-005]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

January 9, 1990.

Take notice that on January 4, 1990, South Georgia Natural Gas Company ("South Georgia") tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective February 3, 1990:

First Revised Sheet No. 16K.1
Fourth Revised Sheet No. 16BB
Third Revised Sheet No. 34S

South Georgia states that the purpose of this filing is to make certain revisions to its transportation tariff in compliance with the Commission's Order Granting in Part and Denying in Part Request for Rehearing and Clarification issued in Docket No. RP88-25-002 on December 20, 1989 (Order). 49 FERC ¶ 61,368 (1989). Ordering Paragraph (B) required South Georgia to file revised tariff sheets within fifteen (15) days of the date of the Order. Accordingly, South Georgia has submitted the revised tariff sheets listed above to be effective February 3, 1990.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers, shippers and interested state commissions as well as the parties listed on the Commission's official service list compiled in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-1006 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-5-001]

Transcontinental Gas Pipe Line Crop.; Petition for Expedited Consideration of Extension of Authority To Waive Tariff Provisions

January 9, 1990.

Take notice that on December 22, 1989, Transcontinental Gas Pipe Line Corporation (Transco) filed a petition to extend its previously granted authorization allowing Transco to waive the gas source restriction provision of its Rate Schedule LG-S for the remainder of the winter season; i.e., until March 31, 1990.

Transco states that its authority to waive the gas source restriction provisions of Rate Schedule LG-S expired December 31, 1989. Transco requests this extension so that it may continue to provide a solution to its customer's need for flexibility with respect to Rate Schedule LG-S.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1989)]. All such protests should be filed on or before January 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-1008 Filed 1-16-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[Docket No. FE C&E 90-03; Certification Notice-51]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended, ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311 (a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load powerplants have filed self certifications in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION:

The following companies have filed self certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Indeck Energy, Services of Ilion, Inc., Wheeling, IL	12-27-89	Combined cycle	55	Ilion, NY.
Indeck Energy Services of Corinth, Inc., Wheeling, IL	12-27-89	Combined cycle	120	Corinth, NY.

Amendments to the FUA on May 21, 1987, (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure. Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000

Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC on January 9, 1990.

Constance L. Buckley,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-1065 Filed 1-16-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3705-7]

Issuance of PSD Permit to Spokane Regional Waste to Energy Project

Notice is hereby given on January 17, 1990, that the Washington State Department of Ecology issued a Prevention of Significant Deterioration (PSD) permit to the Spokane Regional Waste to Energy Project for approval to construct an 800 ton per day municipal waste combustor at Spokane, Washington.

This permit has been issued under EPA's Pervention of Significant Air Quality Deterioration regulation (40 CFR 52.21), subject to certain conditions specified in the permit. Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD permit is available only by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the PSD permit are made available for public inspection upon request at the following location: FPA, Region 10, 8th Floor, Air Programs Branch, 1200 Sixth Avenue, Seattle, Washington 98101.

Dated: January 8, 1990.

Gary L. O'Neal,

Acting Regional Administrator.

[FR Doc. 90-1071 Filed 1-16-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

1990 Tariff Review Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission will release the 1990 Tariff Review Plan for Tier 1 and Tier 2 telephone companies by January 19, 1990. The Tariff Review Plan displays basic cost and demand information and is part of the required annual access tariff filings. This notice is issued as part of an agreement with the Office of Management and Budget to provide advance notice to the public of the issuance of the Tariff Review Plan.

FOR FURTHER INFORMATION CONTACT: Chris Frentrup, (202) 632-6312.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0400.

Title: Tariff Review Plan.

Respondents: Businesses.

Frequency of Response: Annually.

Estimated Annual Burden: 40 responses; 6,000 hours; 150 hours average burden per respondent.

Needs and Uses: Certain local exchange carriers (telephone companies) are required to submit Tariff Review Plans in partial fulfillment of cost support material required by 47 CFR 61.38. The information is used by the Commission and public to determine the justness and reasonableness of rates, terms, and conditions in tariffs as required by the Communications Act of 1934, as amended.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-1027 Filed 1-16-90; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 89-610]

Kumra, Raveesh K.; Application for Hearing

AGENCY: Federal Communications Commission (FCC).

ACTION: Order Designating Application for Hearing.

SUMMARY: This Hearing Designation Order (Designation Order) designates a non-wireline cellular application in a Rural Service Area (RSA) for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended (47 U.S.C. 309 (e)). The application was filed by Raveesh K. Kumra, File No. 10019-CL-P-340-A-88, in Market 340, California 5—San Luis Obispo Rural Service Area, for Frequency Block A. The Commission finds that a hearing is necessary on the following issues:

1. To determine all the facts and circumstances surrounding the preparation and filing of the application of Kenneth E. Tubman for the non-wireline cellular license in the Elmira, New York MSA;

2. To determine the facts and circumstances of any relationship, agreement or understanding between Kenneth E. Tubman, Raveesh K. Kumra and Western Cellular Management, Inc. relating to the Elmira application and authorization;

3. To determine, on the basis of the evidence adduced, whether Raveesh K. Kumra was the real party in interest behind the Elmira, New York MSA application;

4. To determine, on the basis of the evidence adduced, whether Raveesh K. Kumra possesses the requisite character qualifications to be a cellular radio licensee of the Commission;

5. To determine, based upon all the foregoing issues, whether grant of the captioned application filed by Raveesh K. Kumra for the Block A cellular license in the San Luis Obispo, California RSA, would be in the public interest, convenience and necessity.

DATES: Within 20 days of the mailing of this Designation Order, the applicant/selectee, pursuant to § 1.221(c) of the Commission's rules, 47 CFR 1.221(c), may file a written notice of his intention to appear on the day of the hearing and to present evidence on the specified issues.

This Designation Order is effective on its release date.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554

FOR FURTHER INFORMATION CONTACT: David H. Siehl.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Hearing Designation Order, pursuant to delegated authority, adopted December 18, 1989 and released January 8, 1990.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230) 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Washington, DC 20037.

Richard M. Firestone,

Chief, Common Carrier Bureau.

[FR Doc. 90-1028 filed 1-16-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Filing and Effective Date of Agreement; NYSA-ILA Tonnage Assessment Agreement

The Federal Maritime Commission hereby gives notice, that on January 8, 1989, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: **224-200063-002**

Title: NYSA-ILA Tonnage Assessment Agreement

Parties:

New York Shipping Association, Inc.
International Longshoremen's Association, AFL-CIO

Synopsis: The Agreement provides that for vessels arriving on or after January 1, 1990, the assessment tonnage rate will be reduced: (1) $1.00 for certain cargo, including containerized house units, unboxed automobiles, trucks, buses, Canadian cargo, breakbulk cargo, containerized cargo stuffed/stripped at the pier, U.S. Military and West Coast cargoes; and (2) $0.15 for non-containerized perishable fruit, chestnuts, potatoes and dried dates.

By order of the Federal Maritime Commission.

Dated: January 10, 1990.

Joseph C. Polking,
Secretary.

[FR Doc. 90-1014 Filed 1-16-90; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement; NYSA-ILA Tonnage Assessment Agreement

The Federal Maritime Commission hereby gives notice, that on January 8, 1989, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: **224-200063-003**

Title: NYSA-ILA Tonnage Assessment Agreement

Parties:

New York Shipping Association, Inc.
International Longshoremen's Association, AFL-CIO.

Synopsis: The Agreement amends the basic agreement to provide that on voyages commencing on or after January 1, 1990, the New York container premium ($1.00) on Canadian cargoes is waived on southbound and northbound Canadian cargoes.

By order of the Federal Maritime Commission.

Dated: January 11, 1990.

Joseph C. Polking,
Secretary.

[FR Doc. 90-1047 Filed 1-16-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Port of Oakland

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: **224-010974-006**

Title: Port of Oakland Terminal Agreement

Parties:

Port of Oakland (Port)
International Transportation Service, Inc. (ITS)

Synopsis: The Agreement amends the basic agreement for certain assigned marine terminal facilities in the Port's Outer Harbor Terminal Area to realign the assigned premises by deleting certain area (approximately 2.8 acres) therefrom and by adding certain area (approximately 2.1 acres) thereto. The Agreement also provides that after the Port's completion of the Seventh Street road realignment the premises will be further enlarged by approximately 1.4 acres to be more specifically described in a further supplemental agreement and filed with the Federal Maritime Commission.

By order of the Federal Maritime Commission.

Dated: January 10, 1990.

Joseph C. Polking,
Secretary.

[FR Doc. 90-1015 Filed 1-16-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 10, 1990.

Background: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following report, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed report discontinuance, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within ten calendar days of the date of publication in the **Federal Register**.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the request for clearance (SF 83), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal to Approve Under OMB Delegated Authority the Discontinuance of the Following Report:

1. *Report title:* Report of Proceeds from Outstanding Sales to Nonexempt Entities of Short-Term Loans Made Under Long-Term Lending Commitments.

Agency form number: FR 2916.

OMB Docket number: 7100-0087.

Frequency: Weekly.

Reporters: Financial institutions.

Estimated number of reporters: 50.

Average number of hours per response: .25.

Annual reporting hours: 650.

Small businesses are not affected.

General description of report: This report is required by law (12 U.S.C. 248(a), and 3105(b)(2)). The data are given confidential treatment under the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(8)).

This weekly report collects daily data on the outstanding amount of funds received by originating depository institutions from the sales of short-term loans made under long-term lending commitments to nonexempt entities. (These transactions also are known as loan strips or strip participations.) These transactions will continue to be embedded in the Report of Deposits (FR 2900, FR 2910q, or FR 2910a, as applicable) of the originating institution. However, because the dollar volume of these transactions did not attain the level initially anticipated by the Board and has fallen to a negligible amount, the Board is proposing to discontinue the FR 2916.

Board of Governors of the Federal Reserve System, January 10, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-1023 Filed 1-16-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 12-26-89 AND 12-29-89

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
The 1964 Simmons Trust, MAXXAM Inc., MAXXAM Inc.	90-0487	12/26/89
Richard L. Scott, Baptist Hospitals and Health Systems Members Board, Life-Core, Inc.	90-0502	12/26/89
Compagnie de Saint-Gobain, Bicron Corporation, Bicron Corporation	90-0530	12/26/89
Code, Hennessy & Simmons, Limited Partnership, Golder, Thoma, Cressey Fund II, Limited Partnership, Benchmark Services, Inc.	90-0551	12/26/89
Polygraph Export-Import, Charles H. and Margaret M. Dyson, Royal Zenith Corp.	90-0587	12/26/89
Ethyl Corp., Galxo Holdings p.l.c., Glaxo Inc. and Glaxo Services Inc.	90-0670	12/26/89
The Prudential Insurance Co. of America, Home Beneficial Corp., Quioccasin Associates, Limited Partnership	90-0675	12/26/89
Charles F. Brennick, Sr., Rehab Capital Enterprises, Rehab Capital Enterprises	90-0677	12/26/89
Abraham D. Gosman, Rehab Capital Enterprises, Rehab Capital Enterprises	90-0678	12/26/89
Thames Television PLC, Reeves Communications Corp., Reeves Communications Corp.	90-0682	12/26/89
John Lewis and Associates, L.P., Daniel W. Crippen, B.B. M&P., Inc.	90-0702	12/26/89
John Lewis and Associates, L.P., Bruce L. Marshall, B. B. M&P., Inc.	90-0703	12/26/89
Norman Pattiz, Westinghouse Electric Corp., Radio Station KJQY-FM	90-0706	12/26/89
Norman J. Pattiz, Carl C. Brazell, Jr., Radio Station KJQY-FM	90-0707	12/26/89
William Lyon, Foothill Properties, a California general partnership, Foothill Ranch	90-0708	12/26/89
Persis Corp., Donald W. Reynolds, Donrey of Nevada, Inc.	90-0663	12/27/89
Loews Corp., Champion International Corp., Champion International Corp.	90-0683	12/27/89
Dean Foods Co., Mayfield Dairy Farms, Inc., Mayfield Dairy Farms, Inc.	90-0686	12/27/89
Emerson Electric Co., Leroy-Somer, S.A., Leroy-Somer, S.A.	90-0700	12/28/89
Kohler Co., LADD Furniture, Inc., The McGuire Furniture Co.	90-0455	12/29/89
Hickson International PLC, Joseph L. Lanier, Jr., Dan River Inc.	90-0541	12/29/89
Royal Nijverdal Ten Cate N.V., Dudley H. Pepp, National Fire Hose Corp	90-0709	12/29/89
Eiji Sato, Edward J. Hogan and Marilyn J. Hogan, husband and wife, Pleasant Hawaiian Hotel	90-0701	1/02/90
Charles H. and Margaret M. Dyson, FMP Operating Co., a limited partnership, FMP Operating Co., a limited partnership	90-0726	01/02/90
Kingfisher plc, Dixons Group plc, Dixons Group plc	90-0698	01/03/90
Marsh & McLennan Companies, Inc., Strategic Planning Associates, Inc., Strategic Planning Associates, Inc.	90-0554	01/04/90
John V. Holten, Evans Bros. Co., Inc., Evans Bros. Co., Inc.	90-0684	01/04/90
Corporate Partners, L.P., c/o Corp. Advisors, L.P., The Albert Fisher Group PLC The Albert Fisher Group PLC	90-0729	01/04/90
Corporate Offshore Partners, L.P., c/o Reid Management, The Albert Fisher Group PLC, The Albert Fisher Group PLC	90-0730	01/04/90
Borden, Inc., B. Jadow and Sons, Inc., B. Jadow and Sons, Inc.	89-02316	01/05/90
Toagosei Chemical Industry Co., Ltd., B. Jadow and Sons, Inc., B. Jadow and Sons, Inc.	89-02318	01/05/90
Pratt Family Holdings Trust, Lamar Guthrie, Target Container Co.	90-0727	01/05/90
HMA Holding Corp., Biloxi Regional Medical Center, Inc., Biloxi Regional Medical Center, Inc.,	90-0789	01/05/90

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Federal Trade Commission, Contact Representative, Premerger Notification Officer, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

C. Landis Plummer,

Acting Secretary.

[FR Doc. 90-1055 Filed 1-16-90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 891 0098]

Institut Merieux S.A.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Lyon, France based firm, that manufactures and sells rabies vaccine and inactivated polio vaccine in the United States, to lease Connaught's rabies vaccine business in Toronto, Ontario, Canada, for at least 25 years, to a Commission-approved acquirer. Respondent would also be required to obtain FTC approval before acquiring any interest in a company that produces a vaccine for a disease for which it currently manufacturers a vaccine.

DATES: Comments must be received on or before March 19, 1990.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James C. Egan, Jr., FTC/S-2308, Washington, DC 20580. (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (the "Commission"), having initiated an investigation of the proposed acquisition of Connaught BioSciences, Inc. ("Connaught") by Institut Merieux S.A. ("Merieux"), a subsidiary of Rhone-Poulenc S.A., and it now appearing that Merieux is willing to enter into an agreement containing an order to lease certain assets and to cease and desist from certain acts:

It is hereby agreed by and between Merieux, by their duly authorized officers and their attorneys, and counsel for the Commission that:

1. Merieux is a corporation organized under the laws of France with its executive offices at 58 Avenue Leclerc, BP 7046, 69342 Lyon Cedex 07, France.

2. Connaught is a corporation organized under the laws of Canada with its executive offices at Suite 1500, 55 University Avenue, Toronto, Ontario, Canada, M5J 2H7.

3. Merieux admits, for purposes of this agreement and any judicial action arising out of this agreement, all the jurisdictional facts set forth in the draft of complaint here attached.

4. Merieux waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise challenge or contest the validity of the order entered pursuant to this agreement; and

d. All rights under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Merieux, in which event it will take such action as it may consider appropriate, or issue and serve a complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Merieux that the law has been violated as alleged in the draft of the complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Merieux, (1) issue a complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to lease and to cease and desist in disposition of the proceeding and (2) make information public and with respect thereto. When so entered, the order to lease and to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Merieux's address as stated in this agreement shall constitute service. Merieux waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Merieux has read the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Merieux further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered That for the purposes of this order the following definitions shall apply:

1. "Merieux" means Institut Merieux S.A., a corporation organized, existing, and doing business under and by virtue of the laws of France with its principal offices at 58 Avenue Leclerc, BP 7046, 69342 Lyon Cedex 07, France, as well as its officers, employees, agents, parents, divisions, subsidiaries, successors, assigns, and the officers, employees, or agents of Merieux's divisions, subsidiaries, successors and assigns.

2. "Commission" means the Federal Trade Commission.

3. "Connaught" means Connaught BioSciences Inc., a corporation organized, existing, and doing business under and by virtue of the laws of Canada with its principal offices at Suite 1500, 55 University Avenue, Toronto, Ontario, Canada, M5J 2H7, as

well as its officers, employees, agents, divisions, subsidiaries, successors, assigns, and the officers, employees or agents of Connaught's divisions, subsidiaries, successors and assigns.

4. "Connaught's rabies vaccine business" means Connaught's dedicated rabies vaccine production facility in Canada and all production technology and know-how related to the purified human diploid cell rabies vaccine developed and currently marketed by Connaught in Canada. As used in this order, "Connaught's rabies vaccine business" shall be construed to include all the results of research and development efforts by Connaught relating to improvements, developments and variants of the rabies vaccine product needed to obtain a product license from the Food and Drug Administration.

II

It is further ordered That:

A. Merieux shall lease on a long-term basis for a minimum of 25 years, at reasonable and customary terms, Connaught's rabies vaccine business, within six (6) months from the date this order becomes final, *provided that* the terms of the lease shall include a lump-sum payment under reasonable and customary terms for the existing inventory of Connaught rabies vaccine and shall include a commitment from the lessee to supply rabies vaccine sufficient to satisfy the Canadian demand for rabies vaccine;

B. Merieux shall, as soon as practicable, but no later than thirty (30) days after the execution of the lease agreement required by this order, deliver to the lessee Connaught's manuals, drawings, blueprints, technology, know-how, specifications and other tangible documents or documentation sufficient to operate Connaught's rabies vaccine business and Connaught's rabies vaccine facility;

C. Merieux shall, coincident with subparagraph II.B., make available to the lessee such Connaught personnel, assistance and training as the lessee might need to operate the production facility on its own and shall continue providing such personnel, assistance and training for a period of time sufficient to satisfy the management of the lessee that its personnel are well enough trained in the rabies vaccine business to produce rabies vaccine; *provided, however*, Merieux shall not be required to continue providing such personnel, assistance and training for more than one year after the execution of the lease agreement;

D. Merieux shall use its best efforts to secure from the Food and Drug Administration a product license for Connaught's rabies vaccine and shall assist in transferring such license to the lessee as a part of the lease agreement; and

E. Merieux shall lease Connaught's rabies vaccine business only to a lessee that receives the prior approval of the Commission, and only in a manner, that receives the prior approval of the Commission;

provided that if prior to the expiration of the six-month period, Merieux has proposed a lessee and the Commission has neither approved nor disapproved of such lessee, then the six-month period shall be extended until thirty (30) days following the Commission's approval or disapproval of such lessee. However, this six-month period cannot be extended beyond an additional six months for any reason.

III

It is further ordered That the lease agreement ordered and directed by this order shall be made in good faith and the obligation to enter into such a lease agreement shall be absolute consistent with the terms of this order.

IV

It is further ordered That if Merieux has not leased Connaught's rabies vaccine business as provided in Paragraph II within six (6) months after the date this order becomes final, Merieux shall consent to the appointment of a trustee by the Commission who shall have the power and authority to lease Connaught's rabies vaccine business. The trustee shall use his or her best efforts to negotiate the best price and terms available consistent with this order's absolute obligation to lease Connaught's rabies vaccine business; *provided that* the terms shall include a commitment from the lessee to supply rabies vaccine sufficient to satisfy the Canadian demand for rabies vaccine.

V

It is further ordered That the appointment of a trustee by the Commission pursuant to Paragraph IV of this order shall not constitute a waiver by the Commission of its rights to seek civil penalties and other relief available to it for any violation of this order, including a violation of Paragraph II. In the event that the Commission brings an action pursuant to § 5 of the Federal Trade Commission Act, 15 U.S.C. 45, or another statute enforced by the Commission, Merieux shall consent to the appointment of a trustee in such action.

VI

It is further ordered That if a trustee is appointed by the Commission or by a court pursuant to Paragraph IV or V of this order, Merieux shall consent to the following terms and conditions regarding the trustee's powers, authority, duties and responsibilities:

A. The Commission shall select the trustee, subject to Merieux's consent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

B. The trustee shall have the exclusive power and authority, subject to the prior approval of the Commission, to lease Connaught's rabies vaccines business. The trustee shall have eighteen (18) months from the date of appointment to accomplish the lease agreement, which shall be subject to the prior approval of the Commission. If, however, at the end of the eighteen-month period, the trustee has submitted a plan for leasing or believes that a lease can be executed within a reasonsable time, the lease period may be extended by the Commission and, in the case of a court-appointed trustee, by the court; *provided*, however, the Commission or the court for a court-appointed trustee may only extend the lease period two times. Merieux shall cooperate fully with the trustee and shall provide all consents, perform all such acts, and execute all such documents as may be necessary to permit the execution of the lease agreement for Connaught's rabies vaccine business as the trustee may determine.

C. After its appointment, the trustee shall file monthly reports with Merieux and the Commission describing the trustee's efforts to accomplish execution of the lease agreement. If the trustee has not accomplished execution of such lease agreement within eighteen (18) months after its appointment, the trustee shall thereupon promptly file with the Commission a report setting forth (i) the trustee's efforts to accomplish execution of the required lease agreement, (ii) the reasons, in the trustee's judgment, why the required lase agreement has not been executed, and (iii) the trustee's recommendations. The trustee shall at the same time furnish such report to Merieux, who shall have the right to be heard and to make additional recommendations. The Commission, or a court for a court appointed trustee, may, as it deems appropriate, extend the term in which to accomplish the execution of the lease agreement and the term of the trustee's appointment.

D. The trustee shall have full and complete access to the personnel, books, records and facilities of Connaught's rabies vaccine business which the trustee has the duty to lease, and Merieux shall cooperate with the trustee and shall develop such financial or other information relevant to the assets to be leased as such trustee may reasonably request. Merieux shall take no action to interfere with or impede the trustee's accomplishment of the lease agreement. Any delays in obtaining the lease agreement caused by Merieux shall extend the time for lease under this order in an amount equal to the delay, as determined by the Commission.

E. The trustee shall serve, without bond or other security, at the cost and expense of Merieux on such reasonable and customary terms and conditions as the Commission or a court, for a court-appointed trustee, may set. The trustee shall have authority to retain, at the cost and expense of Merieux, such consultants, attorneys, business brokers, accountants, appraisers, and other representatives and assistants as are reasonably necessary to assist in the execution of the lease agreement. The trustee shall account for all monies derived from the execution of the lease agreement and all expenses incurred. After approval by the Commission of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to Merieux and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee leasing Connaught's rabies vaccine business.

F. Merieux shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities to which the trustee may become subject, arising in any manner out of, or in connection with, the trustee's duty under this order, unless the Commission determines that such losses, claims, damages, or liabilities arose out of the misfeasance, gross negligence, or the wilful or wanton acts or bad faith of the trustee.

G. If the trustee ceases to act of fails to act diligently, a substitute trustee shall be appointed in the same manner as in Paragraph IV of this order.

H. Within thirty (30) days after appointment of the trustee and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Merieux shall, consistent with the provisions of this order, execute a trustee agreement that transfers to the trustee all rights and powers necessary to permit the trustee to lease Connaught's rabies vaccine business.

I. The trustee may ask the Commission to issue, and the Commission may issue, such additional orders or directions as may be necessary and appropriate to accomplish the execution of the lease agreement required under this order.

J. The trustee shall have no obligation or authority to operate or maintain any of the properties, assets, contracts, arrangements or enterprises required to be leased under this order.

VII

It is further ordered That any lease agreement entered pursuant to this order shall be in a manner which preserves the product and business leased as a viable rabies vaccine business and as a viable competitor.

VIII

It is further ordered that pending the lease agreement for Connaught's rabies vaccine business:

A. Merieux shall hold and operate Connaught's rabies vaccine business and shall take all reasonable measures to preserve the Connaught's rabies vaccine business as a separate viable product and business such that it can be readily leased pursuant to this order. In its conduct of Connaught's rabies vaccine business, Merieux shall promote and maintain Connaught's rabies vaccine business and shall maintain and preserve all of the intangible rights and other assets of Connaught's rabies vaccine business so that such business can be leased and operated as an effective and viable business in accordance with the requirements of this order. Without limiting any of Merieux's obligations under this order, Merieux's shall observe the limitations and restrictions set forth in the remaining subparagraph of this Paragraph VIII.

B. Merieux shall refrain from taking any actions which may cause any material adverse change in the business or financial condition of Connaught's rabies vaccine business.

C. Merieux shall maintain separate records as to the sales and cost of goods sold of each of the products of Connaught's rabies vaccine business and on an aggregate basis for the entire Connaught rabies vaccine business.

