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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

[DA-90-025]

Milk in the Texas Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues, for the months of August 1990 through July 1991, a suspension of portions of the pool plant and producer milk definitions of the Texas order. The continuation of the suspension was requested by Associated Milk Producers, Inc., and Mid-America Dairymen, Inc., cooperative associations that represent a substantial proportion of the producers who supply milk to the market. The action is necessary because the marketing conditions that resulted in granting the current suspension continue due to production increases in Texas.

EFFECTIVE DATE: August 24, 1990.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension: Issued July 17, 1990; published July 23, 1990 (55 FR 29855).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criterion contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Texas marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on July 23, 1990 (55 FR 29855) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No opposing views were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of August 1990 through July 1991 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1126.7(d) introductory text, the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

2. In § 1126.7(e) introductory text, the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

3. In § 1126.13, paragraph (e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

4. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

5. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator";

Statement of Consideration

This action continues, for the months of August 1990 through July 1991, the suspension of portions of the pool plant and producer milk definitions of the Texas order. Specifically, the action continues the suspension of the 60 percent delivery standard for pool plants operated by cooperatives, the restrictions on the types of pool plants at which milk must be received to establish the maximum amount of milk that a cooperative may divert to nonpool plants, and the limits on the amount of milk that a pool plant operator may divert to nonpool plants. In addition, for the same time period, the action continues to suspend the shipping standards that must be met by supply plants to be pooled under the order and the individual producer performance standards that must be met in order for a producer's milk to be eligible for diversion to a nonpool plant.

The order provides for pooling a cooperative association plant located in the marketing area if at least 60 percent of the producer milk of members of the cooperative association is physically received at pool distributing plants during the month. Also, a cooperative association may divert to nonpool plants up to one-third of the amount of milk that the cooperative causes to be physically received at pool distributing and supply plants during the month. In addition, the order provides that the operator of a pool plant may divert to nonpool plants no more than one-third of the milk that is physically received during the month at the handler's pool plant. This action will continue to inactivate the 60-percent delivery standard for plants operated by a cooperative association, allow a cooperative's deliveries to all types of pool plants to be included as a basis from which the diversion allowance would be computed, and remove the diversion limitation applicable to the operator of a pool plant.

The order also provides for regulating a supply plant each month in which it ships a sufficient percentage of its receipts to distributing plants. The order provides for pooling a supply plant that ships 15 percent of its milk receipts during August and December and 50 percent of its receipts during September through November and January. A supply plant that is pooled during each of the immediately preceding months of September through January is pooled under the order during the following months of February through July without making qualifying shipments to distributing plants. This action continues to remove these performance standards for an additional 12 months for August 1990 through July 1991 for supply plants that were regulated under the Texas order during each of the immediately preceding months of September through January.

The order also specifies that the milk of each producer must be physically received at a pool plant each month in order to be eligible for diversion to a nonpool plant. During the months of September through January, 15 percent of a producer's milk must be received at a pool plant for diversion eligibility. This action also continues the suspension of these requirements for an additional 12 months.

The continuation of the current suspension was requested by two cooperative associations (Associated Milk Producers, Inc., and Mid-America Dairymen, Inc.) that represent a substantial proportion of the dairy farmers who supply the Texas market. Associated Milk Producers operates three supply-balancing plants that are pooled under the Texas order and a new supply-balancing plant will begin operation in the spring of 1991. Mid-America Dairymen operates a supply plant in southwestern Missouri that has historically been pooled under the Texas order and a designated supply plant in Texas used strictly to assemble milk for shipment to nonpool plants for use in manufactured dairy products.

Based on the information submitted by the cooperative, this additional 12-month continuation of the current suspension is necessary because the marketing conditions that resulted in the granting of the current suspension continue due to production increases in Texas. The continued substantial production increases have not made it possible to project production levels in 1991 and beyond with any degree of certainty, thereby making any amendatory action at this time impractical. Moreover, the suspension continuation is necessary to give handlers the flexibility to dispose of excess milk in the most efficient manner. Thus, the suspensions will allow handlers to eliminate costly and inefficient movements of milk that otherwise would be made solely for the purpose of pooling the milk of dairy farmers who have historically supplied the Texas market.

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

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action will eliminate unnecessary milk movements and ensure that dairy farmers who have been supplying the market's fluid requirements will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1126

Milk marketing orders.

It is therefore ordered. That the following provisions of the Texas order are hereby suspended for August 1990 through July 1991.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. The authority citations for 7 CFR part 1126 continues to read as follows:

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

§ 1126.7 [Temporarily suspended in part]

2. In § 1126.7(d) (introductory text) the words "during the months of February through July" and the words "under paragraph (b) or (c) of this section".

3. In § 1126.7(e) (introductory text) the words "and 60 percent or more of the producer milk of members of the cooperative association (excluding such milk that is received at or diverted from pool plants described in paragraphs (b), (c), and (d) of this section) is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool plant status under this paragraph has been requested".