D. Merieux shall continue to utilize all currently used Connaught product trademarks and trade names related to Connaught's rabies vaccine business.

E. If Merieux uses its name on the products of Connaught's rabies vaccine business, and purchases advertising and other promotional services for such products under or pursuant to Merieux's contracts and other arrangements for such services, Merieux shall preserve the separate identity of such products.

F. Merieux shall refrain from, directly or indirectly, selling, disposing of, or causing to be transferred any assets, property or business of Connaught's rabies vaccine business, except that Merieux may sell or otherwise dispose of manufactured products in the ordinary course of business, and may sell or otherwise dispose of assets, property or business to accomplish the lease required by Paragraph II.

G. Merieux shall refrain from mortgaging or pledging the assets of Connaught's rabies vaccine business pursuant to any loan transaction in which the borrower is Merieux or any entity other than Connaught's rabies vaccine business, except in connection with the lease agreement described in Paragraph II, unless any such mortgage or pledge does not interfere with the ability to obtain or maintain the lease agreement required by this order.

H. Merieux shall refrain from causing Connaught's rabies vaccine business to guarantee any debts or obligations pursuant to any loan transaction in which the borrower is Merieux or any entity other than Connaught's rabies vaccine business, except in connection with the lease agreement described in Paragraph II, unless any such mortgage or pledge does not interfere with the ability to obtain or maintain the lease agreement required by this order.

I. Merieux shall hold in strict confidence and shall not divulge to any third party or use for its own or any third party's benefit any confidential information which Merieux has obtained or may obtain from Connaught's rabies vaccine business, except in the normal course of business, or for the purpose of accomplishing the lease agreement required by Paragraph II.

J. For the purpose of assuring compliance with this order, duly authorized representatives of the Commission shall be permitted, upon written request and reasonable notice to Merieux, to interview officers, directors, and employees of Merieux and examine documents, at reasonable times and in the presence of Merieux counsel, regarding matters covered by this agreement.

K. Merieux shall remain in compliance with the lease agreement entered pursuant to Paragraph II of this order, and shall not, without the prior approval of the Commission, permit any modifications, directly or indirectly, of any of the terms of such lease agreement.

IX

It is further ordered that, for a period of ten years from the date this order becomes final, Merieux shall not, directly or indirectly, acquire any stock, share capital, assets or equity interest in any concern, corporate or noncorporate, engaged in the manufacture or sale in or to the United States of any human vaccine which may be used to prevent, cure, or treat any disease for which Merieux currently manufactures a vaccine without the prior approval of the Commission, if such concern:

A. Is incorporated in one of the United States or organized under the laws of one of the United States or has its principal offices within the United States; or

B. Manufactures human vaccines in the United States; or

C. Had annual net sales of human vaccines of five million dollars or more in or into the United States in the most recently completed calendar year prior to the date of the requested approval; *provided that* this Paragraph shall not apply to investments by Merieux in research joint ventures or to Merieux's funding of independent research and that Merieux shall file with the Commission under the Commission's rules of confidentiality copies of all agreements that pertain to such research joint ventures or independent research arrangements within thirty (30) days of such agreement or arrangement.

X

It is further ordered:

A. Merieux shall, within sixty (60) days from the date this order becomes final and every sixty days thereafter until the lease agreement required by this order is accomplished, submit in writing to the Commission a verified written report setting forth in detail the manner and form in which Merieux intends to comply, is complying, and has complied with the terms of this order and such additional information relating thereto as may from time to time reasonably be required by the Commission. All such compliance reports shall include, among other things that may be required from time to time, a full description of all contacts or negotiations with anyone relating to the lease of Connaught's rabies vaccine business, including the name and address of all parties contacted, copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning the lease pursuant to the provisions of this order.

B. On the anniversary of the date of this order becomes final, and on every anniversary thereafter for the following nine (9) years, and at such other times as the Commission or its staff may request, Merieux shall submit a verified written report setting forth in detail the manner and form in which Merieux intends to comply, is complying, and has complied with the terms of this order.

XI

It is further ordered That for a period of ten (10) years from the date this order becomes final, Merieux shall notify the Commission at least thirty days prior to any change in Merieux which may affect compliance with the obligations arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other similar change in the corporation.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Institut Merieux S.A. ("Merieux")

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Merieux's purchase of Connaught BioSciences, Inc. ("Connaught") would violate the provisions of section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act in the markets for rabies vaccine and injectable polio vaccine.

The proposed consent order provides that Merieux will lease for a minimum of twenty-five (25) years Conaught's rabies vaccine business located in Toronto, Ontario, Canada, to a lessee approved by the Commission. Due to undertakings that Merieux made to Investment Canada as a condition of their approval of the acquisition the lessee will commit to supply the Canadian demand for rabies vaccine. If Merieux has not found a lessee within six months of the date the order becomes final, a trustee will be appointed whose responsibility it will be to find a lessee.

As part of the lease, Merieux will be required to make available to the lessee any Connaught personnel, assistance and training the lessee might need to operate the production facility on its own. This assistance may continue, at the lessee's option, for as long as one year after the execution of the lease. Also, Merieux must use its best efforts to asist the lessee in securing a product license for the rabies vaccine from the United States Food and Drug Administration.

During the period before the lease is entered into, Merieux is required to maintian the viability of Connaught's rabies vaccine business.

The proposed order further requires that for a period of ten years Merieux shall not, directly or indirectly, acquire an interest in any company that manufactures or sells in the United States any human vaccine of the type that Merieux currently manufactures, without prior approval from the Commission. Merieux can, however, invest in research joint ventures or fund independent research during the ten-year period, so long as it promptly provides copies of those agreements to the Commission.

Merieux is also required to provide annual reports to the Commission of its compliance with the provisions of the order for ten years.

The Commission anticipates that the effect of the proposed order will be to maintain the opportunity for competition in the market for rabies vaccine in the United States.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

C. Landis Plummer,

Acting Secretary.

[FR Doc. 90-1054 Filed 1-16-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2), of the Public Health Service Act, as amended, announces the following meeting.

Name: National Committee on Vital and Health Statistics (NCVHS)

Time and Date: February 7, 1990—1 p.m.–5 p.m.; February 8, 1990—9 a.m.–5 p.m.; February 9, 1990—9 a.m.–1:30 p.m.

Place: Room 703A, Hubert H. Humphrey Building 200 Independence Avenue, S.W., Washington, DC 20201

Status: Open

Purpose: The purpose of this meeting is for the NCVHS to receive and consider reports from each of its subcommittees and to address new business as appropriate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, Room 2-12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone number (301) 436-7050.

Dated: January 8, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90-1066 Filed 1-16-90; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 90N-0008]

Drug Export; Oxiracetam

AGENCY: Food and Drug Administration.

NOTICE: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Smith Kline & Laboratories has filed an application requesting approval for the export of the human drug oxiracetam bulk chemical (Neuromet) to Italy.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (12 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Smith Kline & French Laboratories, 1500 Spring Garden Street, Philadelphia, PA 19101, has filed an application requesting approval for the export of the durg oxiracetam bulk chemical (Neuromet), to Italy. The drug is indicated for use in mental syndromes of cerebral insufficiency and disturbances in mental efficiency in the elderly. The application was received and filed in the Center for Drug Evaluation and Research on November 15, 1989, which shall be considered the filing date of purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 29, 1990, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: November 29, 1989.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-1030 Filed 1-16-90; 8:45 am]

BILLING CODE 4160-01-M

Neurological Advisory Panel; Advisory Committee Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Neurological Devices Panel

Date, time, and place. February 2, 1990, 9 a.m., Room 100, Piccard Building, 1390 Piccard Drive, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 9 a.m. to 10 a.m.; closed presentation of data, 10 a.m. to 11 a.m.; open public hearing, 11 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 1 p.m. to 3 p.m.; Robert Munzner, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 1390 Piccard Drive, Rockville, MD 20850, 301-427-1044.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before January 26, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will make a recommendation regarding the classification of human dura mater as a preamendments device. All preamendment uses will be considered. The committee will also discuss a supplemental application for premarket approval of a hemostatic agent to be used in neurosurgery and make a recommendation with regard to approval.

Closed presentation of data. The committee will discuss trade secret and/or confidential commercial information regarding the premarket approval application for the hemostatic agent. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee

deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files complied for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: January 9, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-1031 Filed 1-16-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPO-089-N]

Medicare Program; Carrier Bonuses for Increasing Physicians' Participation or Payments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice describes the methodology we will use to award fiscal year 1989 incentive payments to carriers that successfully increase the number of participating physicians, i.e., physicians who agree to accept Medicare's reasonable charge for all Part B services that they provide to Medicare beneficiaries. It implements provisions of the Omnibus Budget Reconciliation Act of 1986 and the Omnibus Budget Reconciliation Act of 1987 which require us to publish a notice in the **Federal Register** describing our system for providing payment of a bonus to carriers based on their performance in increasing the number of participating physicians or the proportion of payment for participating physicians' services in their service areas.

FOR FURTHER INFORMATION CONTACT: Karen Gatial, (301) 966-7537.

SUPPLEMENTARY INFORMATION:

I. Background

A. Contracts with Carriers

Under section 1842 of the Social Security Act (the Act), we enter into contracts with carriers to fulfill various functions in the administration of part B

of the Medicare program (Supplementary Medical Insurance). Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the reimbursable amount (usually on the basis of reasonable charges) for the services or supplies, and then make payment to the appropriate party. Under section 1842(c)(1) of the Act we provide advances of funds to the carrier for making payments, and pay the administrative costs of the carrier for carrying out the necessary and proper functions covered by the contract.

B. Participating Physicians' Program

Section 2306 of Public Law 98–369, the Deficit Reduction Act of 1984 (DRA) established the Medicare participating physician program. Participating means accepting assignment on all Medicare claims. Accepting assignment means physicians accept Medicare's approved charge as full payment. The main goal of the program is to reduce the impact of medical costs upon beneficiaries by establishing incentives for physicians to accept assignment on all Medicare claims. The provisions give all physicians an annual opportunity to enroll or disenroll as a Medicare participating physician. A participating physician is one who voluntarily enters into an agreement to accept assignment annually for all services provided to Medicare patients for the 12-month period beginning January 1, of a particular year. However, section 4041 of Public law 100–203, the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) amended section 2306 of DRA and provided that, in 1988, the participation period would be for the 9 months from April 1988 to December 1988. The physicians' prior agreements were extended through march 31, 1988.

C. Legislation

Section 9332(a) of Public Law 99–509, the Omnibus Budget Reconciliation Act of 1986, (OBRA 86), and section 4085(i)(21)(B) of OBRA 87, require Medicare carriers to implement programs to recruit and retain physicians as participating physicians. These programs include educational and outreach activities; the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians; and programs to familiarize beneficiaries with the participating physician program and to assist the beneficiaries in locating participating physicians. Section 9332(a) also requires the Secretary to establish in incentive payment pool equal to one percent of the total payments to carriers for claims processing in any fiscal year, to be paid to those carriers that had success increasing the proportion of participating physicians or increasing the proportion of total payments for participting physicians' services in their service areas. Section 9332(a)(4)(B) requires the Secretary to establish a system for evaluating the carriers' performance in fulfiling these responsibilities.

D. Prior Year Activities

On October 11, 1988, we published in the Federal Register (53 FR 39645) a notice describing the methodology used to award incentive payments to carriers that had successfully increased the number of participating physicians for the fiscal year 1988. We also issued letters (September 18, and November 1, 1988) to all 10 HCFA regional offices providing them with the names of each carrier that qualified for the incentive program, the amount of money each carrier would receive under the incentive program and how the incentive program payment was calculated.

II. Methodology for Awarding Payments to Medicare Carriers

As in fiscal year 1988, we intend to pay incentive bonuses for fiscal year 1989 to any carrier that achieved an increase of at least one tenth of one percentage point in the number of participating physicians or proportion of total payments for participating physicians' services in the carrier's total service area. The methodology and data base are essentially the same as those previously used.

Data used to measure changes in those payments for physicians' services, which are payments for services provided by participating physicians, are reported to HCFA by carriers on Form HCFA–1565C, Quarterly Supplement to the Carrier Performance Workload Report, Table 6, titled "Participation Rate Based on Covered Charges". For purposes of this report, covered charges means that portion of participating physician submitted charges determined to be covered under Medicare.

Data used to measure increases in percent of physicians signing participation agreements are based on participation count data submitted by the carriers.

A. Establishment of Incentive Payment Pool

As required by section 9332(a) of OBRA 86 and section 4085 of OBRA 87 the amount of the total incentive payment payable to carriers is one percent of their total claims processing costs. Claims processing costs are reported by the carriers on line 1 of their Final Administrative Cost Proposal, Form HCFA–1524, for each fiscal year (FY). The incentive pool amount is $4.4 million for FY 1989. This was calculated by summing the amounts reported on the FY 1988 Final Administrative Cost Proposal by each carrier and multiplying the total by one percent.

Carriers in States which mandate that physicians take assignment are entitled to share in the pool in the first year and all subsequent years. They are entitled to the incentive payment plus any bonus payments they earn, with the exception of the bonus payments in category III of the methodology described below.

B. Evaluation of Carrier Performance

For the purpose of determining each carrier's eligibility for an incentive payment, we make two comparisons. We compare the carrier's physician participation rate after the latest enrollment period (e.g., as of January 1989) with its physician participation rate after the prior enrollment period (e.g., as of April 1988) and we make a similar comparison of the proportion of covered charges for services by participating physicians. Since OBRA 87 provided that in 1988 the participating period would begin on April 1, 1988 rather than January 1, 1988, we will compare the proportion of covered charges for services by participating physicians for quarters ending June 30, 1988 and June 30, 1989. We intend to use whichever difference yields the higher percentage increase for the purpose of determining eligibility for award of the incentive payment. We believe these comparisons reveal the carrier's success in increasing the proportion of total payments for physician services which are payments for such services furnished by participating physicians in its service area. These are the criteria established by section 9332(a) of OBRA 86 and section 4085(i)(21)(B) of OBRA 87 for awarding incentive payments.

As a means recognizing variations in the level of success among carriers, we will compare each carrier's increase with a standardized goal. We have established a 2 percentage point increase in participation as an attainable goal for this year which all carriers should strive to exceed. We believe it was the intent of Congress not only to expand the number of participating physicians, but to give every carrier a reasonable chance of earning a bonus. Based on historical performance from increasing

enrollments, a 2 percentage point increase was determined to be a reasonable goal. Consequently, we will compare all carrier increases with the 2 percentage point goal in determining the amount of each carrier's incentive bonus, as discussed in section III, below. Those who attain exactly a 2 percentage point increase will receive a full incentive payment, as described below.

In order to reward the success of those carriers who increase the participation rate by less than 2 percentage points, we will award partial incentive payments to any carrier that achieves at least a one-tenth of one percentage point increase. Carriers that increase provider participation by more than 2 percentage points will receive the full incentive payment and be eligible for bonus incentive payments. The full incentive payment can be defined as one percent of each carrier's claims processing administrative costs. All calculations involving the participation rate will be made to the nearest one-tenth of a percent. (If the incentive payments plus the bonus incentive payments calculated under this approach exceed the incentive pool, we will proportionately adjust the incentive bonus payments to bring the total in line with the availabel incentive payment pool. For example, if the total bonus incentive payments exceed the available pool for bonus incentives by 10 percent, then each carrier that earned a bonus payment will have that payment reduced by 10 percent.)

III. Calculation of Incentive Payments

We separate carrier performance as measured during the most recent enrollment period or payment period, as described above (e.g., January 1989 or April–June 1989, respectively) into four categories for purposes of calculating incentive payments.

• Category I—Carriers that increase their physician participation rate between 0.1 and 2 percentage points or increase the covered charges of participating physicians between 0.1 and 2 percentage points.

For each full one-tenth of a percentage point increase in the physician participation rate, we will pay 20 percent of each tenth of a percentage point increase times the full incentive payment. For example, if a carrier increased its participation rate by three-tenths of 1 percentage point, the formula used to calculate its incentive payment will be three-tenths times 20 percent times the full incentive payment which is 1 percent times line 1 cost.

Example:

—April 1988 participation rate 30 percent
—January 1989 participation rate 31.4 percent
—Increase in participation rate is 1.4 percentage points, which is greater than the percentage increase in covered charges
—Carrier entitled to receive 28 percent of full incentive payment. If, for example, the carrier had a $10 million line 1 cost, it would receive a $28,000 incentive payment (that is, 28 percent of the total $100,000 incentive payment).

• Category II—Carriers that increase their physician participation rate by more than 2 percentage points or increase the covered charges of participating physicians by more than 2 percentage points.

Carriers in this category will be paid the full incentive payment. Also, we will award 25 percent of the full incentive payment for each additional 2 percentage point increase.

Example 1:

—April 1988 participation rate 30 percent
—January 1989 participation rate 34 percent
—Increase in participation rate by 4 percentage points. (See Example 2 for comparison of percentage increase of covered charges.)

Carriers in this category are entitled to receive the full incentive payment for achieving the goal (the first 2 percentage point increase). In addition, the example carrier would receive 25 percent for each extra 2 point increase). In this example a carrier with a $10 million line 1 cost would receive a $125,000 incentive payment (that is, 1 percent of line 1 ($100,000) plus 25 percent of the $100,000 incentive payment).

Example 2:

—This is the same hypothetical carrier used in example 1
—June 30, 1988 paticipation based on covered charges of 35 percent
—June 30, 1989 participation based on covered charges of 41 percent
—Increase in participation rate based on covered charges is 6 percentage points
—As indicated in example 1, the increase in the participation rate was 4 percentage points
—Since the percentage point rate increase based on covered charges is greater than the percentage point rate increase based on participating physicians, the higher percentage point rate increase based on covered charges would be used

The carrier is entitled to the full incentive payment for achieving the goal (the first 2 percentage point increase) plus 50 percent of the full incentive payment (25 percent for each extra 2 point increase). In this example, a carrier with a $10 million line 1 cost would receive $150,000, this amount being higher than the $125,000 based on its physician participation rate increase in example 1.

• Category III—Carriers that achieve a participation rate of 95 percent.

We anticipate very few carriers will achieve this goal. Also, carriers in States that mandate assignment are not eligible for this bonus category. Carriers in this category will be paid the full incentive payment plus an additional 25 percent of the full incentive payment for achieving this plateau. The same full incentive payment plus an additional 25 percent of the full incentive payment will be paid each year to carriers that maintain the 95 percent or higher plateau. If a carrier in this category has increased its participation rate by more than 2 percentage points, it also will be paid any increments earned as calculated under category II.

Example:

—April 1988 participation rate 79 percent
—January 1989 participation rate 95 percent
—Increase in participation by 16 percentage points which is greater than the increase in covered charges.

Carriers in this category are entitled to receive the full incentive payment plus 25 percent of incentive payment for reaching 95 percent. In this example, the carrier would receive an additional 175 percent of the incentive payment based on its 14 percentage point increase over the goal. If for example, the carrier had a $10 million line 1 cost, it would receive a $300,000 incentive payment.

In order to give recognition to carriers who have achieved and sustained a high level of participation, we are considering changes in the future that would lower the participation rate percentile in this category.

• Category IV—Carrier participation rate and covered charge rate declines.

We anticipate that few or no carriers will be in this category. Carriers in this category are not entitled to receive an incentive payment.

IV. Issuance of Incentive Payments

We intend to issue the FY 1989 incentive payments on or before September 30, 1989. The amount of these

payments will be included on line 10 of the Notice of Budget Approval Form HCFA-1524. In this way, the amount of incentive payments is excluded from all claims processing unit cost calculations since unit cost is one of the measures used under the Contractor Performance Evaluation Program (CPEP) to evaluate carriers' performance in claims processing. We will consider revising the methodology for awarding incentive payments in FY 1990 to emphasize recruitment of specialties that have low participation rates but high Medicare volume practices.

V. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any notice that meets one of the E.O. criteria for a "major rule"; that is, that will be likely to result in—

• An annual effect on the economy of $100 million or more;

• A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

• Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This notice is not a major rule under E.O. 12291 criteria, and a final regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians are treated as small entities, while carriers are not.

The provisions of this notice primarily will affect Medicare carriers and are statutorily mandated by section 9332(a) of Public Law 99-509, and section 4085(i)(21)(B) of Public Law 100-203. We have not prepared a regulatory flexibility analysis since carriers are not considered small entities under the RFA and since we do not believe that this notice will have a significant impact on a substantial number of physicians. However, we believe that this notice will indirectly affect physicians to the extent that it provides carriers with an added financial incentive not only to maintain the number of participating physicians currently in their service area but also to convince non-participating physicians to become participating physicians. Finally, we did not prepare a regulatory flexibility analysis since most of the provisions of this notice are mandated specifically by statute and, thus, are a result of the statute and not this notice itself.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside of a Metropolitan Statistical Area. This notice will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing a rural hospital impact statement.

VI. Paperwork Reduction Act

This notice contains no information collection requirements subject to approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.).

(Sec. 1102, 1816, 1842, and 1871 of the Social Security Act, 42 U.S.C. 1302, 1395h, 1395a, and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medicare Insurance.)

Dated: September 29, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 90-1053 Filed 1-16-90; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[AA-220-00-4320-12]

Grazing Administration—Exclusive of Alaska; Grazing Fee for the 1990 Grazing Year

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment of grazing fee for the 1990 grazing year.

SUMMARY: The Secretary of the Interior hereby announecs that the fee for livestock grazing for the 1990 grazing year is $1.81 per animal unit month on public lands administered by the Bureau of Land Management.

EFFECTIVE DATES: March 1, 1990 through February 28, 1991.

ADDRESS: Any inquiries should be sent to: Director (220), Bureau of Land Management, Main Interior Building, Room 5650, 18th and C Streets NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton, (202) 653-9193.

SUPPLEMENTARY INFORMATION: Grazing fees for the use of public rangelands are established and collected under the authority of section 3 of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315), and Executive Order 12548 of February 14, 1986. The grazing fees are computed by the formula established in 43 CFR 4130.7-1.

Dated: January 11, 1990.

David O'Neal,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 90-1041 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Intent To Prepare an Environmental Impact Statement for the Cisco to Ouray Highway in Eastern Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Cisco to Ouray Highway in Eastern Utah and Notice of Scoping Meetings, and Notice of Intent to Amend Grand Resource Area Resource Management Plan.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), Moab District, will be directing the preparation of an EIS to be prepared by a third party contractor on the impacts of a proposed highway from I-70 near Cisco, Utah to Ouray, Utah approximately 85 miles north. The highway proposed on public lands in eastern Utah would be located in Grand and Uintah Counties. Construction of a highway in Grand County would require an amendment to the Grand Resource Area Resource Management Plan. Public scoping meetings will be held February 12, 13, 14, and 15.

SUPPLEMENTARY INFORMATION: The Cisco to Ouray highway is a joint project between the Grand County Roads Special Service District #1 and the Uintah County Special Services District. The highway would be constructed to serve energy development in the area and to provide

for a more direct north-south route through the eastern part of the state.

The no action alternative will be analyzed in the EIS. Also other alternative routes will be analyzed. Tentative issues to be addressed include wildlife, watershed, archaeology, air quality, and socio-economics. Additional issues will be included as a result of the scoping process. Significant impacts to BLM administered programs will be analyzed in the EIS.

The tentative EIS schedule is as follows:

Begin Public Comment Period—January 1990
File Draft EIS—October 1990
File Final EIS—June 1991
Issue Record of Decision—July 1991
Issue Right-of-Way Grant—August 1991

Construction of the highway would not be in conformance with the Grand Resource Management Plan (RMP) and the EIS process will be used to amend the RMP. All the resource programs that the Grand Resource Area administers will be analyzed to determine the impacts the proposed highway would have on them.

The Bureau of Land Managements' scoping process for the EIS will include: (1) Identification of issues to be addressed; (2) Identification of viable alternatives and (3) Notifying interested groups, individuals and agencies so that additional information concerning these issues can be obtained.

Public scoping meetings will be held February 12, 1990, at the BLM office at 900 North 700 East, Price, Utah; February 13, 1990 at the Salt Palace, Salt Lake City, Utah; February 14, 1990 at the Weston Plaza Hotel, Vernal, Utah; and at the BLM office at 82 East Dogwood, Moab, Utah, February 15, 1990. All the meetings will begin at 7 p.m. Additional briefing meetings will be considered as appropriate.

The scoping process will consist of a news release announcing the start of the EIS process; letters of invitation to participate in the scoping process; and a scoping document which further clarifies the proposed action, alternatives and significant issues being considered to be distributed to selected parties and available upon request.

Written comments will be accepted until March 1, 1990. Comments should be sent to the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah, Attention: Cisco to Ouray Highway Project.

FOR FURTHER INFORMATION CONTACT: Daryl Trotter at (801) 259-6111.

Dated: January 10, 1990.

James Parker,

State Director.

[FR Doc. 90-1067 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-DQ-M

(UT-930-4410-08)

Plan Amendment for the San Juan Management Framework Plan

AGENCY: Bureau of Land Management (BLM), Utah, Interior.

ACTION: Notice of intent—plan amendment for the South San Juan Management Framework Plan, San Juan County, Utah.

SUMMARY: This notice of intent is to advise the public that the Bureau of Land Management (BLM) is proposing to amend the South San Juan Management Framework Plan.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the 1973 South San Juan Management Framework Plan which includes public lands in San Juan County, Utah. The purpose of the amendment would be to make certain lands suitable for a Federal Aviation Administration (FAA) Airport Grant to the County of San Juan.

The lands being considered as suitable for the FAA Grant comprise approximately 1,000 acres, described as follows:

T. 38 S., R. 12 E., SLM
Section 33: E½NW¼, SW¼NE¼, N½SE¼, SE¼SE¼
Section 34: SE¼NE¼, E½SE¼, SW¼SE¼, SW¼SW¼
Section 35: NW¼, NW¼NE¼, N½SW¼, SW¼SW¼
T. 39 S., R.12 E., SLM
Section 3: NE¼, N½SE¼

This description covers two sites, only one site will be granted and the plan amendment will only apply to those lands in the FAA Airport Grant to the County. All remaining lands will be managed as presently identified in the Management Framework Plan.

The existing plan does not identify these lands as suitable for an airport. However, because of the resource values, public values, and objectives involved, the public interest may be well served by providing these lands to the County.

An environmental impact statement (EIS) is being prepared by the FAA with BLM as a cooperator. This EIS will be the National Environmental Policy Act compliance document for this planning amendment.

For 30 days from the date of publication of this notice, the BLM will accept comments on this proposal.

Existing planning documents and information are available at the San Juan Resource Area Office, P.O. Box 7, 435 North Main Street, Monticello, Utah 84535, phone: 801-587-2141.

FOR FURTHER INFORMATION CONTACT: Edward Scherick, San Juan Resource Area Manager.

Dated: January 10, 1990.

James M. Parker,

State Director.

[FR Doc. 90-1068 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-100-84-6310-02; GPO-101]

Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet February 16, 1990, beginning at 8:30 a.m. in the Roseburg District Office Auditorium. On the agenda are election of officers, further consideration of interface issues discussed at the December 5, 1989 Council meeting, and draft rules from the State Water Resources Department.

ADDRESSES: Bureau of Land Management, Roseburg District, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist, (503) 672-4491.

SUPPLEMENTARY INFORMATION: The meeting is open to the public, and a public comment period will be provided at 9:00 a.m. Written statements for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. The rural residential interface issues to be reconsidered may include access, roads, right-of-way, water, impacts to the timber base, fire protection, slash burning, and public information.

Dated: January 10, 1990.

James A. Moorhouse,

District Manager.

[FR Doc. 90-1134 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-33-M

[OR-933-00-4332-09: GPO 0-090]

Public Review Period for USGS/USBM "Mineral Survey Reports" Prepared for BLM Wilderness Study Areas; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Oregon Bureau of Land Management (BLM) is requesting public review of combined U.S. Geological Survey (USGS) and U.S. Bureau of Mines (USBM) "Mineral Survey Reports" for the following Wilderness Study Areas (WSAs). These WSAs have been preliminary recommended suitable for inclusion into the National Wilderness Preservation System:

1. Hawk Mountain WSA (OR-1-146A), Harney County, Oregon (USGS Bulletin 1740-F), Cost *$1.75*;

2. Camp Creek WSA (OR-3-31), Cottonwood Creek WSA (OR-3-32), Malheur County, Oregon (USGS Bulletin 1741-C),—*$1.50*;

3. Upper Leslie Gulch WSA (OR-3-74), Slocum Creek WSA (OR-3-75), Malheur County, Oregon (USGS Bulletin 1741-D), Cost—*$1.75*.

If the public provides a new interpretation of the data presented in the mineral reports or submits new mineral data for consideration, BLM will send these comments to USGS/USBM. Significant new findings, if any, will be documented in the BLM "Wilderness Study Report" which will be reviewed by the Secretary, the President, and by Congress before final decisions on wilderness designation are made.

Copies of the mineral survey reports are available for review in BLM offices in Portland, Salem, Eugene, Roseburg, Medford, Coos Bay, Lakeview, Burns, Prineville, Vale, and Spokane. These copies are not available for sale or removal from BLM offices. Copies, however, may be purchased from the following address: Books and Open-File Report Section, U.S. Geological Survey, Federal Center, Box 25425, Denver, CO 80225, (303) 236-7476. Payment by check or money order must accompany all orders.

DATE: The public review of the mineral survey reports named in this notice shall conclude on March 30, 1990.

ADDRESS: Send comments and information to: State Director (920), BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Eric Hoffman, Division of Mineral Resources at (503) 231-6974 or David Harmon, Division of Lands and Renewable Resources at (503) 231-6823, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

SUPPLEMENTARY INFORMATION: Section 603 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2785, directed the Secretary of Interior to inventory lands having wilderness characteristics as described in the Wilderness Act of September 3, 1964, and from time to time report to the President his recommendations as to the stability or non-suitability of each area for preservation as wilderness. The USGS and USBM are charged with conducting mineral surveys for areas that have been preliminarily recommended suitable by BLM for inclusion into the wilderness system to determine the mineral values, if any, that may be present in such areas. There are about 2.8 million acres of Wilderness Study Areas identified by BLM in Oregon, of which about 1.3 million acres have been preliminary recommended as suitable. These 3 reports are part of approximately 37 combined mineral survey reports that will be prepared by USGS/USBM. Additional mineral survey reports will be available for public review in the future.

The BLM Oregon State Director is providing this public review and comment period in order to insure that all available minerals data are considered by Congress prior to making its final wilderness suitability decisions. BLM will review the public comments and will forward to USGS/USBM any significant new minerals data or new interpretations of the mineral data submitted by the public.

The information requested from the public via this invitation is not limited to any specific energy or mineral resource. Comments should be provided in writing and should be as specific as possible and include:

1. The name and number of the subject Wilderness Study Area and USGS/USBM Mineral Survey Report.

2. Mineral(s) of interest.

3. A map or land description by subdivision of the public land survey grid or protracted surveys showing the specific parcel(s) of concern within the subject Wilderness Study Area.

4. Information and documents that depict the new data or reinterpretation of data.

5. The name, address, and phone number of the person who may be contacted by technical personnel of the BLM, USGS, or USBM assigned to review the information.

Geologic maps, cross sections, drill hole records and sample analyses, etc. should be included. Published literature and reports may be cited. Each comment should be limited to a specific Wilderness Study Area. All information submitted and marked confidential will be treated as proprietary data and will not be released to the public without consent.

Dated: December 29, 1989.

Charles T. Hoyt,

Acting State Director.

[FR Doc. 90-1022 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-33-M

National Park Service

Grand Canyon National Park; Colorado River Management Plan

SUMMARY: The National Park Service, Grand Canyon National Park, has finalized and approved the revised Colorado River Management Plan (CRMP). The adopted plan is in accord with Alternative B as defined in the Draft CRMP and Environmental Assessment, for which the public review period was announced in the **Federal Register**, dated November 28, 1988, and subsequently extended by similar announcement through January 29, 1989. Prior to the final approval of the CRMP, a 30 day review of the draft Finding of No Significant Impact and Summary of Public Comments for the CRMP and Environmental Assessment was announced in the **Federal Register** of July 24, 1989.

ADDRESSES: The CRMP is available for public inspection at Grand Canyon National Park headquarters and the National Park Service Western Regional Office in San Francisco, California. Copies of the CRMP are also located in libraries in Flagstaff, Phoenix and Tucson, Arizona; Salt Lake City and Cedar City, Utah; San Francisco and Sacramento, California; Denver, Colorado; and Reno, Nevada. Individual copies of the CRMP may be obtained from the National Technical Information Service for a cost of $23.00 plus $3.00 handling charge, or for a microfiche copy, $8.00 plus $3.00 handling. The address for obtaining these copies is: united States Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; Accession No. PB90131566/AS, Telephone No: (703) 487-4600.

Dated: January 5, 1990.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 90-1017 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the dates of the meetings of the Upper Delaware Citizens Advisory Council for calendar year 1990. Notice of these meetings is required under the Federal Advisory Committee Act.

Dates	Type of meeting	Inclement weather reschedule date
Jan. 26, 1990	Organizational	Feb. 9, 1990.
Feb. 23, 1990	Business	Mar. 9, 1990.
Mar. 23, 1990	Educational	Apr. 13, 1990.
Apr. 27, 1990	Business	None.
May 18, 1990	Educational	None.
June 22, 1990	Business	None.
July 27, 1990	Educational	None.
Aug. 25, 1990	Business	None.
Sept. 30, 1990	Educational	None.
Oct. 26, 1990	Business	None.
Nov. 16, 1990	Educational	Dec. 7, 1990.
Dec. 14, 1990	Business	Jan. 11, 1991.

Press Releases containing specific information regarding the subject of each monthly meeting will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle

Announcement of cancellation due to inclement weather will be made by radio stations WDNH, WSUL, and WVOS.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764-0159; 717-729-8251.

SUPPLEMENTARY INFORMATION: The advisory Council was established under section 704(?) of the National Parks and Recreation Act of 1978, Public Law 95-625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 90-1016 Filed 1-16-90; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 16, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by February 1, 1990.

Carol D. Shull,

Chief of Registration, National Register.

IOWA

Marion County

Van Spanckeren, B. H. and J. H. H., Row Houses, 505—507 Franklin St., Pella, 90000004

MASSACHUSETTS

Bristol County

Anthony, David M., House (Swansea MRA), 98 Bay Point Ave., Swansea, 90000059
Anthony, Harold H., House (Swansea MRA), 132 Bay Point Ave., Swansea, 90000058
Bark Street School (Swansea MRA), Stevens Rd. at Bark St., Swansea, 90000062
Barneyville Historic District (Swansea MRA), Old Providence and Barneyville Rds., Swansea, 90000052
Bend of the Lane (Swansea MRA), 181 Cedar Ave., Swansea, 90000057
Brown, John, IV, House (Swansea MRA), 703 Pearse Rd., Swansea, 90000064
Buffington, Deacon John, House (Swansea MRA), 262 Cedar Ave., Swansea, 90000056
Church of Christ, Swansea (Swansea MRA), G. A. R. Hwy/US 6 at Maple Ave., Swansea, 90000075
Cole, Benjamin, House (Swansea MRA), 412 Old Warren Rd., Swansea, 90000066
Colony Historic District (Swansea MRA), Gardner's Neck and Mattapoisett Rds. at Mt. Hope Bay, Swansea, 90000079
First Baptist Church and Society (Swansea MRA), Baptist St., Swansea, 90000060
Gardner, Francis L., House (Swansea MRA), 1129 Gardner's Neck Rd., Swansea, 90000077
Gardner, Joseph, House (Swansea MRA), 1205 Gardner's Neck Rd., Swansea, 90000076
Gardner, Preserved, House (Swansea MRA), 90 Milford Rd., Swansea, 90000061
Gardner, Samuel, House (Swansea MRA), 1035 Gardner's Neck Rd., Swansea, 90000068
Hooper House (Swansea MRA), 306 Hortonville Rd., Swansea, 90000074
Hortonville Historic District (Swansea MRA), Locust St. from Oak St. to Hortonville Rd., Swansea, 90000051
Johnson, J. V., House (Swansea MRA), 36 Riverview Ave., Swansea, 90000069
Luther House (Swansea MRA), 177 Market St., Swansea, 90000073
Luther's Corner (Swansea MRA), Old Warren and Pierce Rds., Swansea, 90000054
Luther, William, House (Swansea MRA), 79 Old Warren Rd., Swansea, 90000067
Norton House (Swansea MRA), 61 Old Providence Rd., Swansea, 90000078
Short's Tavern (Swansea MRA), 282 Market St., Swansea, 90000072
Simcock House (Swansea MRA), 1074 Sharps Lot Rd., Swansea, 90000063
Smuggler's House (Swansea MRA), 361 Pearse Rd., Swansea, 90000065
South Swansea Union Church (Swansea MRA), Gardner's Neck Rd., Swansea, 90000055
Swansea Village Historic District (Swansea MRA), Roughly Main St. from Gardners Neck Rd. to Stephens Rd., and Ledge Rd., Swansea, 90000053
Walkden Farm (Swansea MRA), 495 Marvel St., Swansea, 90000071

Middlesex County

Agudas Achim Anshei Sfard Synagogue (Newton MRA), 168 Adams St., Newton, 90000035
Boston Edison Power Station (Newton MRA), 374 Homer St., Newton, 90000023
Brae-Burn Historic District (Newton MRA), Brae Burn and Windmere Rds., Newton, 90000009
Bruner, Mayall, House (Newton MRA), 36 Magnolia Ave., Newton, 90000040
Childs, Mayor Edwin O., House (Newton MRA), 340 California St., Newton, 90000039
City Stable and Garage (Newton MRA), 74 Elliot St., Newton, 90000022
Commonwealth Avenue Historic District (Newton MRA), Roughly Commonwealth Ave. from Walnut St. to Waban Hill Rd., Newton, 90000012

Crimmins, Thomas A., House (Newton MRA), 19 Dartmouth St., Newton, 90000021
Day Estate Historic District (Newton MRA), Commonwealth Ave. and Dartmouth St., Newton, 90000008
Eddy, George W., House (Newton MRA), 85 Bigelow Rd., Newton, 90000038
Goodbar, Lafayette, House (Newton MRA), 614 Walnut St., Newton, 90000044
Gray Cliff Historic District (Boundary Increase) (Newton MRA), The Ledges and Bishopsgate Rds., Newton, 90000011
Hammond, E. C., House (Newton MRA), 35 Groveland St., Newton, 90000046
Harriman, Henry I., House (Newton MRA), 825 Centre St., Newton, 90000028
Harrison, C. Lewis, House (Newton MRA), 14 Eliot Memorial Rd., Newton, 90000045
Hayward, Fred R., House (Newton MRA), 1547 Centre St., Newton, 90000025
Hopewell, Frank B., House (Newton MRA), 301 Waverley Ave., Newton, 90000034
Howes, C. G., Dry Cleaning—Carley Real Estate (Newton MRA), 1173 Washington St., Newton, 90000031
Kessler, William F., House (Newton MRA), 211 Highland St., Newton, 90000048
Luke, Arthur F., House (Newton MRA), 221 Prince St., Newton, 90000042
Monadnock Road Historic District (Newton MRA), Roughly Monadnock Rd., Wachusett Rd., Hudson St., Tudor Rd., Beacon St., and Hobart Rd., Newton, 90000019
Morton Road Historic District (Newton MRA), Morton Rd. at Morton St., Newton, 90000010
Newton Catholic High School (Newton MRA), 575 Washington St., Newton, 90000033
Newton Centre Branch Library (Newton MRA), 1294 Centre St., Newton, 90000024
Newton City Hall and War Memorial (Newton MRA), 1000 Commonwealth Ave., Newton, 90000020
Newton Highlands Historic District (Boundary Increase) (Newton MRA), Roughly Lincoln St., Harford St., Erie Ave., and Woodward St., Newton, 90000013
Newtonville Historic District (Boundary Increase) (Newton MRA), Roughly Highland and Lowell Aves, Otis St., and Birch Hill Rd., and Walnut St. from Newtonville to Washington, Newton, 90000014
Moves, Charles W., House (Newton MRA), 271 Chestnut St., Newton, 90000030
Old Chestnut Hill Historic District (Boundary Increase) (Newton MRA), Roughly bounded by Chestnut Hill, Essex, and Gate House Rds., Newton, 90000007
Pierce, F. Lincoln, Houses (Newton MRA), 231—237 Mill St., Newton, 90000041
Pine Ridge Road—Plainfield Street Historic District (Newton MRA), Roughly Pine Ridge Rd., Upland Rd., Plainfield St., and Chestnut St., Newton, 90000015
Plummer Memorial Library (Newton MRA), 375 Auburn St., Newton, 90000036
Riverside Concrete Company—Lamont's Market (Newton MRA), 2 Charles St., Newton, 90000029
Saco-Lowell Shops Housing Historic District (Newton MRA), Oak, William, Butts, and Saco Sts., Newton, 90000016
Sawyer, C. A., House (Second) (Newton MRA), 221 Prince St., Newton, 90000043
Schraft, George F., House (Newton MRA), 885 Centre St., Newton, 90000027
Second Church of Newton (Newton MRA), 60 Highland St., Newton, 90000049
Stratton, Edward B., House (Newton MRA), 25 Kenmore St., Newton, 90000050
Towle, Loren, Estate (Newton MRA), 785 Centre St., Newton, 90000026
Waban Branch Library (Newton MRA), 1608 Beacon St., Newton, 90000037
Walker Home for Missionary Children (Newton MRA), 144 Handcock St., Newton, 90000047
Warren, Levi, Jr., High School (Newton MRA), 1600 Washington St., Newton, 90000032
West Newton Village Center Historic District (Newton MRA), Roughly Washington St. from Putnam to Davis Ct., Newton, 90000017
Windsor Road Historic District (Newton MRA), Windsor and Kent Rds., Newton, 90000018

MISSOURI

Shannon County

Klepzig, Walter, Mill and Farm, Along Rocky Creek in Ozark National Scenic Riverway, Eminence vicinity, 90000001

Wayne County

Old Greenville (23WE637), Address Restricted, Greenville vicinity, 90000005

MONTANA

Rosebud County

Anderson, Herman and Hannah, House (Forsyth MPS), 209 S. 7th Ave., Forsyth, 90000084
Blue Front Rooming House (Forsyth MPS), 1187 Main St., Forsyth, 90000085
Brotherhood of Locomotive Engineers Hall (Forsyth MPS), 262 S. 7th Ave., Forsyth, 90000086
First Presbyterian Church and Manse (Forsyth MPS), 1160–1189 Cedar St., Forsyth, 90000089
Forsyth Bridge (Forsyth MPS, 3rd Ave. at the Yellowstone River Forsyth, 9000090
Forsyth Main Street Historic District (Forsyth MPS), Roughly bounded by Cedar St., 11th Ave., Main St., and 8th St., Forsyth, 90000081
Forsyth Residential Historic District (Forsyth MPS), Roughly bounded by Cedar St., 11th Ave., Willow St., 12th Ave., Oak St., and 14th Ave., Forsyth, 90000082
Forsyth Water Pumping Station (Forsyth MPS), 3rd Ave. at the Yellowstone River, Forsyth, 90000087
Marcyes, Claude O., House (Forsyth MPS), 390 S. 7th Ave., Forsyth, 90000088
Northern Pacific Railroad Depot (Forsyth MPS), First Ave. at Park St., Forsyth, 90000083

NEW YORK

St. Lawrence County

Trinity Episcopal Chapel, Rt. 65, S of Morley, Morely, 90000003

Tioga County

Bement-Billings House, NY 38, N of Newark Valley, Newark Valley, 90000002

SOUTH CAROLINA

Kershaw County

Russell-Heath House, SC 522, W of jct. with Co. Rd. 2088, Stoneboro vicinity, 90000006

Lancaster County

Buford's Massacre Site (Lancaster County MPS), SC 522, 0.25 mi. S of SC 9, Tradesville vicinity, 90000091
Clinton AME Zion Church (Lancaster County MPS), Johnson and Church Sts., Kershaw, 90000092
Craig House (Lancaster County MPS), SC 185/Craig Dr., Lancaster vicinity, 90000093
Cureton House (Lancaster County MPS), Co. Rd. 29, S of Co. Rd. 39, City Unavailable, 90000094
Kershaw Depot (Lancaster County MPS), Cleveland St., Kershaw, 90000096
Massey-Doby-Misbet House (Lancaster County MPS), SC 55, SW of Co. Rd. 2109, Van Wyck vicinity, 90000095
Stewart-Sapp House (Lancaster County MPS), SC 522 and SC 28, Tradesville vicinity, 90000097
Unity Baptist Church (Lancaster County MPS), Sumter and Hart Sts., Kershaw, 90000098

[FR Doc. 90–1018 Filed 1–16–90; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Bureau of Labor Statistics
Survey of Employer Anti-drug Programs
Other—one-time survey
Businesses or other for-profit; Small businesses or organizations; Non-profit institutions
600 respondents; 50 total hours; 5 minutes per response;
It is important to update information on private sector efforts to combat drug abuse at the workplace. This collection will assist BLS in recommending the appropriate interval between surveys of employer anti-drug programs.

Extension

Bureau of Labor Statistics Reports 6, 8, 10-15, 1220-0043; LAUS 6, 8, 10-15

Form No.	Affected public	Respondents	Frequency	Average time per response (hours)
LAUS 6	State Governments	52	Monthly	0.5
LAUS 8	State Governments	52	10 per yr	1.9
LAUS 10	State Governments	52	Quarterly	7.8
LAUS 11	State Governments	52	Annually	80
LAUS 12	State Governments	52	Annually	80
LAUS 13	State Governments	52	3 per yr	1.0
LAUS 14	State Governments	52	3 per yr	1.0
LAUS 15	State Governments	52	2 per yr	4.0
5,250 total hours				

These reports provide essential technical management information regarding (1) quality, consistency, and conformance to BLS standards of the data and procedures used in LAUS estimation, and (2) proposed contractual research in LAUS estimation and UI data analysis and improvement.

Signed at Washington, DC this 11th day of January, 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90-1059 Filed 1-16-90; 8:45 am]

BILLING CODE 4510-24-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: February 13, 1990, 9:30 a.m. to 12:00 noon, Room S2217, Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552b(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Director, Labor Advisory Committee Group, Phone: (202) 523-2752.

Signed at Washington, DC this 9th day of January 1990.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 90-1058 Filed 1-16-90; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT

Commission Meeting on the Methods and Rates of Compensation of Federal Law Enforcement Officers, as Well as Comparisons With Their Nonfederal Counterparts

AGENCY: National Advisory Commission on Law Enforcement.

ACTION: Commission meeting.

SUMMARY: The National Advisory Commission on Law Enforcement (NACLE) was created by the Anti-drug Abuse Act of 1988 (Pub. L. 100-690, sec. 6160). The Commission was created to study "the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned."

The fourth Commission meeting is scheduled for Wednesday, January 21, 1990, from 2:00 to 4:00 p.m. The meeting will be held in Room 2141 of the Rayburn House Office Building, on Independence Avenue, between South Capitol Street and First Street SW., Washington, DC. Among the items to be discussed are (1) comments and revisions to the draft report, (2) resolution of unresolved issues, and (3) discussion of a public hearing and steps leading to implementing the report. Members of the public wishing to attend the Commission meeting should notify the Commission staff on 275-1777 by close of business of January 30, 1990.

FOR FURTHER INFORMATION CONTACT: Drew Valetine, Staff Director, or Patrick Mullen, Deputy Staff Director, at (202) 275-1777.

Charles A. Bowsher,

Chairman, National Advisory Commission on Law Enforcement.

[FR Doc. 90-999 Filed 1-16-90; 8:45 am]

BILLING CODE 1610-01-M

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meeting

ACTION: Notice of meeting.

SUMMARY: The National Commission on Migrant Education will hold its third meeting on Monday, February 5, 1990. The Commission was established by Public Law 100-297, April 28, 1988.

Date, Time, and Place: Monday, February 5, 1990, 9:00 a.m.-4:00 p.m., Room 311, Cannon House Office Building, First and C Streets, SE., Washington, DC 20515.

Type of Meeting: Open.

Agenda: Discussion will be devoted to the Migrant Student Record Transfer System.

For Additional Information: Contact Nancy Watson, 301-492-5336, Natonal Commission on Migrant Education, 8120 Woodmont Avenue, Fifth Floor, Bethesda, Maryland 20814.

Linda Chavez,

Chairman.

[FR Doc. 90-1038 Filed 1-16-90; 8:45 am]

BILLING CODE 6820-DE-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services Professional Services Program; Availability of Funds

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of availability of funds, types of projects encouraged for Fiscal Year 1990 Professional Services Program.

SUMMARY: For fiscal year 1990, $250,000 is available through the Professional Services Program of the Institute of Museum Services. The deadline for submission of applicable proposals is April 6, 1990.

Nature of Program. Through the Professional Services Program, the IMS offers matching funds through cooperative agreements with private, non-profit professional museum organizations. Successful proposals describe projects that will benefit and strengthen museum services. Section 206(b), Title II of the Museum Services Act, Public Law 94-462, as amended, contains authority for this program. (20 U.S.C. 965(b)).

SUPPLEMENTARY INFORMATION: For the fiscal year 1990 Professional Services Program award cycle, IMS is particularly interested in receiving proposals for projects designed to assist in the development of disaster preparedness plans. In light of policy guidance from the National Museum Services Board and other information, IMS concludes that there is a need among museums generally to enhance their ability for disaster preparedness planning. IMS believes that sound proposals under the Professional Services Program to strengthen that ability would help to serve this need and would promote the purposes of that program and of the Museum Services Act generally.

While IMS invites the submission of applications involving such proposals, applicants are advised that, under current regulations, these proposals must be reviewed, along with other applications, in accordance with the procedures and criteria applicable to the Professional Services Program found in 45 CFR 1180.77 (53 FR 31336, Aug. 18, 1988) and cannot receive special consideration in the review process or in funding decisions.