§ 1126.13 [Temporarily suspended in part]

4. In § 1126.13 paragraph (e)(1), the words "and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant".

5. In § 1126.13(e)(2), the paragraph references "(a), (b), (c), and (d)".

6. In § 1126.13(e)(3), the sentence, "The total quantity of milk so diverted during the month shall not exceed one-third of the producer milk physically received at such pool plant during the month that is eligible to be diverted by the plant operator;".

Signed at Washington, DC, on August 20, 1990.

JoAnn R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 90–19984 Filed 8–23–90; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 317, 318, 319, and 381

[Docket No. 86–042F]

RIN 0583–AA64

Use of Certain Binders in Meat and Poultry Products and Transfer of Binders in Text to the Tables of Approved Substances

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations and the poultry products inspection regulations to permit the use of wheat gluten, tapioca dextrin, whey protein concentrate, and sodium caseinate as binders in various meat and poultry products. This action responds to petitions submitted by several companies requesting that FSIS permit these substances in various meat and poultry products to improve the texture of the products. The Food and Drug Administration (FDA) has affirmed wheat gluten, tapioca dextrin, whey protein concentrate, and sodium caseinate as generally recognized as safe for use in food. FSIS has determined that the petitions should be granted. This rule requires that the name of any binder used in meat and poultry

products appear on the product label in a prominent manner, contiguous to the name of the product. This document also transfers text references for specific binders from the individual product standards to the tables of approved substances. This action will eliminate unnecessary repetition and will consolidate certain information relating to approved binders, products in which they may be used, and use levels. This rule also provides for the use of binders in the standardized product "Chili con Carne with Beans."

DATES: Final rule effective September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Standards and Labeling Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; Area Code (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule provides for the use of several binders—wheat gluten, tapioca dextrin, and sodium caseinate—in meat food and poultry products. It also provides for the use of whey protein concentrate as a binder in fabricated, restructed, and whole muscle meat products.

Industry will benefit from this action through the ability to use a wider variety of binders in various meat and poultry products. The use of binders in voluntary.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This final rule will impose no new requirements on industry; rather, it will permit the meat and poultry industries to use a greater variety of binders. These substances function to bind pieces of food products (raw or cooked) together, resulting in better process control and more uniform products. Food products which contain binders can be more conveniently produced, packaged and marketed. Use of these binders in meat and poultry products in voluntary.

Background

FSIS has been petitioned to permit the following uses of added substances:

1. *Wheat Gluten*, submitted by the International Wheat Gluten Association, Washington, DC, requesting approval for use of wheat gluten in those meat food and poultry products, subject to a standard of identify, in which binders are permitted. Binders are permitted in breakfast sausage (9 CFR 319.143), frankfurters (9 CFR 319.180), cheesefurters and similar products (9 CFR 319.181), bockwurst (9 CFR 319.281), braunschweiger and liver sausage (9 CFR 319.182), chili con carne (9 CFR 319.300), spaghetti with meatballs and sauce (9 CFR 319.306), pork or beef with barbecue sauce (9 CFR 319.312), and "various" poultry products (9 CFR 381.147(f)(4)). Binders are also permitted in certain meat food products such as imitation sausage, nonspecific loaves, soups and stews (9 CFR 318.7(c)(4)). Wheat gluten is permitted for use as a binder in poultry rolls at a level of 3 percent for cooked rolls and a level of 2 percent for raw rolls based on the total ingredients used (9 CFR 381.159). Wheat gluten is not permitted for use as a binder in meat food products. The petitioner has submitted extensive technical and scientific information to substantiate the claim concerning the technical effect of wheat gluten as a binder in meat food and poultry products.

2. *Sodium Caseinate*, submitted by DMV Campina, Inc., Stone Mountain, GA, requesting approval for use of sodium caseinate as a binder at a level of 2 percent in meat food and poultry products in which isolated soy protein and soy flour are allowed as binders. Isolated soy protein and soy flour are permitted for use as binders in breakfast sausage (9 CFR 319.143), frankfurters (9 CFR 319.180), cheesefurters and similar products (9 CFR 319.181), bockwurst (9 CFR 319.281), braunschweiger and liver sausage (9 CFR 319.182), chili con carne (9 CFR 319.300), spaghetti with meatballs and sauce (9 CFR 319.306), pork or beef with barbecue sauce (9 CFR 319.312), and "various" poultry products (9 CFR 381.147(f)(4)). Sodium caseinate is permitted for use as a binder in certain meat food products such as imitation sausage, nonspecific loaves, soups and stews in an amount sufficient for purpose (9 CFR 318.7(c)(4)). Sodium caseinate is also permitted for use as a binder in "various" poultry products in an amount sufficient for purpose (9 CFR 381.147(f)(4)). The petitioner has submitted extensive technical information to substantiate the technical effect of sodium caseinate as a binder in meat food and poultry products.