Program Information and Applicable Regulations: Program information is contained in the following: final regulations at 45 CFR 1180.77 (1988), also published August 18, 1988 in Federal Register, vol. 53, no. 160, pages 31336-31339.

Available Funds: $250,000 is available for FY 1990. IMS makes matching Professional Services Program cooperative agreements of no more than $50,000 in Federal funds. In exceptional circumstances applicable to a particular applicant, the Director, upon consultation with the Board, may waive the matching requirement.

Deadline Date for Transmittal of Applications: An application for a cooperative agreement must be mailed or hand-delivered by Friday, April 6, 1990.

Applications Delivered by Mail: An application sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, DC 20506.

An applicant must be prepared to show one of the following as proof of timely mailing: (1) A legibly dated U.S. Postal Service postmark. (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service. (3) A dated shipping label, invoice, or receipt from a commercial carrier. (4) Any other dated proof of mailing acceptable to the Director of IMS.

If an application is mailed through the U.S. Postal Service, the Director cannot accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the Institute of Museum Services, Old Post Office Building, 1100 Pennsylvania Avenue, NW., Room 609, Washington, DC 20506.

IMS accepts hand-delivered applications between 9:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered cannot be accepted after 4:30 p.m. on the deadline date.

Application Forms: IMS mails application forms and program information in a PSP Application Packet to professional museum organizations on its mailing list. Applicants may obtain Application Packets by writing or telephoning the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 609, Washington, DC 20506. (202/786-0539).

Further Information: For further information please contact Rebecca W. Danvers, Program Director, at the above address.

Dated: January 10, 1990.

(Catalogue of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Daphne Wood Murray,

Director, Institute of Museum Services.

[FR Doc. 90-1036 Filed 1-16-90; 8:45 am]

BILLING CODE 7036-01-M

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose

of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. Date: February 1, 1990
Time: 9:00 a.m. to 5:00 p.m.
Room: 430
Program: This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after August 1, 1990.
2. Date: February 2, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to the Access and Tools category in the fields of Ancient, Medieval and Renaissance Studies, submitted to the Division of Research Programs, for projects beginning after July 1, 1990.
3. Date: February 5, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 316–2
Program: This meeting will review Interpretive Research/Projects applications for Arts, Architecture and Anthropology, submitted to the Division of Research Programs, for projects beginning after July 1, 1990.
4. Date: February 5–6, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications submitted to the Humanities Projects in Museums and Historical Organizations program received for the December 8, 1989 deadline in the Division of General Programs, for projects beginning after July 1, 1990.
5. Date: February 12, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 316–2
Program: This meeting will review Interpretive Research/Projects applications for New World Archaeology, submitted to the Division of Research Programs, for projects beginning after July 1, 1990.
6. Date: February 15, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 316–2
Program: This meeting will review Interpretive Research/Projects applications for Literature, Linguistics, Philosophy and Religion, submitted to the Division of Research Programs, for projects beginning after July 1, 1990.
7. Date: February 16, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 316–2
Program: This meeting will review Interpretive Research/Projects applications for Old World Archaeology, submitted to the Division of Research Programs, for projects beginning after July 1, 1990.
8. Date: February 27, 1990
Time: 8:30 a.m. to 5:00 p.m.
Room: 415
Program: This meeting will review applications for Special Competition—Distinguished Teaching Professorships submitted to the Office of Challenge Grants, for projects beginning after December 1, 1990.

Catherine Wolhowe,
Advisory Committee Management Officer (Alternate).
[FR Doc. 90-1037 Filed 1-16-90; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

NRC Committee To Review the Severe Accidents Risks Report; Meeting

The NRC Committee to Review the Severe Accident Risks Report (NUREG-1150) will hold its third meeting on January 18 and 19, 1990 at the Hyatt Regency Hotel, 1 Bethesda Metro Center, Bethesda, Maryland. Prior notice of this meeting, including the topics to be discussed, was published in the **Federal Register** on December 12, 1989 [54 FR 51091]. A more detailed agenda for the meeting and the name of the lead briefer for each topic is as follows:

January 18, 1990		
8:30 a.m.	Introduction	Kouts
8:45 a.m.	Overview of Agenda	Murphy
9:00 a.m.	Question 1: Seismic Analysis A. Overview, B. Hazard Curves, C. Seismic Methods.	Ross Reiter Bohn
10:30 a.m.	Break	
10:45 a.m.	C. Seismic Methods (cont.), D. Seismic Risk.	Breeding
11:15 a.m.	Question 2: High Pressure Melt Ejection—Expert Judgments.	Harper
12:15 p.m.	Lunch	
1:15 p.m.	Question 3: Changes in Early Containment Failure Probability.	Harper
2:15 p.m.	Question 4: Vessel Failure.	Cunningham
2:45 p.m.	Break	
3:00 p.m.	Question 5: HRA Modeling Uncerainties; A. Introduction, B. Methods.	Murphy Camp
4:00 p.m.	Question 6: Peach Bottom ATWS Analysis; A. Overview, B. HRA.	Kolaczkowski Lukas
4:30 p.m.	Additional Discussion	
5:00 p.m.	Adjourn	
January 19, 1990		
8:30 a.m.	Questions 7 & 8: Risk and Risk Reduction Issues; A. Surry, Sequoyah, B. Zion.	Breeding Pratt
10:00 a.m.	Break	
10:15 a.m.	C. Peach Bottom, Grand Gulf.	Harper
11:15 a.m.	Summary Remarks	Beckjord
11:45 a.m.	Lunch	
1:00 p.m.	Committee Discussions	
5:00 p.m.	Adjourn	

Further information regarding this meeting can be obtained by calling Mr. Charles B. Bartlett (telephone 301-492-3604).

Dated January 10, 1990.

John C. Hoyle,
Advisory Committee Management Officer.
[FR Doc. 90-1043 Filed 1-16-90; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 9999004]

Wrangler Laboratories, et al.; Assignment of Atomic Safety and Licensing Appeal Board

In the matter of Wrangler Laboratories, Larsen Laboratories, Orion Chemical Co., and John P. Larsen (General License Authority of 10 CFR 40.22; E.A. 87-223).

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this

show-cause proceeding: Christine N. Kohl, Chairman, Dr. W. Reed Johnson, G. Paul Bollwerk, III.

Dated: January 9, 1990.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 90-1042 Filed 1-16-90; 8:45 am]

BILLING CODE 7590-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Prospective Payment Assessment Commission

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, January 30-31, 1990, at The Madison Hotel, 15th & M Streets, NW., Washington, DC. The meetings will convene at 9 o'clock a.m. on each day. The meeting on Tuesday will be held in Executive Chambers 1, 2 and 3. The Wednesday meeting will be held in the Arlington and Monticello Rooms. All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 90-1085 Filed 1-16-90; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27596; File No. SR-Phlx-89-15]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Amendment Relating to Equity Openings When the Primary Market Is Subject to a Non-Regulatory Trading Halt

I. Introduction

On April 3, 1989, the Philadelphia Stock Exchange, Inc. ("Exchange" or "PHLX") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change designed to amend the Exchange's opening procedures for dually-traded equity securities when the primary market is subject to a non-regulatory trading halt. Amendment No. 1, submitted by the Exchange on November 22, 1989, clarifies the operation of the proposed rule change and the statements of purpose governing the proposal.[3]

Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26835, May 18, 1989), and by publication in the **Federal Register** (54 FR 22645, May 25, 1989). The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Exchange proposes to adopt a new rule, PHLX Rule 230, which will establish criteria applicable to PHLX openings in stocks for which the New York Stock Exchange ("NYSE") or the American Stock Exchange ("AMEX") is the primary market. Additionally, the Exchange proposes to adopt three equity floor procedure advices (ES-1, ES-2, and EF-1) pursuant to PHLX Rule 970 in order to enforce the provisions of the proposed rule.[4]

The new Rule 230 criteria apply only to instances in which the Exchange may open trading in a security, the primary market for which is the NYSE or AMEX, prior to the opening of the security for trading on the NYSE or the AMEX, at a price requiring an Intermarket Trading System ("ITS") pre-opening notification. Moreover, the criteria apply only to orders that are specially-designated for a PHLX opening when the primary market for the stock has not opened [5] and are delivered to the specialist by means other than the PHLX's Automated Communications and Execution System ("PACE").[6]

Under the ITS Plan as approved by the Commission, a pre-opening application must be sent through ITS whenever a market maker anticipates that the opening transaction will be at a price that represents a change from the stock's previous day's consolidated closing price of more than the "applicable price change".[7] A market maker will notify other participant market makers of the situation by sending a "pre-opening notification" through ITS, and cannot open the particular stock until three minutes have elapsed.

Under proposed Rule 230(b), a PHLX specialist may not open a security for trading at a price requiring an ITS pre-opening notification where the primary market is not open unless the opening is approved by two floor officials. Furthermore, any such opening transaction made (1) at one point or more away from the last previous sale when the previous sale is under $20 per share, or (2) at two points or more away from the last previous sale when the previous sale is at $20 per share or more, may not be published on the tape without the prior approval of the two floor officials.[8] Additionally, PHLX Rule 230(c) requires the specialist to send (1) a tape indication through the ITS high speed line, and (2) an ITS pre-opening notification.[9]

In addition to adopting proposed PHLX rule 230, the Exchange proposes to adopt three equity floor procedure advices (ES-1, ES-2, and EF-1) in order to enforce the provisions of the proposed rule. Proposed equity floor procedure advice ES-1 ("Floor Official Approval Required to Initiate Pre-Opening Application") requires a

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[1] 15 U.S.C. section 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] *See* letter from William W. Uchimoto, General Counsel, PHLX, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated November 22, 1989.

[4] In lieu of commencing a "disciplinary proceeding" as that term is used in Exchange Rules 960.1-960.12, PHLX Rule 970 authorizes the Exchange to impose a fine, not to exceed $2,500, on any member, member organization, or any partner, officer, director or person employed by or associated with any member, member organization, for any violation of a floor procedure advice of the Exchange, where the Exchange has determined that the violation is minor in nature. Any uncontested fine imposed pursuant to PHLX Rule 970 is not publicly reported to the Exchange membership except as required by Rule 19d-1 under the Act, 240.19d-1, and as may be required by any other regulatory authority.

[5] PHLX proposed Rule 230(e) requires all non-PACE orders, unless specially designated as eligible for a PHLX opening, to be executed when they become eligible for execution following the NYSE or AMEX opening, as appropriate. Under the proposed rule, a specially-designated order ticket must be left with the specialist for orders eligible to be executed on the PHLX at an opening other than that of the NYSE and AMEX.

[6] Pursuant to PHLX Rule 229, all PACE orders are eligible for execution only after the primary market is opened. PHLX Rule 230(d) preserves the execution procedures for orders routed through PACE. Accordingly, under Rule 230(d), orders delivered to the specialist by means of the PACE system must be executed when they become eligible for execution at or following the NYSE or AMEX opening, as appropriate.

[7] The "applicable price change" varies between ⅛ and ¼ point depending upon the price of the stock. For example, if a stock's consolidated closing price was 34 and the market maker anticipates that the opening price will be 34⅜, that market maker will have to send a pre-opening notification because the price change of ⅜ point is more than the applicable price change of ¼ point for a stock of such value, as provided in the ITS Plan.

[8] *See* Amendment No. 1 *supra* note 3.

[9] The Commission recently approved a related proposed rule change submitted by the PHLX. *See* Securities Exchange Act Release No. 27366 (October 19, 1989), 54 FR 43513 (October 25, 1989) (order approving File No. SR-PHLX-89-39). The proposal adopted an equity floor procedure advice (E-4, "The 'Three by Three' Requirement Applicable to Tape Indications and Pre-Openings"), which establishes procedures governing the commencement of trading on the PHLX when an opening is arranged in an ITS stock ahead of another market center.

specialist to obtain the approval of two floor officials prior to issuing a pre-opening notification or executing one or more transactions on the Exchange in any ITS stock that is not at the time open for trading on the primary exchange. Additionally, if a PHLX specialist is requested by two floor officials to commence an opening in a PHLX issue, ES-1 requires that the specialist must either take appropriate steps to open trading in the requested issue or furnish reasonable grounds to not open trading in the issue.[10] If an issue is open for trading on the PHLX, and the primary market for that issue is not open for trading, proposed equity floor procedure advice ES-2 ("Distinguishing Orders for Execution in Instances Where the Primary Market is Not Open in an Issue for which the PHLX is Open") requires the specialist (1) to determine whether there are orders on the book specially designated as eligible for a PHLX opening pursuant to the Rule 230 procedures and other governing procedures and (2) to ensure that all orders not so designated and orders received through the PACE system only become eligible for execution while the primary market is open for trading.[11] If an order is properly designated for PHLX execution prior to the opening on the primary market, under proposed equity floor procedure advice EF-1 ("Designating Orders for Execution in Instances Where the Primary Market is Not Open in an Issue for Which the PHLX is Open") the order is eligible for such execution, and all orders not specially designated are eligible for execution only when the primary market is open for trading.[12]

The Exchange states that various Exchange constituencies, including upstairs retail firms, PHLX floor brokers, and specialists, have expressed the need for clear guidance on the opening of stocks on the PHLX in situations in which a non-regulatory halt is in effect for a stock on the NYSE or AMEX. Such a halt could occur, for example, when an order imbalance is in effect for a stock whose primary market is on the NYSE or AMEX. The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act [13] in that it will promote just and equitable principles of trade, protect investors and the public interest by establishing procedures for the fair and orderly opening of trading in securities at a time when the primary market remains closed due to a non-regulatory halt. The Exchange also believes that the proposal is consistent with section 11A(a)(1)(C)(ii) of the Act [14] in that it promotes "fair competition among . . . exchange markets" by providing liquidity and a marketplace for trading when a primary market in a dually-traded stock is halted for trading for non-regulatory purposes.

III. Discussion and Conclusion

The Commission has considered carefully the Exchange's original proposal and Amendment No. 1 thereto and finds, for the following reasons, that the Exchange's proposed PHLX Rule 230 and the accompanying floor procedure advices (ES-1, ES-2 and EF-1) are consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, with the requirements of sections 6(b)(1), 6(b)(5) and 6(b)(7) and section 11A(a)(1)(C)(ii).[15]

The Commission believes that the proposed rule change is rationally designed to ensure fair and orderly openings on the Exchange, with appropriate investor protections, when the primary market is subject to a non-regulatory trading halt. Proposed Rule 230 will clarify the opening procedures for dually-traded stocks and, for the reasons discussed below, will enable the Exchange to provide for the fair and orderly opening of trading in such stocks when the primary market is subject to a non-regulatory trading halt. The rule also will provide members with clear guidelines for identifying which specially-designated orders may be eligible for a PHLX execution in such instances. Accordingly, the Commission believes the proposed rule change promotes the mechanism of a free and open market, competition among exchanges, and, in general serves to protect investors and the public interest, thus furthering the purposes of section 6(b)(5) and section 11A(a)(1)(C)(ii) of the Act. In addition, the Commission notes that because violations of Rule 230 will be enforced through the new equity floor procedure advices pursuant to the terms of existing PHLX Rule 970 (and, where applicable, PHLX Rules 960.1-960.12),[16] the Commission believes the proposed rule change provides the Exchange with an equitable mechanism to adjudicate quickly potential violations of Rule 230, thus furthering the purposes of sections 6(b)(1) and 6(b)(7) of the Act.

The Exchange's proposal provides for the clear identification of orders eligible for the Rule 230 opening procedures through the use of special order tickets.[17] Orders not so designated and orders received through the Exchange's PACE system will continue to be eligible only for execution at or following the NYSE or AMEX opening and pursuant to existing ITS procedures, as appropriate. Thus, investors will have the choice of whether they want an execution before the primary market is open.

Furthermore, because PHLX Rule 230 requires floor official oversight of opening trades in a stock on the PHLX where trading in the stock on the primary market has not opened, and because floor official approval of such trades is constrained further by the rule's pricing parameters, the proposed rule should ensure that stocks opened pursuant to the rule will not be executed at prices unreflective of the last previous sale, thus affording investors receiving such executions appropriate price protections. To the extent that another exchange marketplace may participate in PHLX openings through the issuance of an ITS pre-opening notification, the new Rule 230 procedures are consistent with existing ITS procedures and provide customer orders with further price protections.[18]

Additionally, the determination of whether or not a member or member organization has violated the Rule 230 opening procedures should be facilitated by the rule's accompanying equity floor procedure advices which further clarify the Rule 230 guidelines. For example, equity floor procedure advice EF-1 establishes specific order handling requirements for orders eligible for execution under the new procedures,

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[10] The first and second violations of proposed floor procedure advice ES-1 result respectively in the imposition of a $100.00 and $500.00 fine, while the appropriate sanction for subsequent violations is discretionary with the Exchange's Business Conduct Committee. Violations of floor procedure advice ES-1 compound when they occur within three years of each other.

[11] The first and second violations of proposed floor procedure advice ES-2 result respectively in the imposition of a $100.00 and $250.00 fine, while the appropriate sanction for subsequent violations is discretionary with the Exchange's Business Conduct. Violations of floor procedure advice ES-2 compound when they occur within three years of each other.

[12] Orders are properly designated for execution when the PHLX is open for trading in an issue that is not open on the primary market by means of the yellow copy of the order ticket. The first and second violations of proposed floor procedure advice EF-1 result respectively in the imposition of a $100.00 and $250.00 fine, while the appropriate sanction for subsequent violations is discretionary with the Exchange's Business Conduct. Violations of floor procedure advice EF-1 compound when they occur within three years of each other.

[13] 15 U.S.C. 78f(b)(5) (1982).

[14] 15 U.S.C. 78k-1(a)(1)(C)(ii). (1982).

[15] 15 U.S.C. 78f(b)(1), 78f(b)(5) and 78f(b)(7) and 78k-1(a)(1)(C)(ii) (1982).

[16] *See supra* note 4.

[17] *See supra* note 12.

[18] *See also*, note 9 *supra*.

including the utilization of a specified order ticket. Compliance with the new Rule 230 execution procedures is further facilitated by equity floor procedure advice ES-2's requirement that places the burden on the specialist to monitor which orders are eligible for execution pursuant to the Rule 230 procedures. Finally, equity floor procedure advice ES-1 also should facilitate the administration of the Rule 230 execution procedures by providing specialists notice of their obligation to comply with the rule's procedures, as well as providing specialists with an opportunity to furnish reasonable grounds to refrain from opening trading in an issue when requested to do so by Exchange officials. Coupled with the existing PHLX Rule 970 expedited enforcement mechanism and the overriding disciplinary procedures of PHLX Rules 960.1-960.12, the new equity floor procedure advices should assist the Exchange in the equitable and efficient enforcement of the new Rule 230 execution procedures.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. The amendment contained technical provisions clarifying the procedures to be used for opening trading in PHLX stocks when the primary market is not open. The Commission believes that accelerated approval of Amendment No. 1 is appropriate in order to allow the Exchange to implement Rule 230 upon approval of this proposed rule change.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements addressing the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with 5 U.S.C. section 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 7, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[19] that the above-mentioned proposed rule change (SR-PHLX-89-15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Dated: January 8, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-998 Filed 1-16-90 8:45 am]

BILLING CODE 8010-01-M

[19] 15 U.S.C. 78s(b)(2) (1982).

[20] *See* 17 CFR 200.30-3(a)(12) (1989).

[File No. 1-10123]

Issuer Delisting; Application To Withdraw from Listing and Registration; American Screen Company, Class A Convertible Preferred Stock

January 10, 1990.

American Screen Company ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the Cincinnati Stock Exchange, Inc. ("CSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Then Company has elected to voluntarily withdraw the preferred stock from listing on the CSE because the Company does not presently have a sufficient number of shareholders to meet the minimum requirements for the trading of its preferred stock on such exchange.

Any interested person may, on or before February 1, 1990, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the commission for the protection of investors. The commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the commission determines to order a hearing on the matter.

For the commission, by the division of market regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-996 Filed 1-16-90; 8:45 am]

BILLING CODE 8010-01-M

[500-1]

The Huntor Group, Inc.; Order of Suspension of Trading

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the securities of the The Huntor Group, Inc. (formerly Lawn-Tech Corporation), and that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the company's business, operations, products, and claim for exemption from the registration provisions of the Securities Act of 1933 pursuant to which its securities are trading. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed companies, over-the-counter or otherwise, is suspended for the period from 9:00 a.m. (EST), January 11, 1990 through 11:59 p.m. (EST), on January 20, 1990.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-1056 Filed 1-16-90; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9868]

Issuer Delisting; Application to Withdraw from Listing and Registration; T2 Medical, Inc., Common Stock, $.01 Par Value

January 10, 1990.

T2medical, Inc. ("Company"), has filed an application with the Securities and Exchange Commission ("Commission") pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("AMEX").

The reasons alleged in the application for withdrawing this security from

listing and registration include the following:

The Company unanimously approved resolution on November 16, 1989 to withdraw the Company's common stock from listing on the Amex and, instead, list such common stock on the National Association of Securities Dealers Automated Quotations National Market System ("NASDAQ/NMS"). The decision of the Company followed a lengthy study of the matter, and was based upon the belief that listing of the common stock on NASDAQ/NMS will be more beneficial to its shareholders than the present listing on the Amex.

Any interested person may, on or before February 1, 1990, submit by letter to the Secretary of the Commission, 450 Fifth Street, NW, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-997 Filed 1-16-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-90-3]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 6, 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 (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 9, 1990.

Debbie Swank,

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

Petitions for Exemption

Docket No.: 26029.

Petitioner: Airborne Express.

Sections of the FAR Affected: 14 CFR 121.503(b).

Description of Relief Sought: To allow petitioner to assign pilots to duty who have not received at least 16 hours of rest after having flown more than 8 hours within any consecutive 24 hours.

Docket No.: 26079.

Petitioner: Tempelhof Airways USA, Inc.

Sections of the FAR Affected: 14 CFR 135.117 (a)(4) and (a)(8).

Description of Relief Sought: To allow petitioner to use graphic passenger briefing cards instead of oral briefings to describe the opening of passenger entry doors and emergency exits and the location and use of fire extinguishers.

Docket No.: 25025.

Petitioner: Continental Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.

Description of Relief Sought/ Disposition: To extend Exemption No 4727A that allows petitioner to utilize foreign original equipment manufacturers and repair stations to perform maintenance, preventive maintenance, and alterations on selected components used on the Airbus A300 series aircraft operated by petitioner.

Grant, December 20, 1989, Exemption No. 4727B

Docket No.: 25897.

Petitioner: MarkAir, Inc.

Sections of the FAR Affected: 14 CFR 121.590(a).

Description of Relief Sought/ Disposition: To allow petitioner to operate aircraft carrying more than 30 passengers into and out of McGrath Airport, McGrath, Alaska, a noncertificated airport.

Denial, January 3, 1990, Exemption No. 5128

Docket No.: 25939.

Petitioner: Central States Airlines, Inc.

Sections of the FAR Affected: 14 CFR 135.337(a) (2), (3), and (4) and 135.339(c)(1).

Description of Relief Sought/ Disposition: To extend Exemption No. 5064 that allows petitioner to use British Aerospace instructor pilots to train petitioner's initial cadre of BA-3101 pilots.

Grant, December 28, 1989, Exemption No. 5064A

[FR Doc. 90-1044 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemtions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft

DATES: Comments must be received on or before February 16, 1990.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
10303-N	Ketchum Air Service, Inc., Anchorage, AK.	49 CFR 172.101, 173.304, 173.306, 175.30.	To authorize shipment of liquid petroleum gas aboard passenger-carrying aircraft in cylinders not to exceed 60 pounds. (mode 5).
10304-N	Fibre Glass-Evercoat Company, Inc., Cincinnati, OH.	49 CFR 173.221	To authorize shipment of methyl ethyl ketone peroxide, classed as organic peroxide, in 11cc or 40cc securely closed plastic tubes, overpacked in a plastic pail. (modes 1, 2, 3).
10305-N	Union Carbide Chemicals and Plastics Company, Inc., Danbury, CT.	49 CFR 173.31(c)(1)	To authorize 10-year retesting of DOT specification 111A100W2 tank cars and 5-year retesting for safety relief valves used for shipment of corrosive liquid, poisonous, n.o.s. (methylmercapto propionaldehyde). (mode 2).
10306-N	Seamless Cylinder International, Inc., Sault Ste. Marie, MI.	49 CFR 173.306(c), 178.61-2(a)	To manufacture, mark and sell DOT specification 4BW cylinders with electric resistance welded seam containing fire extinguisher powder, classed as nonflammable gas with pressurized cylinder filled with nitrogen gas. (mode 1).
10307-N	Mobay Corporation, Pittsburgh, PA	49 CFR 173.263, 179.201-1, 179.201-7(b).	To authorize use of safety vent rupture discs rated higher than 100 psig burst pressure on rubber lined DOT 111A100W5 tank cars containing hydrochloric acid, classed as corrosive material. (mode 2).
10308-N	Alaska Marine Lines, Seattle, WA	49 CFR 176.83	To authorize barge shipments of class A explosives to be exempted from the current segregation requirements and separation distance. (mode 3).

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 9, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-992 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-60-M

Research and Special Programs Admininstration

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before February 1, 1990.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
970-X	Voltaix, Inc., North Branch, NJ	970
3126-X	Hercules, Inc., Wilmington, DE	3126
3549-X	Atlantic Research Corporation, Gainesville, VA	3549
3549-X	U.S. Department of Energy, Washington, DC	3549
4052-X	Boeing Commercial Airplane Company, Seattle, WA	4052
5038-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ	5038
5403-X	Vann Systems, Houston, TX	5403

Application No.	Applicant	Renewal of exemption
5403-X	Halliburton Company, Duncan, OK	5403
5701-X	Mallinckrodt, Inc., Paris, KY	5701
5704-X	Hercules, Inc., Wilmington, DE	5704
6263-X	Amtrol, Inc., West Warwick, RI	6263
6309-X	General Latex and Chemical Corporation of Georgia, Dalton, GA	6309
6309-X	Foam Supplies, Inc., St. Louis, MO	6309
6309-X	Olin Corporation—Chemicals Group, Stamford, CT	6309
6418-X	Tri-River Chemical Company, Inc., Pasco, WA	6418
6418-X	The McGregor Company, Colfax, WA	6418
6418-X	Wilbur-Ellis Company, Fresno, CA	6418
6484-X	Dow Chemical Company, Freeport, TX	6484
6611-X	L'Air Liquide Corporation, Le Blanc-Mesnil, France	6611
6637-X	Russell-Stanley West, Inc., Rancho Cucamonga, CA	6637
6691-X	Linde Gases of Southern California, Inc., Santa Ana, CA	6691
6787-X	Russell-Stanley West, Inc., Rancho Cucamonga, CA	6787
6805-X	Linde Gases of the West, Inc., San Ramon, CA	6805
6805-X	Linde Gases of the Midwest, Inc., Hillside, IL	6805
6805-X	Union Carbide Industrial Gases, Inc., Danbury, CT	6805
6805-X	Linde Gases of New England, Inc., West Hartford, CT	6805
6805-X	Linde Gases of Southern California, Inc., Santa Ana, CA	6805
6805-X	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ	6805
6895-X	GTE Products Corporation, Danvers, MA	6895
6929-X	Thiokol Corporation, Brigham City, UT	6929
6962-X	U.S. Department of Energy, Washington, DC	6962
6971-X	Ultra Scientific, Inc., North Kingstown, RI (see footnote 1)	6971
7011-X	Russell-Stanley Corporation, Rancho Cucamonga, CA	7011
7011-X	Russell-Stanley West, Inc., Rancho Cucamonga, CA (see footnote 2)	7011
7024-X	Greenwood Motor Lines, Inc., Greenwood, SC	7024
7052-X	Siemens Medical Systems, Inc., Jamaica, NY	7052
7052-X	Eveready Battery Company, Inc., Westlake, OH	7052
7052-X	Syntron, Inc., Houston, TX	7052
7052-X	Smith International, Houston, TX	7052
7052-X	Maxell Corporation of America, Fair Lawn, NJ	7052
7052-X	Aluminum Company of America (ALCOA), Pittsburgh, PA	7052
7052-X	Datasonics, Inc., Cataumet, MA	7052
7052-X	TDW Pipeline Surveys, Tulsa, OK	7052
7052-X	DigiCourse, Inc., Harahan, LA	7052
7060-X	Federal Express Corporation, Memphis, TN	7060
7070-X	Lea-Ronal, Inc., Freeport, NY	7070
7076-X	LaMotte Chemical Products Company, Chestertown, MD	7076
7218-X	Structural Composites Industries, Inc., Pomona, CA	7218
7277-X	Structural Composites Industries, Inc., Pomona, CA	7277
7594-X	Bromine Compounds, Limited, Beer-Sheva, Israel	7594
7654-X	Eastman Kodak Company, Rochester, NY	7654
7731-X	Minnesota Valley Engineering, Inc., New Prague, MN	7731
7777-X	Sentry Chemical Company, Greeley, CO	7777
7811-X	Baxter Healthcare Corporation/Burdick & Division, Muskegon, MI	7811
7876-X	General Chemical Corporation, Parsippany, NJ	7876
7891-X	Fisher Scientific Company, Fair Lawn, NJ	7891
7945-X	HTL—Division of Pacific Scientific Company, Duarte, CA	7945
7948-X	Erickson, Inc., Richmond, CA	7948
7963-X	ICI Americas, Inc., Wilmington, DE	7963
7972-X	E.I. du Pont de Nemours & Company, Wilmington, DE	7972
8035-X	Western Atlas International, Inc., Houston, TX	8035
8059-X	EFI Corporation, d/b/a EFIC, San Jose, CA	8059
8077-X	Dow Corning Corporation, Midland, MI	8077
8091-X	US West Business Resources, Inc., Kent, WA	8091
8215-X	Olin Corporation—Winchester Group, East Alton, IL (see footnote 3)	8215
8284-X	General Chemical Corporation, Parsippany, NJ	8284
8299-X	HTL/Kin-Tech Division, Pacific Scientific Co., Duarte, CA	8299
8352-X	Degussa Corporation, Ridgefield Park, NJ	8352
8391-X	EFI Corporation, d/b/a EFIC, San Jose, CA	8391
8394-X	Whirlpool Corporation, La Porte, IN	8394
8414-X	Arbel-Fauvet-Rail, Paris, France	8414
8414-X	SLEMI, Paris 75116, France	8414
8432-X	U.S. Department of Defense, Falls Church, VA	8432
8450-X	LTV Missiles and Electronics Group, Dallas, TX	8450
8450-X	Atlantic Research Corporation, Camden, AR	8450
8451-X	Atlas Powder Company, Dallas, TX	8451
8451-X	Olin Corporation—Winchester Group, East Alton, IL	8451
8451-X	Hercules, Inc., Wilmington, DE	8451
8451-X	GOEX, Inc., Cleburne, TX	8451
8518-X	Ventura Petroleum Services, Incorporated, Ventura, CA	8518
8582-X	The Atchison, Topeka and Santa Fe Railway Company, Topeka, KS	8582
8582-X	Soo Line Railroad Company, Minneapolis, MN	8582
8582-X	Consolidated Rail Corporation (CONRAIL), Philadelphia, PA	8582
8582-X	Chicago and North Western Transportation Company, Chicago, IL	8582
8627-X	Petrolite Corporation, Saint Louis, MO	8627
8627-X	Champion Chemicals, Inc., Houston, TX	8627
8627-X	Chemlink Petroleum, Inc., Sand Springs, OK	8627
8718-X	Structural Composites Industries, Inc., Pomona, CA	8718

Application No.	Applicant	Renewal of exemption
8780-X	Container Corporation of America, Wilmington, DE	8780
8791-X	ICI Americas, Inc., Wilmington, DE	8791
8795-X	Marison Company, South Elgin, IL	8795
8812-X	The Protectoseal Company, Bensenville, IL	8812
8842-X	HTL/Kin-Tech Division, Pacific Scientific Co., Duarte, CA	8842
8845-X	GOEX, Inc., Cleburne, TX	8845
8859-X	AVM Corporation, Marion, SC	8859
8871-X	Bulk Lift International, Inc., Carpentersville, IL	8871
8886-X	Amerex Corporation, Trussville, AL	8886
8915-X	Union Carbide Chemicals & Plastics Company Inc., Charleston, WV	8915
8915-X	Linde Gases of the Midwest, Inc., Hillside, IL	8915
8915-X	Union Carbide Industrial Gases, Inc., Danbury, CT	8915
8915-X	Linde Gases of New England, Inc., West Hartford, CT	8915
8915-X	Ethyl Corporation, Baton Rouge, LA	8915
8915-X	Linde Gases of the West, Inc., San Ramon, CA	8915
8915-X	Airco Industrial Gases—Division of The BOC Group, Murray Hill, NJ	8915
8915-X	Linde Gases of the Mid-Atlantic, Inc., Moorestown, NJ	8915
9132-X	Welchem, Inc., Houston, TX	9132
9157-X	Air Products and Chemicals, Inc., Allentown, PA	9157
9201-X	Cyanamid Canada, Inc., East Willowdale, Canada	9201
9211-X	Maersk Line, Limited, Madison, NJ	9211
9244-X	Stoneco, Inc., Trinidad, CO	9244
9262-X	GOEX, Inc., Cleburne, TX	9262
9533-X	B.A.G. Corporation, Dallas, TX	9533
9549-X	Jet Research Center, Inc., Alvarado, TX	9549
9549-X	Pesco, Inc., Mills, WY	9549
9549-X	Schlumberger Well Services, Rosharon, TX	9549
9549-X	Western Atlas International, Inc., Houston, TX	9549
9549-X	Owen Oil Tools, Inc., Fort Worth, TX	9549
9550-X	U.S. Department of Defense, Falls Church, VA	9550
9571-X	GSX Chemical Services, Inc., Columbia, SC	9571
9617-X	Explo-Tech Inc., Blue Bell, PA	9617
9723-X	Emergency Technical Services Corp. of Illinois, Schaumburg, IL	9723
9745-X	CMB Enterprises, Inc., Vernona, NJ	9745
9768-X	Defense Technology and Procurement Agency, Berne, Switzerland	9768
9774-X	Harcostar Ltd., Stamford, CT	9774
9797-X	LTV Missiles and Electronics Group, Dallas, TX (see footnote 4)	9797
9812-X	Shinko-Pfaudler Company, Ltd., Kobe, Japan	9812
9836-X	Marko Foam Products, Inc., Hayward, CA	9836
9851-X	American Airlines, Inc., Dallas, TX	9851
9857-X	Van Leer Verpackungen GmbH, Am Westhover Berg, West G	9857
9865-X	Atlas Powder Company, Dallas, TX	9865
9888-X	Ford Motor Company, Dearborn, MI	9888
9891-X	Sonoco Fibre Drum, Inc., Lombard, IL	9891
9892-X	Bergen Barrel and Drum Company, Kearny, NJ	9892
9892-X	Dixie Poly-Drum Corporation, Yemassee, SC	9892
9909-X	Taylor-Wharton Cylinders, Harrisburg, PA	9909
9953-X	North Star Transport, Inc., St. Paul, MN	9953
10090-X	Clawson Tank Company, Clarkson, MI (see footnote 5)	10090
10135-X	Ciba-Geigy Corporation, Hawthorne, NY (see footnote 6)	10135
10300-X	U.S. Department of Energy, Washington, DC (see footnote 7)	10300

[1] To authorize shipment of corrosive material, flammable liquid, or poison B, inside glass bottles enclosed in a heat sealed mylar bag overpacked in strong outside wooden or fiberboard packaging.

[2] To authorize an optional two-inch, spin welded flange with two-inch bung on non-DOT spec. polyethylene container with a removable head, having a rated volmetric capacity not exceeding 57 gallons.

[3] To authorize shipment of scrap nitrocellulose, wet not to exceed 20% water, classed as flammable solid, in non-DOT specification containers.

[4] To authorize shipment, in a single container, of two flight radiator panels containing anhydrous ammonia, classed as nonflammable gas.

[5] To authorize minor modifications to the frame, the provision for some additional small top openings, and a reduction in the wall thickness of the polyethylene IBC component.

[6] To authorize use of stainless steel T-304L for construction of DOT-56 portable tank, for shipment of lithium amide, classed as flammable solid.

[7] To renew exemption originally issued on an emergency basis to authorize use of non-DOT spec. cylinders containing urethane foaming agents, compressed gas n.o.s., classed as nonflammable gas.

Application No.	Applicant	Parties to exemption
6293-P	Ireco Incorporated, Salt Lake City, UT	6293
6309-P	Foamtek, Inc., West Chicago, IL	6309
6530-P	Tri-Gas, Inc., Irving, TX	6530
6563-P	Linde Gases of Florida, Inc., Tampa, FL	6563
6563-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH	6563
6563-P	Linde Gases of the Midwest, Inc., Hillside, IL	6563
6563-P	Linde Gases of the West, Inc., San Ramon, CA	6563
6805-P	Pressure Transport, Inc., Austin, TX	6805
6874-P	Great Western Chemical Company, Portland, OR	6874
7052-P	Mid-Atlantic Electronics, Corp., Bellmawr, NJ	7052
7052-P	Sanyo Electric Trading Co., Ltd., Moriguchi City, Osaka, Japan	7052
7052-P	Sanyo Energy Corporation, San Diego, CA	7052
7052-P	AVT, Inc., Englewood, CO	7052
7607-P	Quantum Analytics, Inc., Foster City, CA	7607

Application No.	Applicant	Parties to exemption
7607-P	The Deltona Corporation, Miami, FL	7607
8214-P	General Motors Corporation, Warren, MI	8214
8214-P	Isuzu Motors America, Inc., Whittier, CA	8214
8236-P	General Motors Corporation, Warren, MI	8236
8273-P	General Motors Corporation, Warren, MI	8273
8273-P	Ford Motor Company, Dearborn, MI	8273
8362-P	Science Applications International Corporation, Dallas, TX	8362
8426-P	Ray Latta (DBA) Golden R. Vacuum, Bakersfield, CA	8426
8554-P	Explo-Tech, Inc., Blue Bell, PA	8554
8966-P	Action Chemical Company, Phoenix, AZ	8966
9066-P	General Motors Corporation, Warren, MI	9066
9110-P	Albright & Wilson Americas, Richmond, VA	9110
9346-P	Indspec Chemical Corporation, Pittsburgh, PA	9346
9723-P	Exceltech, Inc., Fremont, CA	9723
10001-P	Cee Kay Supply, Inc., St. Louis, MO	10001
10032-P	Atochem S.A., Paris, France	10032
10285-P	Andrews Distribution Company, Holtville, CA	10285
10285-P	Doublecool Company, Holtville, CA	10285
10285-P	PortaCool, Inc., Holtville, CA	10285
10285-P	Robert S. Andrews Company, Bakersfield, CA	10285
10285-P	Sahara Packing Company, Brawley, CA	10285
10285-P	Sam Andrews' Sons, Bakersfield, CA	10285

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 10, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-993 Filed 1-16-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: January 10, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0808.
Form Number: None.
Type of Review: Extension.
Title: Basis Adjustment for Investment Tax Credits; Certain Elections Under the Tax Equity and Fiscal Responsibility Act of 1982.
Description: Regulation section 5F.0 (Temporary regulations under the Tax Equity and Fiscal Responsibility Act of 1982) provide guidance to taxpayers with respect to the time and manner of making certain elections under TEFRA. This section is needed to allow taxpayers to make elections. The proposed regulations prescribe the time and manner of making an election under section 48(q).
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 222,238.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion; Annually.
Estimated Total Reporting Burden: 56,721 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-1049 Filed 1-16-90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review.

Date: January 10, 1990.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0023.

Form Number: 720.

Type of Review: Resubmission.

Title: Quarterly Federal Excise Tax Return.

Description: Form 720 is used to report excise taxes due from retailers and manufacturers on the sale or manufacture of various articles, to report taxes on facilities and services, and taxes on certain products and commodities (gasoline and vaccines, etc.). It enables IRS to monitor excise tax liability for various categories on a single form and to collect the tax quarterly in compliance with the law and regulations (Internal Revenue Code section 6011).

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 92,500.

Estimated Burden Hours Per Response:

Recordkeeping	6 hours, 28 minutes
Learning about the law or the form.	3 hours, 22 minutes

Preparing and sending the form to IRS.	12 hours, 1 minute

Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 8,265,800 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.

[FR Doc. 90-1050 Filed 1-16-90; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 10, 1990.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0245.
Form Number: 6627.
Type of Review: Resubmission.
Title: Environmental Taxes.
Description: Attached to Form 720 to compute and collect tax on petroleum, chemicals, imported chemical substances, and ozone-depleting chemicals.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 3,400.
Estimated Burden Hours Per Response:

Recordkeeping	25 hours, 7 minutes.
Learning about the law or the form.	22 minutes.
Preparing the form	1 hour, 43 minutes.
Copying, assembling, and sending the form to IRS.	16 minutes.

Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 416,568 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 90-1051 Filed 1-16-90; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review.

Date: January 10, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0159.
Form Number: None.
Type of Review: Extension.
Title: Fair Housing Home Loan Data System Regulation; Home Loan Data Submissions.
Description: This data collection is necessary to permit automated statistical analysis to assist OCC in carrying out its statutory responsibility under the Fair Housing Act. Its major provisions apply only to national banks engaged in high volume real estate lending.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,021.
Estimated Burden Hours Per Respondent: 13 hours.
Frequency of Response: Biennially.
Estimated Total Reporting Burden: 14,826 hours.

OMB Number: 1557–0160.
Form Number: None.
Type of Review: Extension.
Title: Community Reinvestment Act Statement, Notice and Public Comment File.
Description: This requirement assists OCC in satisfying its statutory obligations under the Community Reinvestment Act.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 4,200.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,200 hours.
Clearance Officer: John Ference, (202) 447–1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.

[FR Doc. 90-1052 Filed 1-16-90; 8:45 am]
BILLING CODE 4810-33-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 11

Wednesday, January 17, 1990

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 COMMUNICATIONS COMMISSION

January 10, 1990.

FCC Changes Location of Closed Commission Meeting, Thursday January 11, 1990

The Federal Communications Commission has changed the location of the Closed Commission Meeting to be held on January 11, 1990 from Room 856 to Room 814, at 1919 M. St. NW.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Issued: January 10, 1990.

[FR Doc. 90-1124 Filed 1-12-90; 10:25 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, January 22, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Report of the operations reviews of the Office of the Executive Director for Information Resources Management, the Division of Hardware and Software Systems, and the Division of Applications Development and Statistical Services.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 12, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-1196 Filed 1-12-90; 3:20 pm]

BILLING CODE 6210-01-M

NATIONAL COUNCIL ON THE DISABILITY

Quarterly Meeting

AGENCY: National Council on Disability.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Council on Disability. This notice also describes the functions of the Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (P.L. 94-409).

DATES:

Jan. 21, 1990, 9:00 a.m. to 5:00 p.m.
Jan. 22, 1990, 9:00 a.m. to 5:00 p.m.
Jan. 23, 1990, 9:00 a.m. to 5:00 p.m.

LOCATION: Sheraton Moana Surfrider, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: National Council on Disability, 800 Independence Avenue SW., Suite 814, Washington, DC 20591, (202) 267-3846, TDD: (202) 267-3232.

The National Council on Disability is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95-602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. No. 98-221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR). In addition, the Council is mandated to provide guidance to the President' Committee on Employment of People With Disabilities.

The meeting of the Council shall be open to the Public. The proposed agenda includes:

Report from Chairperson and Executive Committee
Update on Prevention
Update on IOM Study
Update on NIDRR
PCEPD Meeting Report

Committee Meetings/Committee Reports

Health Insurance
Personal Assistance
Employment
NIDRR/Research
Communications
Prevention
Technology
Education

Discussion Items

A. Study on Native Americans with Disabilities (National Conference)
B. National Conference on Prevention
C. Education Study
D. Establishing Priorities for NIDRR & PCEPD
E. NCD 1990 Special Report
F. NCD Consumer Advisors
G. Health Insurance

Special Open Forum/Hearing—The Special Problems Facing Persons with Disabilities and Families Living on Islands and Away from the Mainland USA

Unfinished Business

A. Reauthorization of the Rehabilitation Act

New Business

A. May Meeting Forums
  1. World Summit on Disability
  2. Boarder Babies
B. August 1990 Meeting Forums

Announcements
Adjournment

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, DC on January 10, 1990.

Ethel D. Briggs,

Deputy Director.

[FR Doc. 90-1145 Filed 1-12-90; 3:25 pm]

BILLING CODE 6820-BS-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of January 15, 22, 29, and February 5, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 15

Wednesday, January 17

10:00 a.m.
Briefing on Governors' Certification of Low Level Waste Sites (Public Meeting)

Thursday, January 18

9:00 a.m.
Immediate Effectiveness Review Briefing—Seabrook (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 22—Tentative

Thursday, January 25

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of January 29—Tentative

Tuesday, January 30

2:00 p.m.
Briefing on Status of Proposed Rule on License Renewal (Public Meeting)

Thursday, February 1

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 5—Tentative

Thursday, February 8

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: January 11, 1990.

William M. Hill, Jr.,
Office of the Secretary.

[FR Doc. 90–1182 Filed 1–12–90; 2:24 pm]
BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 56, No. 11
Wednesday, January 17, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MTM78518; MT-020-00-4212-13]

Realty Action—Exchange; Montana

Correction

In notice document 89-28987 beginning on page 51082 in the issue of Tuesday, December 12, 1989, make the following correction:

On page 51082, in the third column, in the second line, insert "6," following "Sec. 7, Lots".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 89-68; Exemption Application No. D-7573 et al.]

Grant of Individual Exemptions; Goldman, Sachs and Co., et al.

Correction

In notice document 89-24355 beginning on page 42581 in the issue of Tuesday, October 17, 1989, make the following corrections:

1. On page 42581, in the third column, in the document heading and the agency line, the subagency should read as set forth above.

2. On page 42582, in the third column, remove the last footnote and insert "[3]In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions."

3. On page 42563, in the second column, in section III.A.(2)(b) of the Goldman, Sachs exemption, in the second line, begin a flush paragraph following "trust;".

4. On page 42591, in the third column, in section III.A.(2)(b) of the Salomon Brothers exemption, in the second line, begin a flush paragraph following "trust;".

5. On page 42599, in the first column, in section III.A.(2)(b) of the First Boston Corp. exemption, in the second line, begin a flush paragraph following "trust;".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Rel. No. IC-17097; File No. S7-15-88]

RIN 3235-AA14

Offers of Exchange Involving Registered Open-End Investment Companies

Correction

In rule document 89-20011 beginning on page 35177 in the issue of Thursday, August 24, 1989, make the following corrections:

1. On page 35180, in the first column, in footnote 16, in the last line, "Treaties" should read "Treatise".

2. On page 35182, in the third column, in the second paragraph, in the 10th line, "of" should read "at".

3. On page 35188, in the second column, in the 33rd line, insert "since the investment has already been subject to a total of 6%" following "However,".

BILLING CODE 1505-01-D

federal register

Wednesday
January 17, 1990

Part II

Department of the Treasury

31 CFR Part 2

National Security Information; Final Rule

DEPARTMENT OF THE TREASURY

31 CFR Part 2

National Security Information

AGENCY: Department of the Treasury.

ACTION: Final rule; solicitation of comments.

SUMMARY: The Department of the Treasury is updating and revising existing regulations contained in 31 CFR part 2 with respect to internal policies and procedures for handling and safeguarding classified national security information. Executive Order 12356 requires that agency security regulations be published to the extent that they affect the public. This regulation advises how classified information is protected within the Department of the Treasury. Former §§ 2.16 and 2.21, concerning procedures and fees for processing mandatory declassification review requests and applicable fees for services provided to historical researchers and former Presidential appointees, have also been revised. The new sections are §§ 2.18 and 2.23, respectively.

EFFECTIVE DATES: This final rule is effective January 17, 1990. *Comments:* Written comments must be delivered or mailed on or before March 19, 1990.

ADDRESS: Send comments to the Office of Security, Room 1302, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Edward J. Pollard, Director of Security, Department of the Treasury, Room 1302, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, (202) 343-0260.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1505-0125. Comments concerning the collection of information and the accuracy of the estimated burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, with copies to the Department of the Treasury, Office of Security, Room 1302, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Any such comments should be submitted not later than March 19, 1990.

The collection of information in this regulation is contained in new §§ 2.18 and 2.23 of a revised 31 CFR part 2. This information is required by the Department of the Treasury to provide substantial proof of U.S. citizenship or status as a permanent resident alien for purposes of requesting mandatory declassification review requests under Executive Order 12356, for levying applicable fees for processing mandatory declassification reviews, and for fees for services rendered by the Department of the Treasury for which fair and equitable fees may be charged pursuant to 31 U.S.C. 9701. The likely respondents are researchers.

Estimated total annual reporting and/or recordkeeping burden: .75 hours. The estimated annual burden per respondent and/or recordkeeper varies, depending on individual circumstances, with an estimated average of .25 hours. Estimated number of respondents and/or recordkeepers: 3. Estimated annual frequency of responses: 1.

This regulation supersedes the Department's regulation at 31 CFR part 2 which was published at 48 FR 16, January 3, 1983. This regulation implements Executive Order 12356, 47 FR 14874, April 6, 1982 (hereinafter referred to as the "Order"), and the Information Security Oversight Office Directive 1 (32 CFR part 2001), 47 FR 27836, June 25, 1982 (hereinafter referred to as the "Directive"), as amended at 49 FR 20789, May 16, 1984; 50 FR 51826, December 19, 1985; 52 FR 10190, March 30, 1987; 52 FR 28418, July 29, 1987; and 53 FR 38278, September 29, 1988, which prescribe a uniform system for the classification, downgrading, declassification, reclassification and safeguarding of national security information. The Order facilitates the public's access to information about the affairs of government when disclosure would not damage national security. The Order also expressly prohibits the use of the classification system to conceal violations of law, prevent embarrassment, or delay the release of information that does not require protection.

The sections in this regulation follow the general format of the Directive. Bracketed references are to related sections of the Order. This regulation has been submitted to the Information Security Oversight Office in accordance with section 5.2 (b)(3) of the Order.

Special Analyses

To the extent this final rule concerns agency organization, procedure, or management, it is not subject to the Administrative Procedure Act (5 U.S.C. 553) or Executive Order 12291. The provisions in §§ 2.18 and 2.23 have no substantive effect on existing Treasury policy with respect to mandatory declassification review and access by historical researchers and/or former Presidential appointees. The effect of the revision, and new aspects contained therein, presents no overall change in Treasury policy, procedures or practices, and parallels those already in effect for processing Freedom of Information Act requests. Accordingly, with respect to §§2.18 and 2.23, a delayed effective date is impracticable and unnecessary, and it has been determined that this final rule is not a major rule as defined in Executive Order 12291. Because notice and public procedure are not required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) are not applicable.

Drafting Information

The principal author of these regulations in Robert Alexander McMenamin, Acting Assistant Director (Physical Security), Office of Security, Department of the Treasury.

List of Subjects in 31 CFR Part 2

Archives and records, Authority delegations, Classified information, Executive orders, Former Presidential appointee, Freedom of information, Historical researcher, Information, Intelligence, Mandatory declassification review, National defense, National security information, Presidential documents, Security information, Security measures.

Amendments to the Regulations

Title 31 of the Code of Federal Regulations, CFR part 2, is revised to read as follows:

PART 2—NATIONAL SECURITY INFORMATION

Subpart A—Original Classification

Sec.
2.1 Classification levels [1.1(a)].
2.2 Classification authority.
2.3 Listing of original classification authorities.
2.4 Record requirements.
2.5 Classification categories.
2.6 Duration of classification.
2.7 Identification and markings [1.5(a), (b) (c)].
2.8 Limitations on classification [1.6(c)].

Subpart B—Derivative Classification

2.9 Derivative classification authority.
2.10 Listing derivative classification authorities.
2.11 Use of derivative classification [2.1].
2.12 Classification guides.

2.13 Derivative identification and markings [1.5(c) and 2.1(b)].

Subpart C—Downgrading and Declassification

2.14 Listing downgrading and declassification authorities [3.1(b)].
2.15 Declassification policy [3.1].
2.16 Downgrading and declassification markings.
2.17 Systematic review for declassification [3.3].
2.18 Mandatory declassification review [3.4].
2.19 Assistance to the Department of State [3.3(b)].
2.20 Freedom of Information/Privacy Act requests [3.4].

Subpart D—Safeguarding

2.21 General [4.1].
2.22 General restrictions on access [4.1].
2.23 Access by historical researchers and former Presidential appointees [4.3].
2.24 Dissemination [4.1(d)].
2.25 Standards for security equipment [4.1(b) and 5.1(b)].
2.26 Accountability procedures [4.1(b)].
2.27 Storage [4.1(b)].
2.28 Transmittal [4.1(b)].
2.29 Telecommunications and computer transmissions.
2.30 Special access programs [1.2(a) and 4.2(a)].
2.31 Reproduction controls [4.1(b)].
2.32 Loss or possible compromise [4.1(b)].
2.33 Responsibilities of holders [4.1(b)].
2.34 Inspections [4.1(b)].
2.35 Security violations.
2.36 Disposition and destruction [4.1(b)].
2.37 National security decision directive 197.

Subpart E—Implementation and review

2.38 Departmental management.
2.39 Bureau administration.
2.40 Emergency planning [4.1(b)].
2.41 Emergency authority [4.1(b)].
2.42 Security education [5.3(a)].

Subpart F—General Provisions

2.43 Definitions [6.1].

Authority: 31 U.S.C. 321; E.O. 12356, 47 FR 14874.

Subpart A—Original Classification

§ 2.1 Classification levels [1.1(a)].[1]

(a) National security information (hereinafter also referred to as "classified information") shall be classified at one of the following three levels:

(1) "Top Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) *Limitations [1.1(b)].* Markings other than "Top Secret," "Secret," and "Confidential," shall not be used to identify national security information. No other terms or phrases are to be used in conjunction with these markings to identify national security information, such as "Secret/Sensitive" or "Agency Confidential". The terms "Top Secret," "Secret," and "Confidential" are not to be used to identify non-classified Executive Branch information. The administrative control legend, "Limited Official Use", is authorized in Treasury Directive 71–02, "Safeguarding Officially Limited Information," which requires that information so marked is to be handled, safeguarded and stored in a manner equivalent to national security information classified Confidential.

(c) *Reasonable Doubt [1.1(c)].* When there is reasonable doubt about the need to classify information, the information shall be safeguarded as if it were "Confidential" information in accordance with subpart D of this regulation, pending a determination about its classification. Upon a final determination of a need for classification, the information that is classified shall be marked as provided in § 2.7. When there is reasonable doubt about the appropriate classification level, the information shall be safeguarded at the higher level in accordance with subpart D, pending a determination of its classification level. Upon a final determination of its classification level, the information shall be marked as provided in § 2.7.

§ 2.2 Classification authority.

(a) The Secretary of the Treasury has been authorized by the President to originally classify national security information as Top Secret, Secret or Confidential. In additional to the Secretary of the Treasury, the Deputy Secretary, the Under Secretary (International Affairs), the Under Secretary (Finance), the Assistant Secretary (International Affairs), the Treasurer of the United States, the Assistant Secretary (Management), the Assistant Secretary (Enforcement), the Assistant Secretary (Policy Management), and the Special Assistant to the Secretary (National Security) are authorized to originally classify national security information as Top Secret, Secret or Confidential. The authority to classify inheres within the office and may be exercised by a person acting in that capacity. Each of these Treasury officials may also delegate the authority to classify national security information but only at the Secret and Confidential levels. The Assistant Secretary (Management) is hereby designated as the senior Treasury official responsible for the Department's information security program and, as such, may delegate the authority to classify information at the Top Secret, Secret and Confidential levels.

(b) The General Counsel; the Director, Bureau of Alcohol, Tobacco and Firearms; the Commissioner, United States Customs Service; the Director, Bureau of Engraving and Printing; the Director, United States Secret Service and the Departmental Director of Security are authorized to originally classify national security information as Secret or Confidential. This authority is not redelegable.

(c) The Inspector General is authorized to originally classify national security information as Confidential. Such authority is not redelegable.

§ 2.3 Listing of original classification authorities.

Delegations of original Top Secret, Secret and Confidential classification authority shall be in writing and be reported annually to the Departmental Director of Security, who shall maintain such information on behalf of the Assistant Secretary (Management). These delegations are to be limited to the minimum number absolutely required for efficient administration. Periodic reviews and evaluations of such delegations shall be made by the Departmental Director of Security to ensure that the officials so designated have demonstrated a continuing need to exercise such authority. If, after reviewing and evaluating the information, the Departmental Director of Security determines that such officials have not demonstrated a continuing need to exercise such authority, the Departmental Director of Security shall recommend to the Assistant Secretary (Management), as warranted, the reduction or elimination of such authority. The Assistant Secretary (Management) shall take appropriate action in consultation with the affected official(s) and the Departmental Director of Security. Such action may include relinquishment of this authority where the Assistant Secretary (Management) determines that a firm basis for retention does not exist.

[1] Related references are related to sections of Executive Order 12356, 47 FR 14874, April 6, 1982.

§ 2.4 Record requirements.

The Departmental Director of Security shall maintain a listing by name, position title and delegated classification level, of all officials in the Departmental Offices who are authorized under this regulation to originally classify information as Top Secret, Secret or Confidential. Officials within the Departmental Offices with Top Secret classification authority shall report in writing on TD F 71–01.14 (Report of Authorized Classifiers) to the Departmental Director of Security, the names, position titles and authorized classification levels of the officials designated by them in writing to have original Secret or Confidential classification authority. The head of each bureau shall maintain a similar listing of all officials in his or her bureau authorized to apply original Secret and Confidential classification and shall provide a copy of TD F 71–01.14, reflecting the list of officials so authorized, to the Departmental Director of Security. These listings shall be compiled and reported no less than annually each October 15th as required by Treasury Directive 71–01, "Agency Information Security Program Data".

§ 2.5 Classification categories.

(a) *Classification in Context of Related Information [1.3(b)].* Certain information which would otherwise be unclassified may require classification when combined or associated with other unclassified or classified information. Such classification on an aggregate basis shall be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the record copy of the information.

(b) *Unofficial Publication or Disclosure [1.3(d)].* Following an inadvertent or unauthorized publication or disclosure of information identical or similar to information that has been classified in accordance with the Order or predecessor Orders, the agency of primary interest shall determine the degree of damage to the national security, the need for continued classification, and, in coordination with the agency in which the disclosure occurred, what action must be taken to prevent similar occurrences under procedures contained in § 2.32.

§ 2.6 Duration of classification.

(a) *Information Not Marked for Declassification [1.4].* Information classified under predecessor orders that is not subject to automatic declassification shall remain classified until reviewed for possible declassification.

(b) *Authority to Extend Automatic Declassification Determinations [1.4(b)].* The authority to extend classification of information subject to automatic declassification under any predecessor Executive Order to the Order is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend the classification on other than a document-by-document basis shall be reported to the Assistant Secretary (Management) who shall, in turn, report this fact to the Director of the Information Security Oversight Office.

§ 2.7 Identification and markings [1.5(a), (b) and (c)].

The information security system requires that standard markings be applied to classified information. Except in extraordinary circumstances as provided in section 1.5(a) of the Order, or as indicated herein, the marking of paper and electronically created documents shall not deviate from the following prescribed formats. These markings shall also be affixed to material other than paper and electronically created documents, including file folders, film, tape, etc., or the originator shall provide holders or recipients of the information with written instructions for protecting the information.

(a) *Classification Level.* The markings "Top Secret," "Secret," and "Confidential" are used to indicate: information that requires protection as classified information under the Order; the highest level of classification contained in a document; the classification level of each page and, in abbreviated form, the classification of each portion of a document.

(1) *Overall Marking.* The highest level of classification of information in a document shall be marked in such a way as to distinguish it clearly from the informational text. Markings shall appear at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first and last pages bearing text, and on the outside of the back cover (if any).

(2) *Page Marking.* Each interior page of a classified document is to be marked at the top and bottom, either according to the highest classification of the content of the page, including the designation "UNCLASSIFIED" when it is applicable, or with the highest overall classification of the document.

(3) *Portion Marking.* Only the Secretary of the Treasury may waive the portion marking requirement for specified classes of documents or information upon a written determination that:

(i) There will be minimal circulation of the specified documents or information and minimal potential usage of the documents or information as a source for derivative classification determinations; or

(ii) There is some other basis to conclude that the potential benefits of portion marking are clearly outweighed by the increased administrative burdens.

(b) Unless the portion marking requirement has been waived as authorized, each portion of a document, including subjects and titles, shall be marked by placing a parenthetical designation either immediately preceding or following the text to which it applies. The symbols, "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. The symbol, "(LOU)" shall be used for Limited Official Use information. If the application of parenthetical designations is not practicable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification, as well as the information that is *not* classified. If all portions of a document are classified at the same level, this fact may be indicated by a statement to that effect, e.g. "Entire Text is Classified Confidential." If a subject or title requires classification, an unclassified identifier may be applied to facilitate reference.

(c) *Classification Authority.* If the original classifier is other than the signer or approver of the document, his or her indentity shall be shown at the bottom of the first and last pages as follows: "CLASSIFIED BY (identification of original classification authority)".

(d) *Bureau and Office of Origin.* If the identity of the originating bureau or office is not apparent on the face of the document, it shall be clearly indicated below the "CLASSIFIED BY" line.

(e) *Downgrading and Declassification Instructions.* Downgrading and, as applicable, declassification instructions shall be shown as follows:

(1) For information to be declassified automatically on a specific date:

Classified by ——————
Office ——————
Declassify on (date) ——————

(2) For information to be declassified automatically upon the occurrence of a specific event:

Classified by ——————
Office ——————
Declassify on (description of event) ——————

(3) For information not to be declassified automatically:

Classified by ______________
Office ______________
Declassify on *Origination Agency's Determination Required or "OADR"*

(4) For information to be downgraded automatically on a specific date or upon occurrence of a specific event:

Classified by ______________
Office ______________
Downgrade to ______________
on (date or description of event) ______

(f) *Special Markings.*—(1) *Transmittal Documents [1.5(c)].* A transmittal document shall indicate on its first page and last page, if any, the highest classification of any information transmitted by it. It shall also include on the first and last pages the following or similar instruction:

(i) For an unclassified transmittal document:

Unclassified When Classified Enclosure(s) Detached.

(ii) For a classified transmittal document:

Upon Removal of Attachment(s) this Document is ______________

(classification level of the transmittal document alone), or:

This Document is Classified ______ with Unclassified Attachment(s).

(2) *Restricted Data or Formerly Restricted Data [6.2(a)].* Restricted Data or Formerly Restricted Data shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended. Restricted Data is information dealing with the design, manufacture, or utilization of atomic weapons, production of special nuclear material or use of special nuclear material in the production of energy. Formerly Restricted Data is classified information that has been removed from the "restricted data" category but still remains classified. It relates primarily to the military utilization of atomic weapons.

(3) *Intelligence Sources or Methods [1.5(c)].* Documents that contain information relating to intelligence sources or methods shall include the following marking unless otherwise prescribed by the Director of Central Intelligence: "WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED" To avoid confusion as to the extent of dissemination and use restrictions governing the information involved, this marking may not be used in conjunction with special access or sensitive compartmented information controls.

(4) *Foreign Government Information (FGI) [1.5(c)].* Documents that contain FGI shall include either the marking "FOREIGN GOVERNMENT INFORMATION," or a marking that otherwise indicates that the information is foreign government information. If the information is foreign government information that must be concealed, given the relationship or understanding with the foreign government providing the information, the marking shall not be used and the document shall be marked as if it were wholly of United States origin. However, such a marking must be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the original or record copy of the document or information.

(5) *National Security Information [4.1(c)].* Classified information furnished outside the Executive Branch shall show the following marking:

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject to Administrative and Criminal Sanctions

(6) *Automated Data Processing (ADP) and Computer Output [1.5(c)].* (i) Documents that are generated via ADP or as computer output may be marked automatically by systems software. If automatic marking is not practicable, such documents must be marked manually.

(ii) Removable information storage media, however, will bear external labels indicating the security classification of the information and associated security markings, as applicable, such as handling caveats and dissemination controls. Examples of such media include magnetic tape reels, cartridges, and cassettes; removable disks, disk cartridges, disk packs, and diskettes, including "floppy" or flexible disks; paper tape reels; and magnetic and punched cards. Two labels may be required on each medium: a color coded security classification label, i.e., orange Standard Form 706 (Top Secret label), red SF 707 (Secret label), blue SF 708 (Confidential label), purple SF 709 (Classified label), green SF 710 (Unclassified label); and a white SF 711 (Data Descriptor label). National stock numbers of the labels, which are available through normal Federal Supply channels, are as follows: SF 706, 7540–01–207–5536; SF 707, 7450–01–207–5537; SF 708, 7450–01–207–5538; SF 709, 7540–01–207–5540; SF 710, 7540–01–207–5539 and SF 711, 7540–01–207–5541. Treasury Directive 71–02 provides for the use of a green "Officially Limited Information" label, TD F 71–05.2, to identify information so marked.

(iii) In a mixed environment in which classified and unclassified information in processed or stored, the "Unclassified" label must be used to identify the media containing unclassified information. In environments in which only unclassified information is processed or stored, the use of the "Unclassified" label is not required. Unclassified media, however, that are on loan from (and must be returned to) vendors do not require the "Unclassified" label, but each requires a Data Descriptor label with the words, "Unclassified Vendor Medium" entered on it.

(iv) Each medium shall be appropriately affixed with a classification label and, as applicable, with a Data Descriptor label at the earliest practicable time as soon as the proper security classification or control has been established. Labels shall be conspicuously placed on media in a manner that will not adversely affect operation of the equipment in which the media is used. Once applied, the label is not to be removed. A label to identify a higher level of classification may, however, be applied on top of a lower classification level in the event that the content of the media changes, e.g., from Confidential to Secret. A lower classification label may not be applied to media already bearing a higher classification label. Personnel shall be responsible for appropriately labeling and controlling ADP and computer storage media within their possession.

(g) *Electronically Transmitted Information (Messages) [1.5(c)].* Classified information that is transmitted electronically shall be marked as follows:

(1) The highest level of classification shall appear before the first line of text;

(2) A "CLASSIFIED BY" line is not required;

(3) The duration of classification shall appear as follows:

(i) For information to be declassified automatically on a specific date· "DECL: (date)";

(ii) For information to be declassified upon occurrence of a specific event: "DECL: (description of event)":

(iii) For information not to be automatically declassified which requires the originating agency's determination (see also § 2.7(e)(3)): "DECL: OADR";

(iv) For information to be automatically downgraded: "DOWNGRADE TO (classification level to which the information is to be downgraded) ON (date or description of event on which downgrading is to occur)".

(4) Portion marking shall be as prescribed in § 2.7(a)(3);

(5) Specially designated markings as prescribed in § 2.7(f) (2), (3), and (4) shall appear after the marking for the highest level of classification. These include:

(i) Restricted Data or Formerly Restricted Data;

(ii) Information concerning intelligence sources or methods: "WNINTEL," unless otherwise prescribed by the Director of Central Intelligence; and

(iii) Foreign Government Information (FGI).

(6) Paper copies of electronically transmitted messages shall be marked as provided in § 2.7(a) (1), (2), and (3).

(h) *Changes in Classification Markings [4.1(b)].* When a change is made in the duration of classified information, all holders of record shall be promptly notified. If practicable, holders of record shall also be notified of a change in the level of classification. Holders shall alter the markings on their copy of the information to conform to the change, citing the authority for it. If the remarking of large quantities of information is unduly burdensome, the holder may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Items withdrawn from the collection for purposes other than transfer for storage shall be marked promptly in accordance with the change notice.

§ 2.8 Limitations on classification [1.6(c)].

(a) Before reclassifying information as provided in section 1.6(c) of the Order, authorized officials, who must have original classification authority and jurisdiction over the information involved, shall consider the following factors which shall be addressed in a report to the Assistant Secretary (Management) who shall in turn forward a report to the Director of the Information Security Oversight Office:

(1) The elapsed time following disclosure;

(2) The nature and extent of disclosure;

(3) The ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed;

(4) The ability to prevent further disclosure; and

(5) The ability to retrieve the information voluntarily from persons not authorized access in its reclassified state.

(b) Information may be classified or reclassified after it has been requested under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory declassification review provisions of the Order if such classification meets the requirements of the Order and is accomplished personally and on a document-by-document basis by the Secretary of the Treasury, the Deputy Secretary, the Assistant Secretary (Management) or an official with original Top Secret classification authority. Such reclassification actions shall be reported in writing to the Departmental Director of Security.

(c) In no case may information be classified or reclassified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

Subpart B—Derivative Classification

§ 2.9 Derivative classification authority.

Officials with original classification authority may derivatively classify at the same level on the basis of source documents or via use of an approved classification guide. Original classifiers may delegate derivative classification authority but only up to and including their own level of original classification authority.

(a) The General Counsel, the Director, Bureau of Alcohol, Tobacco and Firearms; the Commissioner, United States Customs Service; the Director, United States Secret Service; the Director, Federal Law Enforcement Training Center; and the Departmental Director of Security are authorized to derivatively classify national security information as Top Secret, Secret or Confidential on the basis of source documents or via use of an approved classification guide. The above officials may not redelegate Top Secret derivative classification authority. The Director, Federal Law Enforcement Training Center, may not redelegate derivative classification authority at any level. The remaining officials may redelegate Secret and Confidential derivative classification authority.

(b) The Commissioner, Internal Revenue Service; the Fiscal Assistant Secretary; the Assistant Secretary (Economic Policy); the Executive Secretary and the Inspector General are authorized to derivatively classify national security information as Secret or Confidential, on the basis of source documents or via use of an approved classification guide. This authority is not redelegable. The Inspector General, however, may redelegate derivative classification authority for Confidential national security information.

(c) The Assistant Secretary (Domestic Finance); the Assistant Secretary (Tax Policy); the Comptroller of the Currency; the Commissioner, Financial Management Service; the Commissioner, Bureau of the Public Debt; and the Director, United States Mint are authorized to derivatively classify national security information as Confidential, on the basis of source documents or via use of an approved classification guide. This authority is not redelegable.

(d) Officials identified in § 2.09 as having derivative classification authority may also administratively control and decontrol officially limited information using the legend "Limited Official Use" and may redelegate their authority to control and decontrol. Such redelegations shall be in writing on TD F 71–05.1, "Designation of Controlling/ Decontrolling Officials".

§ 2.10 Listing derivative classification authorities.

Delegations of derivative classification authority to officials not otherwise identified in § 2.9, shall be in writing and reported annually each October 15th to the Departmental Director of Security on TD F 71–01.18 (Report of Authorized Derivative Classifiers). Such delegations shall be limited to the minimum number absolutely required for efficient administration. Periodic reviews and evaluations of such delegations shall be made by the Departmental Director of Security to ensure that officials so designated have demonstrated a continuing need to exercise such authority. If after reviewing and evaluating the information the Departmental Director of Security determines that such officials have not demonstrated a continuing need to exercise such authority, the Departmental Director of Security shall recommend to the Assistant Secretary (Management), as warranted, the reduction or elimination of such authority. The Assistant Secretary (Management) shall take appropriate action in consultation with the affected official(s) and the Departmental Director of Security. Such action may include relinquishment of this authority where the Assistant Secretary (Management) determines that a firm basis for retention does not exist.

§ 2.11 Use of derivative classification [2.1].

The application of derivative classification markings is a

responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized original classifier or in accordance with an approved classification guide. If an individual who applies derivative classification markings believes that the paraphrasing, restating or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade or declassify the information for a final determination. A sample marking of derivatively classified documents is set forth in § 2.13.

§ 2.12 Classification guides.

(a) *General [2.2(a)].* A classification guide is a reference manual which assists document drafters and document classifiers in determining what types or categories of material have already been classified. The classification guide shall, at a minimum:

(1) Identify and categorize the elements of information to be protected;

(2) State which classification level applies to each element or category of information; and

(3) Prescribe declassification instructions for each element or category of information in terms of:

(i) A period of time,

(ii) The occurrence of an event, or

(iii) A notation that the information shall not be declassified automatically without the approval of the originating agency i.e., "OADR".

(b) *Review and Record Requirements [2.2(a)].* (1) Each classification guide shall be kept current and shall be reviewed at least once every two years and updated as necessary. Each office within the Departmental Offices and the respective offices of each Treasury bureau possessing original classification authority for national security information shall maintain a list of all classification guides in current use by them. A copy of each such classification guide in current use shall be furnished to the Departmental Director of Security who shall maintain them on behalf of the Assistant Secretary (Management).

(2) Each office and bureau that prepares and maintains a classification guide shall also maintain a record of individuals authorized to apply derivative classification markings in accordance with a classification guide. This record shall be maintained on TD F 71-01.18 (Report of Authorized Derivative Classifiers) which shall be reported annually each October 15th to the Departmental Director of Security.

(c) *Waivers [2.2(c)].* Any authorized official desiring a waiver of the requirement to issue a classification guide shall submit in writing to the Assistant Secretary (Management) a request for approval of such a waiver. Any request for a waiver shall contain, at a minimum, an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anticipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 2.13 Derivative identification and markings [1.5(c) and 2.1(b)].

Information classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2.7 (a) through (f), as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide.

(a) *Classification Authority.* The authority for classification shall be shown as follows:

Derivatively Classified by ______
Office ______
Derived from ______
Declassify on ______

If a document is classified on the basis of more than one source document or classification guide, the authority for classification shall be shown on the "DERIVED FROM" line as follows: "MULTIPLE CLASSIFIED SOURCES". In these cases, the derivative classifier must maintain the identification of *each* source with the file or record copy of the derivatively classified document. A document derivatively classified on the basis of a source document that is marked "MULTIPLE CLASSIFIED SOURCES" shall cite the *source* document on its "DERIVED FROM" line rather than the term: "MULTIPLE CLASSIFIED SOURCES". Preparers of such documentation shall ensure that the identification of the derivative classifier is indicated. Use of the term "MULTIPLE CLASSIFIED SOURCES," is *not* to be a substitute for the identity of the derivative classification authority.

(b) *Downgrading and Declassification Instructions.* Dates or events for automatic downgrading or declassification shall be carried forward from the source document. This includes the notation "ORIGINATING AGENCY'S DETERMINATION REQUIRED" to indicate that the document is not to be downgraded or declassified automatically, or instructions as directed by a classification guide, which shall be shown on a "DOWNGRADE TO" or "DECLASSIFY ON" line as follows:

DOWNGRADE TO ______ ON (*date, description of event, or OADR*) or, DECLASSIFY ON (*date, description of event, or OADR*)

Subpart C—Downgrading and Declassification

§ 2.14 Listing downgrading and declassification authorities 3.1(b)].

(a) Downgrading and declassification authority may be exercised by the official authorizing the original classification, if that official is still serving in the same position; a successor in that capacity; a supervisory official of either; or officials delegated such authority in writing by the Secretary of the Treasury or the Assistant Secretary (Management). Such officials may *not* downgrade or declassify information which is classified at a level exceeding their own designated classification authority. A listing of officials delegated such authority, in writing, shall be identified on TD F 71-01.11 (Report of Authorized Downgrading and Declassification Officials) and reported annually each October 15th to the Departmental Director of Security who shall maintain them on behalf of the Assistant Secretary (Management). Current listings of officials so designated shall be maintained by Treasury bureaus and offices within the Departmental Offices.

§ 2.15 Declassification policy [3.1].

In making determinations under section 3.1(a) of the Order, officials shall respect the intent of the Order to protect foreign government information and confidential foreign sources.

§ 2.16 Downgrading and declassification markings.

Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled or otherwise obliterated when practicable. See also § 2.7(h).

§ 2.17 Systematic review for declassification [3.3].

(a) *Permanent Records.* Systematic review is applicable only to those classified records and presidential papers or records that the Archivist of the United States, acting under the Federal Records Act, has determined to be of sufficient historical or other value to warrant permanent retention.

(b) *Non-Permanent Classified Records.* Non-permanent classified records shall be disposed of in accordance with schedules approved by the Administrator of General Services under the Records Disposal Act. These schedules shall provide for the continued retention of records subject to an ongoing mandatory declassification review request.

(c) *Systematic Declassification Review Guidelines [3.3(a)].* As appropriate, guidelines for systematic declassification review shall be issued by the Assistant Secretary (Management) in consultation with the Archivist of the United States, the Director of the Information Security Oversight Office and Department officials, to assist the Archivist in the conduct of systematic reviews. Such guidelines shall be reviewed and updated at least every five years unless earlier review is requested by the Archivist.

(d) *Foreign Government Systematic Declassification Review Guidelines [3.3(a)].* As appropriate, guidelines for systematic declassification review of foreign government information shall be issued by the Assistant Secretary (Management) in consultation with the Archivist of the United States, the Director of the Information Security Oversight Office, Department officials and other agencies having declassification authority over the information. These guidelines shall be reviewed and updated every five years unless earlier review is requested by the Archivist.

(e) *Special Procedures.* The Department shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities), or intelligence sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§ 2.18 Mandatory declassification review [3.4].

(a) Except as provided by section 3.4 (b) of the Order, all information classified by the Department under the Order or any predecessor Executive Order shall be subject to declassification review by the Department, if:

(1) The request is made by a United States citizen or permanent resident alien, a Federal agency, or a state or local government;

(2) The request describes the document or material containing the information with sufficient specificity to enable the Department to locate it with a reasonable amount of effort; and

(3) The requester provides substantial proof as to his or her United States citizenship or status as a permanent resident alien, e.g., a copy of a birth certificate, a certificate of naturalization, official passport or some other means of identity which sufficiently describes the requester's status. A permanent resident alien is any individual, who is not a citizen or national of the United States, who has been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed. Permanent means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(b) *Processing*—(1) *Initial Requests for Classified Records Originated by the Department.* Requests for mandatory declassification review shall be directed to the Departmental Office of Security, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Upon receipt of each request for declassification, pursuant to section 3.4 of the Order, the following procedures shall apply:

(i) The Departmental Office of Security shall acknowledge the receipt of the request in writing.

(ii) A valid mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient particularity to allow Treasury personnel to locate the records containing the information sought with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester shall be notified by the Departmental Office of Security that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken.

(iii) The Departmental Office of Security shall determine the appropriate office or bureau to take action on the request and shall forward the request to that office or bureau.

(iv) In responding to mandatory declassification review requests, the appropriate reviewing officials shall make a prompt declassification determination. The Departmental Office of Security shall notify the requester if additional time is needed to process the request. Reviewing officials shall also identify the amount of search and/or review time required to process the request. The Department shall make a final determination within one year from the date of receipt except in unusual circumstances. When information cannot be declassified in its entirety, reasonable efforts, consistent with other applicable laws, will be made to release those declassified portions of the requested information which constitute a coherent segment. Upon the denial or partial denial of an initial request, the Departmental Office of Security shall also notify the requester of the right of an administrative appeal which must be filed with the Assistant Secretary (Management) within 60 days of receipt of the denial.

(v) When the Department receives a mandatory declassification review request for records in its possession that were originated by another agency, the Departmental Office of Security shall forward the request to that agency. The Departmental Office of Security shall include a copy of the records requested together with the Department's recommendations for action. Upon receipt, the originating agency shall process the request in accordance with the Directive 32 CFR 2001.32(a)(2)(i). The originating agency shall also be requested to communicate its declassification determination to Treasury.

(vi) When another agency forwards to the Department a request for information in that agency's custody that has been classified by Treasury, the Departmental Office of Security shall:

(A) Advise the other agency as to whether it can notify the requester of the referral;

(B) Review the classified information in coordination with other agencies that have a direct interest in the subject matter; and

(C) Respond to the requester in accordance with the procedures in § 2.18(b)(1)(iv). If requested, Treasury's determination shall be communicated to the referring agency.

(vii) Appeals of denials of a request for declassification shall be referred to the Assistant Secretary (Management) who shall normally make a determination within 30 working days following the receipt of an appeal. If additional time is required to make a determination, the Assistant Secretary (Management) shall notify the requester

of the additional time needed and provide the requester with the reason for the extension. The Assistant Secretary (Management) shall notify the requester in writing of the final determination and, as applicable, the reasons for any denial.

(viii) Except as provided in this paragraph, the Department shall process mandatory declassification review requests for classified records containing foreign government information in accordance with § 2.18(a). The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If upon receipt of the request, the Department determines that Treasury is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

(ix) Mandatory declassification review requests for cryptologic information and/or information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

(x) The fees to be charged for mandatory declassification review requests shall be for search and/or review and duplication. The fee charges for services of Treasury personnel involved in locating and/or reviewing records shall be at the rate of a GS-10, Step 1, for each hour or fraction thereof, except that no charge shall be imposed for search and/or review consuming less than one hour.

(A) Photocopies per page up to 8½" by 14" shall be charged at the rate of 10 cents each except that no charge will be imposed for reproducing ten (10) pages or less when search and/or review time requires less than one hour.

(B) When it is estimated that the costs associated with the mandatory declassification review request will exceed $100.00, the Departmental Office of Security shall notify the requester of the likely cost and obtain satisfactory written assurance of full payment or may require the requester to make an advance payment of the entire fee before continuing to process the request. The Department reserves the right to request prepayment after a mandatory declassification review request is processed and before documents are released. In the event the requester does not agree to pay the actual charges, he or she shall advise how to proceed with the mandatory declassification review request. Failure of a requester to pay charges after billing will result in future requests not being honored.

(C) In order for a requester's initial request to be processed it shall be accompanied by a statement that he or she is agreeable to paying fees for search and/or review and copying. In the event the initial request does not include this statement, processing of the request will be held in abeyance until such time as the required statement is received. Failure to provide a response within a reasonable amount of time will serve as the basis for administratively terminating the mandatory declassification review request.

(D) Payment of fees shall be made by check or money order payable to the Treasurer of the United States. Fees levied by the Department of the Treasury for mandatory declassification review requests are separate and distinct from any other fees which might be imposed by a Presidential Library, the National Archives and Records Administration or another agency or department.

§ 2.19 Assistance to the Department of State [3.3(b)].

The Secretary of the Treasury shall assist the Department of State in its preparation of the "Foreign Relations of the United States" series by facilitating access to appropriate classified material in Treasury custody and by expediting declassification review of documents proposed for inclusion in the series.

§ 2.20 Freedom of Information/Privacy Act requests [3.4].

The Department of the Treasury shall process requests for records containing classified national security information that are submitted under the provisions of the Freedom of Information Act, as amended, or the Privacy Act of 1974, as amended, in accordance with the provisions of those Acts.

Subpart D—Safeguarding

§ 2.21 General [4.1].

Information classified pursuant to this Order or predecessor Orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification.

§ 2.22 General restrictions on access [4.1].

(a) *Determination of Need-To-Know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in section 4.3 of the Order, that access is essential to the accomplishment of official United States Government duties or contractual obligations.

(b) *Determination of Trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by the Secretary of the Treasury based upon appropriate investigations in accordance with applicable standards and criteria.

(c) *Classified Information Nondisclosure Agreement.* Standard Form 312 (Classified Information Nondisclosure Agreement) or the prior SF 189, bearing the same title, are nondisclosure agreements between the United States and an individual. The execution of either the SF 312 or SF 189 agreement by an individual is necessary before the United States Government may grant the individual access to classified information. Bureaus and the Departmental Offices must retain executed copies of the SF 312 or prior SF 189 in file systems from which the agreements can be expeditiously retrieved in the event the United States must seek their enforcement. Copies or legally enforceable facsimiles of the SF 312 or SF 189 must be retained for 50 years following their date of execution. The national stock number for the SF 312 is 7540-01-280-5499.

§ 2.23 Access by historical researchers and former presidential appointees [4.3].

(a) Access to classified information may be granted only as is essential to the accomplishment of authorized and lawful United States Government purposes. This requirement may be waived, however, for persons who:

(1) Are engaged in historical research projects, or

(2) Previously have occupied policymaking positions to which they were appointed by the President.

(b) Access to classified information may be granted to historical researchers and to former Presidential appointees upon a determination of trustworthiness; a written determination that such access is consistent with the interests of national security; the requestor's written agreement to safeguard classified information; and the requestor's written consent to have his or her notes and manuscripts reviewed to ensure that no classified information is contained therein. The conferring of historial researcher status does not include authorization to release foreign government information or other

agencies' classified information per § 2.24 below. By the terms of section 4.3(b)(3) of the Order, former Presidential appointees not engaged in historical research may *only* be granted access to classified documents which they "originated, reviewed, signed or received while serving as a Presidential appointee." Coordination shall be made with the Departmental Director of Security with respect to the required written agreements to be signed by the Department and such historical researchers or former Presidential appointees, as a condition of such access and to ensure the safeguarding of classified information.

(c) If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to 31 U.S.C. 9701, the requestor shall be so notified and the fees may be imposed. Treasury's fee schedule identified in § 2.18(b)(1)(x), applicable to mandatory declassification review, shall also apply to fees charged for services provided to historical researchers and former Presidential appointees for search and/or review and copying.

§ 2.24 Dissemination [4.1(d)].

Except as otherwise provided by section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403, classified information originating in another agency may not be disseminated outside the Department without the consent of the originating agency.

§ 2.25 Standards for security equipment [4.1(b) and 5.1(b)].

The Administrator of General Services issues (in coordination with agencies originating classified information), establishes and publishes uniform standards, specifications, and supply schedules for security equipment designed to provide for secure storage and to destroy classified information. Treasury bureaus and the Departmental Offices may establish more stringent standards for their own use. Whenever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and shall, to the maximum extent practicable, be of the type available through the Federal Supply System.

§ 2.26 Accountability procedures [4.1(b)].

(a) *Top Secret Control Officers.* Each Treasury bureau and the Departmental Offices shall designate a primary and alternate Top Secret Control Officer. Within the Departmental Offices, the Top Secret Control Officer function will be established in the Office of the Executive Secretary for collateral Top Secret information and in the Office of the Special Assistant to the Secretary (National Security) with respect to sensitive compartmented information. The term "collateral" refers to national security information classified Confidential, Secret, or Top Secret under the provisions of Executive Order 12356 or prior Orders, for which special intelligence community systems of compartmentation (such as sensitive compartmented information) or special access programs are not formally established. Top Secret Control Officers so designated must have a Top Secret security clearance and shall:

(1) Initially receive all Top Secret information entering their respective bureau, including the Departmental Offices. Any Top Secret information received by a Treasury bureau or Departmental Offices employee shall be immediately hand carried to the designated Top Secret Control Officer for proper accountability.

(2) Maintain current accountability records of Top Secret information received within their bureau or office.

(3) Ensure that Top Secret information is properly stored and that Top Secret information under their control is personally destroyed, when required. Top Secret information must be destroyed in the presence of an appropriately cleared official who shall actually witness such destruction. Accordingly, the use of burnbags to store Top Secret information, pending final destruction at a later date, is not authorized.

(4) Ensure that prohibitions against reproduction of Top Secret information are strictly followed.

(5) Conduct annual physical inventories of Top Secret information. An inventory shall be conducted in the presence of an individual with an appropriate security clearance. The inventory shall be completed annually and signed by the Top Secret Control Officer and the witnessing individual.

(6) Ensure that Top Secret documents are downgraded, declassified, retired or destroyed as required by regulations or other markings.

(7) Attach a TD F 71-01.7 (Top Secret Document Record) to the first page or cover of each copy of Top Secret information. The Top Secret Document Record shall be completed by the Top Secret Control Officer and shall serve as a permanent record.

(8) Ensure that all persons having access to Top Secret information sign the Top Secret Document Record. This also includes persons to whom oral disclosure of the contents is made.

(9) Maintain receipts concerning the transfer and destruction of Top Secret information. Record all such actions on the Top Secret Document Record which shall be retained for a minimum of three years.

(10) As received, number in sequence each Top Secret document in a calendar year series (e.g. TS 89-001). This number shall be posted on the face of the document and on all forms required for control of Top Secret information.

(11) Attach a properly executed TD F 71-01.5 (Classified Document Record of Transmittal) when a Top Secret document is transmitted internally or externally.

(12) Verify, prior to releasing Top Secret information, that the recipient has both a security clearance and is authorized access to such information.

(13) Report, in writing, all Top Secret documents unaccounted for to the Assistant Secretary (Management) who shall take appropriate action in conjunction with the Departmental Director of Security.

(14) Assure that no individual within his or her office or bureau transmits Top Secret information to another individual or office without the knowledge and consent of the Top Secret Control Officer.

(15) Ensure upon receipt that a Standard Form 703 (Top Secret Cover Sheet) is affixed to such information.

(16) Notify office and/or bureau employees annually in writing of the designated control point for all incoming and outgoing Top Secret information.

(17) Be notified as to the transmission, per § 2.28(b), whenever Top Secret information is sent outside of a Treasury bureau or office within the Departmental Offices.

(b) *Top Secret Control Officer Listings.* In order for the Departmental Director of Security to maintain a current listing of Top Secret Control Officers within the Department, each Treasury bureau and the Departmental Offices shall annually report each October 15th in writing to the Departmental Office of Security, the identities of the office(s) and names of the officials designated as their primary and alternate Top Secret Control Officers. Any changes in these designations shall be reported to the Departmental Director of Security within thirty days.

(c) *Top Secret Document Record.* Upon receipt in the Department a green, color coded, TD F 71-01.7 (Top Secret Document Record) shall be attached by the Top Secret Control Officer to the first page or cover of the original and each copy of Top Secret information.

The Top Secret Document Record shall remain attached to the Top Secret information until it is either transferred to another United States Government agency, downgraded, declassified or destroyed. The Top Secret Document Record, which shall initially be completed by the Top Secret Control Officer, shall identify the Top Secret information attached, and shall serve as a permanent record of the information. All persons, including stenographic and clerical personnel, having access to the information attached to the Top Secret Document Record must list their name and the date on the TD F 71–01.7 prior to accepting responsibility for its custody. The TD F 71–01.7 shall also indicate those individuals to whom only oral disclosure of the contents is made. Whenever any Top Secret information is transferred to another United States Government agency, downgraded, declassified or destroyed, the Top Secret Control Officer shall record the action on the Top Secret Document Record and retain it for a minimum or three years after which time it may be destroyed. In order to maintain the integrity of the color coding process the photocopying and use of non-color coded Top Secret Document Record forms is prohibited.

(d) *Classified Document Record of Transmittal.* TD F 71–01.5 (Classified Document Record of Transmittal) shall be the exclusive classified document accountability record for use within the Department of the Treasury. No other logs or records shall be required except for the use of TD F 71–01.7 which is applicable to Top Secret information. TD F 71–01.5 shall be used for single or multiple document receipting and for internal and external routing. The inclusion of classified information on TD F 71–01.5 is to be avoided. In the event the subject title is classified, a recognizable short title shall be used, e.g., first letter of each word in the subject title. Several items may be transmitted to the same addressee with one TD F 71–01.5. TD F's 71–01.5 shall be maintained for a three years period after which the form may be destroyed. No record of the actual destruction of the TD F 71–01.5 is necessary.

(1) *Top Secret Information.* Top Secret information shall be subject to a continuous receipt system regardless of how brief the period of custody. TD F 71–01.5 shall be used for this purpose. Top Secret accountability records shall be maintained by Top Secret Control Officers separately from the accountability records of other classified information.

(2) *Secret Information.* Receipt on TD F 71–01.5 shall be required for transmission of Secret information between bureaus, offices and separate agencies. Responsible office heads shall determine administrative procedures required for the internal control within their respective offices. The volume of classified information handled and personnel resources available must be considered in determining the level of adequate security measures while at the same time maintaining operational efficiency.

(3) *Confidential and Limited Official Use Information.* Receipts for Confidential and Limited Official Use information shall not be required unless the originator indicates that receipting is necessary.

§ 2.27 Storage [4.1(b)].

Classified information shall be stored only in facilities or under conditions designed to prevent unauthorized persons from gaining access to it.

(a) *Minimum Requirements for Physical Barriers.*—(1) *Top Secret.* Top Secret information shall be stored in a GSA-approved security container with an approved, built-in, three-position, dial-type, changeable, combination lock; in a vault protected by an alarm system and response force; or in other types of storage facilities that meet the standards for Top Secret information established under the provisions of § 2.25. Top Secret information stored outside the United States must be in a facility afforded diplomatic status. One or more of the following supplementary controls is required:

(i) The area that houses the security container or vault shall be subject to the continuous protection of U.S. guard or duty personnel;

(ii) U.S. Guard or duty personnel shall inspect the security container or vault at least once every two hours; or

(iii) The security container or vault shall be controlled by an alarm system to which a force will respond in person within 15 minutes.

Within the United States, the designated security officer in each Treasury bureau and the Department Offices shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored. Any vault used for the storage of sensitive compartmented information shall be configured to the specifications of the Director of Central Intelligence. Prior to an office or bureau operating such a vault, formal written certification for its use must first be obtained from the Special Assistant to the Secretary (National Security) as the senior Treasury official of the Intelligence Community.

(2) *Secret and Confidential.* Secret and Confidential information shall be stored in a manner and under the conditions prescribed for Top Secret information, or in a container, vault, or alarmed area that meets the standards for Secret or Confidential information established under the provisions of § 2.25. Secret and Confidential information may also be stored in a safe-type filing cabinet having a built-in, three-position, dial-type, changeable, combination lock, and may continue to be stored in a steel filing cabinet equipped with a steel lock-bar secured by a GSA-approved three-position, dial-type, changeable, combination padlock. The modification, however, of steel filing cabinets to barlock-type as storage equipment for classified information and material is prohibited and efforts are to be made to selectively phase out the use of such barlock cabinets for storage of Secret information. Exceptions may be authorized only by the Departmental Director of Security upon written request from the designated bureau security officer. The designated security officer in each Treasury bureau and the Departmental Offices shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored. Access to bulky Secret and Confidential material in weapons storage areas, strong rooms, evidence vaults, closed areas or similar facilities shall be controlled in accordance with requirements approved by the Department. At a minimum, such requirements shall prescribe the use of GSA-approved, key-operated, high-security padlocks. For Secret and Confidential information stored outside the United States, it shall be stored in the manner authorized for Top Secret, in a GSA-approved safe file, or in a barlick cabinet equipped with a security-approved combination padlock if the cabinet is located in a security-approved vault and/or in a restricted area to which access is controlled by United States citizen personnel on a 24-hour basis.

(b) *Combinations.*—(1) *Equipment in Service.* Combinations to dial-type, changeable, combination locks shall be changed only by persons having an appropriate security clearance, and shall be changed,

(i) Whenever such equipment is placed in use;

(ii) Whenever a person knowing the combination no longer requires access to it;

(iii) Whenever a combination has been subjected to possible compromise;

(iv) Whenever the equipment is taken out of service: or

(v) At least once each year.

Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information that is protected by the combination lock. When securing a combination lock, the dial must be turned at least four (4) complete times in the same direction after closing. Defects in or malfunctioning of storage equipment protecting classified national security or officially limited information must be reported immediately to the designated office or bureau security official for appropriate action.

(2) *Equipment Out of Service.* When security equipment, used for the storage of classified national security or officially limited information, is taken out of service, it shall be physically inspected to ensure that no classified information or officialy limited information remains therein. Built-in, three-position, dial-type, changeable, combination locks shall be reset to the standard combination 50–25–50 and combination padlocks shall be reset to the standard combination 10–20–30. The designated security officer in each Treasury bureau and the Departmental Offices shall prescribe such supplementary controls deemed necessary to fulfill their individual needs to be consistent with § 2.27.

(3) *Security Container Check Sheet.* Each piece of security equipment used for the storage of classified information will have attached conspicuously to the outside a Standard Form 702 (Security Container Check Sheet) on which an authorized person will record the date and actual time each business day that they initially unlock and finally lock the security equipment, followed by their initials. Users of this form are to avoid citations which reflect the opening, locking and checking of the security equipment at standardized (non-actual) times, e.g., opened at 8:00 a.m. and closed/checked at 4:00 p.m. Bureaus and the Departmental Offices may continue to use Optional Form 62 (Safe or Cabinet Security Record) in lieu of the SF 702 until September 30, 1990, or such time as their supplies of Optional Form 62 are exhausted. The reprinting or photostatic reproduction and use of Optional Form 62 is *not* authorized. On each normal workday, regardless of whether the security equipment was opened on that particular day, the security equipment shall be checked by authorized personnel to assure that no surreptitious attempt has been made to penetrate the security equipment. Such examinations normally consist of a quick or casual visual check to note either any obvious marks or gashes, or defects or malfunction of the security equipment which are different from their prior observations or experience in operating the equipment concerned. Any such discrepancies in the appearance of or functioning of the security equipment, based upon this visual check, should be reported to appropriate security officials. The "Checked By" column of the SF 702 or Optional Form 62 shall be annotated to reflect the date and time of this action followed by that person's initials. Security equipment used for the storage of classified information that has been opened on a particular day shall not be left unattended at the end of that day until it has been locked by an authorized person and checked by a second person. In the event a second person is not available within the office, the individual who locked the equipment shall also annotate the "Checked By" column of the SF 702 or Optional Form 62. Reversible "OPEN-CLOSED" or "LOCKED-UNLOCKED" signs, available through normal supply channels, shall also be used on such security equipment. The respective side of the sign shall be displayed to indicate when the container is open or closed. Except for the SF 702 or Optional Form 62, the top surface area of security equipment is *not* to be used for storage and must be kept free of extraneous material. SF 702 and/or Optional Form 62 shall be utilized on all security equipment used for storing information bearing the control legend "Limited Official Use". The designated security officer in each Treasury bureau and the Department Offices may, as warranted, prescribe supplementary use of the SF 702 or Optional Form 62 to apply to other authorized legends approved by the Department for officially limited information.

(4) *Safe Combination Records.* Combinations to security equipment containing classified information shall be recorded on Standard Form 700 (Security Container Information), national stock number 7540–01–214–5372. Bureaus and the Departmental Offices may continue to use Treasury Form 4032 (Security Container Information) in lieu of the SF 700 until September 30, 1990, or such time as their supplies of Treasury Form 4032 are exhausted. The reprinting of Treasury Form 4032 is not authorized. Each part of the SF 700 shall be completed in its entirety. The names, addresses and home telephone numbers of personnel responsible for the combination, and the classified information stored therein, must be indicated on Part 1 of the SF 700. The completed Part 1 shall be posted in the front interior of the top, control or locking drawer of the security equipment concerned. Part 2 shall be inserted in the envelop (Part 2A) provided, and forwarded via appropriate secure means to the designated bureau or Departmental Offices central repository for security combinations. Part 2 shall have the highest level of classified information, stored in the security equipment concerned, annotated in both the top and bottom border areas of the completed SF 700. Part 2A shall have the highest level of classified information, stored in the security equipment concerned, annotated in the blank space immediately above the word, "WARNING" which appears on the SF 700. The completion of the SF 700 or Treasury Form 4032 does not constitute a classification action but serves as an administrative requirement to ensure the protection of classified information stored in such security equipment. SF 700 shall be utilized on all security equipment used for storing information bearing the control legend "Limited Official Use". The designated security officer in each Treasury bureau and the Departmental Offices may prescribe supplementary use of the SF 700 to apply to other authorized legends approved by the Department for officially limited information, as warranted.

(c) *Keys.* The designated security officer in each Treasury bureau and the Departmental Offices shall establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the information being protected by the padlock.

(d) *Classified Document Cover Sheets.* Classified document cover sheets alert personnel that documents or folders are classified and require protection from unauthorized scrutiny. Individuals who prepare or package classified documents are responsible for affixing the appropriate document cover sheet. Orange Standard Form 703 (Top Secret Cover Sheet), red SF 704 (Secret Cover Sheet) and blue SF 706 (Confidential Cover Sheet) are the only authorized cover sheets for collateral classified information. The national stock numbers of these cover sheets are as follows: SF 703, 7540–01–213–7901; SF

704, 7540–01–213–7902; and SF 705, 7540–01–213–7903. In order to maintain the integrity of the color coding process the photocopying and use of non-color coded classified document cover sheets is prohibited. Bureaus and offices shall maintain a supply of classified document cover sheets appropriate for their needs. Classified document cover sheets are designed to be reused and will be removed before classified information is filed to conserve filing space and prior to the destruction of classified information. Document cover sheets are to be used to shield classified documents while in use and particularly when the transmission is made internally within a headquarters by courier, messenger or by personal contact. File folders containing classified information should be otherwise marked, e.g., at the top and bottom of the front and back covers, to indicate the overall classification of the contents rather than permanently affixing the respective classified document cover sheet. Treasury Directive 71–02 provides for the use of a green cover sheet, TD F 71–01.6 (Limited Official Use Document Cover Sheet) for information bearing the control legend "Limited Official Use". Bureaus or offices electing to create and use other cover sheets for officially limited information must obtain prior written approval from the Departmental Director of Security.

(e) *Activity Security Checklist.* Standard Form 701 (Activity Security Checklist) provides a systematic means to make a thorough end-of-day security inspection for a particular work area and to allow for employee accountability in the event that irregularities are discovered. Bureaus and the Departmental Offices may include additional information on the SF 701 to suit their unique needs. The SF 701, available through normal supply channels has a national stock number of 7540–01–213–7900. It shall be the only form used in situations that call for use of an activity security checklist. Completion, storage and disposition of SF 701 will be determined by each bureau and the Departmental Offices.

§ 2.28 Transmittal [4.1(b)].

(a) *Preparation.* Classified information to be transmitted outside of a Treasury facility shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned security classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. Whenever classified material is to be transmitted and the size of the material is not suitable for use of envelopes or similar wrappings, it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings. Material used for packaging such bulk classified information shall be of sufficient strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate detection of any tampering therewith.

(b) *Receipting.* A receipt, Treasury Department Form 71–01.5 (Classified Document Record of Transmittal), shall be enclosed in the inner cover, except that Confidential and Limited Official Use information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee and describe the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender. Within a Treasury facility, such information may be transmitted between offices by direct contact of the officials concerned in a single sealed opaque envelope with no security classification category being shown on the outside of the envelope. Classified information shall never be delivered to unoccupied offices or rooms. Senders of classified information should maintain appropriate records of outstanding receipts for which return of the original signed copy is still pending. TD F's 71–01.5 shall be maintained for a three year period after which they may be destroyed. No record of the actual destruction of the TD F 71–01.5 is required.

(c) *Transmittal of Top Secret.* The transmittal of Top Secret information outside of a Treasury facility shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system authorized for that purpose, e.g., Defense Courier Service, or over authorized secure communications circuits. Top Secret information may *not* be sent via registered mail.

(d) *Transmittal of Secret.* The transmittal of Secret information shall be effected in the following manner:

(1) *The 50 States, District of Columbia, and Puerto Rico.* Secret information may be transmitted within and between the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information, by the United States Postal Service registered mail, or by protective services provided by United States air or surface commercial carriers under such conditions as may be prescribed by the head of the bureau concerned.

(2) *Other Areas.* Secret information may be transmitted from, to, or within areas other than those specified in § 2.28(d)(1) by one of the means established for Top Secret information, or by United States registered mail through Military Postal Service facilities provided that the information does not at any time pass out of United States citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard United States Government owned and United States Government contract vehicles or aircraft, ships of the United States Navy, civil service manned United States Naval ships, and ships of United States Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are United States citizens, and who are appropriately cleared, may be designated as escorts. Secret information may not be sent via certified mail.

(e) *Transmittal of Confidential and Limited Official Use Information.* Confidential and Limited Official Use information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and United States territories or possessions by one of the means established for higher classifications, or by the United States Postal Service registered mail. Outside these areas, confidential and Limited Official Use information shall be transmitted only as is authorized for higher classifications. Confidential and Limited Official Use information may not be sent via certified mail.

(f) *Hand Carrying of Classified Information in Travel Status—(1) General Provisions.* Personnel in travel status shall physically transport classified information across international boundaries only when absolutely essential. Whenever possible, and when time permits, the most desirable way to transmit classified information to the location being visited is by other authorized means identified in § 2.28 (c), (d) and (e). The physical transportation of classified information on non-United States flag aircraft should be avoided if possible. Treaury Directive 71–03, "Screening of Airline Passengers Carrying Classified Information or Material" provides specifics on the requirements for transporting classified information.

(2) *Specific Safeguards.* If it is determined that the transportation of

classified information by an individual in travel status is in the best interest of the United States Government, the following specific safeguards shall be fulfilled:

(i) Classified information shall be in the physical possession of the individual and shall have adequate safeguards at all times if proper storage at a United States Government facility is not available. Under no circumstances shall classified information be stored in a hotel safe or room, locked in automobiles, private residences, train compartments, or any vehicular detachable storage compartments.

(ii) An inventory of all Top Secret classified information, including teletype messages, shall be made prior to departure and a copy of same shall be retained by the traveller's office until the traveller's return at which time all Top Secret classified information shall be accounted for. These same procedures are recommended for information classified Secret, Confidential or Limited Official Use.

(iii) Classified information shall never be displayed or used in any manner in public conveyances or rooms. First class or business travel is not authorized when the justification for commercially available transportation is based on the need for reviewing classified materials while enroute. Travelers are responsible for reviewing and familiarizing themselves with required classified materials, under appropriately secure circumstances, in advance of their travel and not during such travel.

(iv) In order to avoid unnecessary delays in the screening process prior to boarding commercial air carriers, the traveler shall have in his or her possession written authorization, on Treasury or bureau letterhead, to transport classified information and either an identification card or credential bearing both a photograph and descriptive data. Courier authorizations shall be signed by an appropriate security representative authorized to direct official travel. This courier authorization, along with official travel orders, shall, in most instances, permit the individual to exempt the classified information from inspection. If difficulty is encountered, the traveler should tactfully refuse to exhibit or disclose the classified information to inspection and should insist on the assistance of the local United States diplomatic representative at the port of entry or departure.

(v) Upon completion of the visit, the traveler shall have the information returned to his or her office by approved means. All Top Secret and Secret classified information, including teletype messages transported for the purpose of the visit shall be accounted for. It is highly recommended that Confidential and Limited Official Use information also be accounted for. If any Top Secret or Secret classified items are left with the office being visited for its retention and use, the individual shall obtain a receipt.

§ 2.29 Telecommunications and computer transmissions.

Classified information shall not be communicated by telecommunications or computer transmissions except as may be authorized with respect to the transmission of classified information over authorized secure communications circuits or systems.

§ 2.30 Special access programs [1.2(a) and 4.2(a)].

Only the Secretary of the Treasury may create or continue a special access program if:

(a) Normal management and safeguarding procedures do not limit access sufficiently; and

(b) The number of persons with access is limited to the minimum necessary to meet the objective of providing extra protection for the information.

§ 2.31 Reproduction controls [4.1(b)].

(a) Top Secret documents, except for the controlled initial distribution of information processed or received electronically, shall not be reproduced without the consent of the originator.

(b) Unless restricted by the originating agency, Secret, Confidential and Limited Official Use documents may be reproduced to the extent required by operational needs.

(c) Reproductions of classified documents shall be subject to the same accountability and controls as the original documents.

(d) Paragraphs (a) and (b) of this section shall not restrict the reproduction of documents to facilitate review for possible declassification.

§ 2.32. Loss or possible compromise [4.1(b)].

(a) *Report of Loss or Possible Compromise.* Any Treasury employee who has knowledge of the loss or possible compromise or classified information shall immediately report the circumstances to their designated office or bureau security officer who shall take appropriate action to assess the degree of damage. In turn, the Departmental Director of Security shall be immediately notified by the affected office or bureau security officer of such reported loss or possible compromise. The Departmental Director of Security shall also notify the department or agency which originated the information and any other interested department or agency so that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of the loss or possible compromise. Compromises may occur through espionage, unauthorized disclosures to the press or other members of the public, publication of books and treatises, the known loss of classified information or equipment to foreign powers, or through various other circumstances.

(b) *Inquiry.* The Departmental Director of Security shall notify the Assistant Secretary (Management) who shall then direct an immediate inquiry to be conducted for the purpose of taking corrective measures and assessing damages. Based on the results of this inquiry, it may be deemed appropriate to notify the Inspector General who shall determine whether the Office of the Inspector General or a Treasury bureau will conduct any additional investigation. Upon completion of the investigation by the Inspector General, the Inspector General shall recommend to the Assistant Secretary (Management) and concurrently to the Departmental Director of Security, the appropriate administrative, disciplinary, or legal action to be taken based upon jurisdictional authority of the Treasury components involved.

(c) *Content of Damage Assessments.* At a minimum, damage assessments shall be in writing and contain the following:

(1) Identification of the source, date and circumstances of the compromise.

(2) Classification and description of the specific information which has been lost.

(3) An analysis and statement of the known or probable damage to the national security that has resulted or may result.

(4) An assessment of the possible advantage to foreign powers resulting from the compromise.

(5) An assessment of whether,

(i) The classification of the information involved should be continued without change;

(ii) The specific information, or parts thereof, shall be modified to minimize or nullify the effects of the reported compromise and the classification retained;

(iii) Downgrading, declassification, or upgrading is warranted, and if so, confirmation of prompt notification to holders of any change, and

(6) An assessment of whether countermeasures are appropriate and

feasible to negate or minimize the effect of the compromise.

(d) *System for Control of Damage Assessments.* Each Treasury bureau and the Departmental Offices shall establish a system of control and internal procedures to ensure that damage assessments are performed in all cases described in § 2.32(a) and that records are maintained in a manner that facilitates their retrieval and use within the Department.

(e) *Cases Involving More Than One Agency.* (1) Whenever a compromise involves the classified information or interests of more than one agency, the Departmental Director of Security shall advise the other affected agencies of the circumstances and findings that affect their information or interests. Whenever a damage assessment, incorporating the product of two or more agencies is needed, the affected agencies shall agree upon the assignment of responsibility for the assessment and Treasury components will provide all data pertinent to the compromise to the agency responsible for conducting the assessment.

(2) Whenever a compromise of United States classified information is the result of actions taken by foreign nationals, by foreign government officials, or by United States nationals in the employ of international organizations, the agency performing the damage assessment shall endeavor to ensure through appropriate intergovernmental liaison channels, that information pertinent to the assessment is obtained. Whenever more than one agency is responsible for the assessment, those agencies shall coordinate the request prior to transmittal through appropriate channels.

(3) Whenever an action is contemplated against any person believed responsible for the loss or compromise of classified information, damage assessments shall be coordinated with appropriate legal counsel. Whenever a violation of criminal law appears to have occured and a criminal prosecution is contemplated, coordination shall be made with the Department of Justice.

(4) The designated representative of the Director of Central Intelligence, or other appropriate officials with responsibility for the information involved, will be consulted whenever a compromise of sensitive compartmented information has occurred.

§ 2.33 Responsibilities of holders [4.1(b)].

Any person having access to and possession of classified information is responsible for protecting it from persons not authorized access, i.e., persons who do not possess an appropriate security clearance, and who do not possess the required need-to-know. This includes keeping classified documents under constant observation and turned face-down or covered when not in use and securing such information in approved security equipment or facilities whenever it is not under the direct supervision of authorized persons. In all instances, such protective means must meet accountability requirements prescribed by the Department.

§ 2.34 Inspections [4.1(b)].

Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to ensure adherence to procedural safeguards prescribed to protect classified information. Security officers shall ensure that periodic inspections are made to determine whether procedural safeguards prescribed by this regulation and any bureau implementing regulation are in effect at all times. At a minimum such checks shall ensure that all classified information is stored in approved security containers, including removable storage media, e.g., floppy disks used by word processors that contain classified information; burn bags, if utilized, are either stored in approved security containers or destroyed; and classified shorthand notes, carbon paper, carbon and plastic typewriter ribbons, rough drafts and similar papers have been properly stored or destroyed.

§ 2.35 Security violations.

Any individual, at any level of employment, determined to have been responsible for the unauthorized release or disclosure or potential release or disclosure of classified national security information, whether it be knowingly, willfully or through negligence, shall be notified on TD F 71-21.1 (Record of Security Violation) that his or her action is in violation of this regulation, the Order, the Directive, and Executive Order 10450, as amended. Treasury Directive 71-04, entitled, "Administration of Security Violations" sets forth provisions concerning security violations which shall apply to each Treasury employee and persons under contract or subcontract to the Department authorized access to Treasury classified national security information.

(a) Repeated abuse of the classification process, either by unnecessary or over-classification, or repeated failure, neglect or disregard of established requirements for safeguarding classified information by any employee shall be grounds for appropriate adverse or disciplinary action. Such actions may include, but are not necessarily limited to, a letter of warning, a letter of reprimand, suspension without pay, or dismissal, as appropriate in the particular case, under applicable personnel rules, regulations and procedures. Where a violation of criminal statutes may be involved, any such case shall be promptly referred to the Department of Justice.

(b) After an affirmative adjudication of a security violation, and as the occasion demands, reports of accountable security violations shall be placed in the employee's personnel security file, and as appropriate, in the employee's official personnel folder. The security official of the office or bureau concerned shall recommend to the respective management official or bureau head that disciplinary action be taken when such action is indicated.

§ 2.36 Disposition and destruction [4.1(b)].

Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of Title 44, United States Code, Chapters 21 and 33, which govern disposition of Federal records. Classified information approved for destruction shall be destroyed by either burning, melting, chemical decomposition, pulping, mulching, pulverizing, cross-cut shredding or other mutilation in the presence of appropriately cleared and authorized persons. The method of destruction *must* preclude recognition or reconstruction of the classified information. The residue from cross-cut shredding of Top Secret, Secret, and Confidential classified, non-Communications Security (COMSEC), information contained in paper media may not exceed 3/32" by 1/2" with a 1/64" tolerance.

(a) *Diskettes or Floppy Disks.* Diskettes or floppy disks containing information or data classified up to and including Top Secret may be destroyed by the use of an approved degausser, burning, pulverizing, and chemical decomposition, or by first reformatting or reinitializing the diskette then physically removing the magnetic disk from its protective sleeve and using an approved cross-cut shredder to destroy the magnetic media. Care must be exercised to ensure that the destruction of magnetic disks does not damage the cross-cut shredder. The residue from such destruction, however, may not exceed 1/32" by 1/2" with a 1/64" tolerance. The destruction of classified

COMSEC information on diskettes or floppy disks may only be effected by burning followed by crushing of the ash residue.

(b) *Hard Disks.* Hard disks, including removable hard disks, disk packs, drums or single disk platters that contain classified information must first be degaussed prior to physical destruction. The media must be destroyed by incineration, chemical decomposition or the entire magnetic disk pack, drum, or platter recording surface must be obliterated by use of an emery wheel or disk sander.

(c) *Approval of Use of Mulching and Cross-cut Shredding Equipment.* Prior to obtaining mulching or cross-cut shredding equipment, the Departmental Director of Security shall approve the use of such equipment.

(d) *Use of Burnbags.* Any classified information to be destroyed by burning shall be torn and placed in opaque containers, commonly designated as burnbags, which shall be clearly and distinctly labeled "BURN" or "CLASSIFIED WASTE". Burnbags awaiting destruction are to be protected by security safeguards commensurate with the classification or control designation of the information involved.

(e) *Records of Destruction.* Appropriate accountability records shall be maintained on TD F 71-01.17 (Classified Document Certificate of Destruction) to reflect the destruction of all Top Secret and Secret information. As deemed necessary by the originator, or as required by special regulations, the TD F 71-01.17 shall be executed for the destruction of information classified Confidential or marked Limited Official Use. TD F's 71-01.17 shall be maintained for a three-year period after which the form may be destroyed. No record of the actual destruction of the TD F 71-01.17 is required.

(f) *Destruction of non-record Classified Information.* Non-record classified information such as extra copies and duplicates, including shorthand notes, preliminary drafts, used carbon paper and other material of similar temporary nature, shall also be destroyed by burning, mulching, or cross-cut shredding as soon as it has served its purpose, but no records of such destruction need be maintained.

§ 2.37 National Security Decision Directive 197.

National Security Decision Directive 197, Reporting Hostile Contacts and Security Awareness, provides that United States Government employees are responsible for reporting to their designated security officer:

(a) Any suspected or apparent attempt by persons, regardless of nationality, to obtain unauthorized access to classified national security information, sensitive or proprietary information or technology and/or;

(b) Instances in which they feel they are being targeted for possible exploitation. Contacts with representatives of designated countries of concern identified in § 2.43(f) which involve requests for information which are not ordinarily provided in the course of an employee's job, regular or daily activity, and/or which might possibly lead to further requests for access to sensitive, proprietary or classified information or technology, are to be reported to designated security officers. Reports of such contacts are to be forwarded by the designated security officer to the Departmental Director of Security for appropriate action and coordination.

Subpart E—Implementation and Review

§ 2.38 Departmental management.

(a) The Assistant Secretary (Management) shall:

(1) Enforce the Order, the Directive and this regulation, and establish, coordinate and maintain active training, orientation and inspection programs for employees concerned with classified information.

(2) Review suggestions and complaints regarding the administration of this regulation.

(b) Pursuant to Treasury Directive 71-08, "Delegation of Authority Concerning Physical Security Programs", the Departmental Director of Security shall:

(1) Review all bureau implementing regulations prior to publication and shall require any regulation to be changed, if it is not consistent with the Order, the Directive or this regulation.

(2) Have the authority to conduct on-site reviews of bureau physical security programs and information security programs as they pertain to each Treasury bureau and to require such reports, information and assistance as may be necessary, and

(3) Serve as the principal advisor to the Assistant Secretary (Management) with respect to Treasury physical and information security programs.

§ 2.39 Bureau administration.

Each Treasury bureau and the Departmental Offices shall designate, in writing to the Departmental Director of Security, an officer or official to direct, coordinate and administer its physical security and information security programs which shall include active oversight to ensure effective implementation of the Order, the Directive, this regulation. Bureaus and the Departmental Offices shall revise their existing implementing regulation on national security information to ensure conformance with this regulation. Time frames for bureau and Departmental Offices implementation shall be established by the Departmental Director of Security.

§ 2.40 Emergency planning [4.1(b)].

Each Treasury bureau and the Departmental Offices shall develop plans for the protection, removal, or destruction of classified information in case of fire, natural disaster, civil disturbance, or possible enemy action. These plans shall include the disposition of classified information located in foreign countries.

§ 2.41 Emergency authority [4.1(b)].

The Secretary of the Treasury may prescribe by regulation special provisions for the dissemination, transmittal, destruction, and safeguarding of national security information during combat or other emergency situations which pose an imminent threat to national security information.

§ 2.42 Security education [5.3(a)].

Each Treasury bureau that creates, processes or handles national secutity information, including the Departmental Offices, is required to establish a security education program. The program shall be sufficient to familiarize all necessary personnel with the provisions of the Order, the Directive, this regulation and any other implementing directives and regulations to impress upon them their individual security responsibilities. The program shall also provide for initial, refresher, and termination briefings.

(a) *Briefing of Employees.* All new employees concerned with classified information shall be afforded a security briefing regarding the Order, the Directive and this regulation and sign a security agreement as required in § 2.22(c). Employees concerned with sensitive compartmented information shall be required to read and also sign a security agreement. Copies of applicable laws and pertinent security regulations setting forth the procedures for the protection and disclosure of classified information shall be available for all new employees afforded a security briefing. All employees given a security briefing shall be required to sign a TD F 71-01.16 (Physical Security Orientation Acknowledgment) which shall be maintained on file as determined by

respective office or bureau security officials.

Subpart F—General Provisions

§ 2.43 Definitions [6.1].

(a) *Authorized Person.* Those individuals who have a "need-to-know" the classified information involved and have been cleared for the receipt of such information. Responsibility for determining whether individuals' duties require that they possess, or have access to, any classified information and whether they are authorized to receive it rests on the individual who has possession, knowledge, or control of the information involved, and not on the prospective recipients.

(b) *Compromise.* The loss of security enabling unauthorized access to classified information. Affected information or material is not automatically declassified.

(c) *Confidential Source.* Any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

(d) *Declassification.* The determination that particular classified information no longer requires protection against unauthorized disclosure in the interest of national security. Such determination shall be by specific action or occur automatically after the lapse of a requisite period of time or the occurrence of a specified event. If such determination is by specific action, the information or material shall be so marked with the new designation.

(e) *Derivative Classification.* A determination that information is, in substance, the same as informaiton that is currently classified and a designation of the level of classification.

(f) *Designated Countries of Concern.* For purposes of National Security Decision Directive 197 reporting: Afghanistan, Albania, Angola, Bulgaria, Cambodia (Kampuchea), the People's Republic of China (Communist China), Cuba, Czechoslovakia, Ethiopia, East Germany (German Democratic Republic including the Soviet sector of Berlin), Hungary, Iran, Iraq, Laos, Libya, Mongolian People's Republic (Outer Mongolia), Nicaragua, North Korea, Palestine Liberation Organization, Poland, Romania, South Africa, South Yemen, Syria, Taiwan, Union of Soviet Socialist Republics (Russia), Vietnam and Yugoslavia.

(g) *Document.* Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps, charts; painting; drawings; engravings; sketches; working notes and papers; reproductions of such things by any means or process; and sound, voice, or electronic recordings in any form.

(h) *Foreign Government Information.* (1) Information provided by a foreign government or governments, an international organization of governments, or any elements thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(2) Information produced by the United States Government pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

(i) *Information.* Any data or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(j) *Information Security.* The administrative policies and procedures for identifying, controlling, and safeguarding from unauthorized disclosure, information the protection of which is authorized by Executive Order or statute.

(k) *Intelligence Activity.* An activity that an agency within the Intelligence Community is authorized to conduct pursuant to Executive Order 12333.

(l) *Intelligence Sources and Methods.* A person, organization, or technical means or method which provides foreign intelligence or foreign counterintelligence to the United States and which, if its identity or capability is disclosed, is vulnerable to counteraction that could nullify or significantly reduce its effectiveness in providing foreign intelligence or foreign counterintelligence to the United States. An intelligence source also means a person or organization which provides foreign intelligence or foreign counterintelligence to the United States only on the condition that its identity remains undisclosed. Intelligence methods are that which, if disclosed, reasonably could lead to the disclosure of an intelligence source or operation.

(m) *Limited Official Use.* The legend authorized for "Officially Limited Information" which provides that it be handled, safeguarded and stored in a manner equivalent to national security information classified Confidential.

(n) *Multiple Classified Sources.* The term used to indicate that a document is derivatively classified when it contains classified information derived from other than one source.

(o) *National Security.* The national defense or foreign relations of the United States.

(p) *National Security Information.* Information that has been determined pursuant to the Order or any predecessor Executive Order to require protection against unauthorized disclosure and that is so designated.

(q) *Need-to-Know.* A determination made by the possessor of classified information that a prospective recipient, in the interest of national security, has a requirement for access to, knowledge of, or possession of the classified information in order to perform tasks or services essential to the fulfillment of particular work, including performance on contracts for which such access is required.

(r) *Officially Limited Information.* Information which does not meet the criterion that unauthorized disclosure would at least cause damage to the national security under the Order or a predecessor Executive Order, but which concerns important, delicate, sensitive or proprietary information which is utilized in the development of Treasury policy. This includes the enforcement of criminal and civil laws relating to Treasury operations, the making of decisions on personnel matters and the consideration of financial information provided in confidence.

(s) *Original Classification.* An initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

(t) *Original Classification Authority.* The authority vested in an Executive Branch official to make an initial determination that information requires protection against unauthorized disclosure in the interest of national security.

(u) *Originating Agency.* The agency responsible for the initial determination that particular information is classified.

(v) *Portion.* A segment of a document for purposes of expressing a unified theme; ordinarily a paragraph.

(w) *Sensitive Compartmented Information.* Information and material concerning or derived from intelligence sources, methods, or analytical processes, that requires special controls for restricting handling within

compartmented intelligence systems established by the Director of Central Intelligence and for which compartmentation is established.

(x) *Special Access Program.* Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine "need-to-know" or special lists of persons determined to have a "need-to-know".

(y) *Special Activity.* An activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which is not intended to influence United States political processes, public opinion, policies or media and does not include diplomatic activities or the collection and production of intelligence or related support functions.

(z) *Unauthorized Disclosure.* A communication or physical transfer of classified information to an unauthorized recipient. It includes the unauthorized disclosure of classified information in a newspaper, journal, or other publication where such information is traceable due to a direct quotation or other uniquely identifiable fact.

John E. Robson,

Acting Secretary of the Treasury.

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Note: The List of Public Laws for the first session of the 101st Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 101st Congress, which convenes on January 23, 1990.

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