3. *Tapioca Dextrin*, submitted by the National Starch and Chemical Corporation, Bridgewater, NJ, requesting approval for use of tapioca dextrin as a binder in standardized and nonstandardized meat food and poultry products in which binders are permitted. Binders are permitted in breakfast sausage (9 CFR 319.143), frankfurters (9 CFR 319.180), cheesefurters and similar products (9 CFR 319.181), bockwurst (9 CFR 319.281), braunschweiger and liver sausage (9 CFR 319.182), chili con carne (9 CFR 319.300), spaghetti with meatballs and sauce (9 CFR 319.306), pork and beef with barbecue sauce (9 CFR 319.312), and "various" poultry products (9 CFR 381.147(f)(4)). Binders are also permitted in certain meat food products such as imitation sausage, nonspecific loaves, soups and stews (9 CFR 318.7(c)(4)). The petitioner provided analytical data for several products, including turkey weiners, where tapioca dextrin was used at a level of 2 percent to replace the fat content and to improve the texture of the product.

4. *Whey Protein Concentrate*, submitted by New Zealand Milk Products, Inc., Petaluma, CA, requesting approval for use of whey protein concentrate as a binder in restructured meat food products, such as ham patties, and in whole muscle meat cuts, such as roast beef and cured pork products at a level of 3.5 percent. Whey protein concentrate is permitted for use as a binder in: (1) Sausage (9 CFR part 319) and bockwurst (9 CFR 319.281) at a level of 3.5 percent individually or collectively with other binders; (2) in imitation sausage, soups, stews and nonspecific loaves (9 CFR 318.7) at a level sufficient for purpose; and (3) in chili con carne and pork or beef with barbecue sauce at a level of 8 percent individually or collectively with other binders (9 CFR 318.7). The petitioner has provided technical data which indicates the effectiveness of whey protein concentrate as a binder in restructured meat products and whole cuts of meat.

FDA Food Substance Status

FDA lists wheat gluten as generally recognized as safe (GRAS) as a direct human food ingredient under certain conditions of use, including as a stabilizer and thickener, at levels not to exceed current good manufacturing

practice (21 CFR 184.1322). FDA lists sodium caseinate as GRAS when used in accordance with good manufacturing practice (21 CFR 182.1748). FDA lists dextrin, prepared from several starchy plants including tapioca, as affirmed GRAS under certain conditions of use, including as a formulation aid (21 CFR 170.3(o)(14)), in food at levels not to exceed current good manufacturing practice (21 CFR 184.1277). FDA lists whey protein concentrate as affirmed GRAS for use as a direct human food ingredient when used in accordance with good manufacturing practice restrictions (21 CFR 184.1979c). References to FDA's restrictions or conditions of use are included under each substance in the tables of approved substances.

Transfer of Binders and Extenders in Text to Tables of Approved Substances

The following changes only serve to transfer certain information from named product standards to the tables of approved substances. Currently, binders permitted for use in meat and poultry products are listed under various product standards in part 319 and part 381 as well as in the tables of approved substances in the Federal meat inspection and poultry product inspection regulations. FSIS has decided to transfer the specific-named binders from individual product standards to the "Binders" section in the tables of approved substances. This action will consolidate certain information relating to approved binders, their use levels, and meat food and poultry products in which they may be used; it would eliminate unnecessary repetition between the text of the regulations and the tables of approved substances. A sentence has been added to each affected product standards stating that binders and extenders may be added to the product as provided in the chart of approved substances.

Change in Product Standards—Chili Con Carne With Beans

The standard of composition for "Chili Con Carne With Beans" is provided in § 319.301 of the Federal meat inspection regulations (9 CFR 319.301). Although the standard does not specifically provide for the addition of binders, it has been a long-standing practice of FSIS to permit the addition of binders to this product. The product standard for "Chili Con Carne" provided in § 319.300 of the Federal meat inspection regulations (9 CFR 319.300) permits the addition of binders and extenders at a level of 8 percent individually or collectively. When these product standards were originally promulgated, it was not the Agency's intention to differentiate between the products except to the extent that one product standard allowed for "Beans" and the other did not, and in the minimum percentage of meat required to label the product as either "Chili Con Carne" or "Chili Con Carne With Beans." FSIS determined that current practice should be reflected in the regulations. This final rule amends § 318.7(c)(4) and § 319.301 of the Federal meat inspection regulations (9 CFR 318.6(c)(4) and 319.301) to permit the addition of binders and extenders to "Chili Con Carne With Beans" at a level of 8 percent individually or collectively.

This final rule amends the chart of substances at § 318.7(c)(4) under the heading "Class of substance" by changing the current entry "Binders" to "Binders and extenders." This action more accurately describes the technical effect of the majority of the substances listed under this category. That is, all of the listed substances function to bind product, but many of these same substances also function to extend product.

This final rule also corrects a printing error in the chart of substances at § 318.7(c)(4) by changing the allowable amount of xanthan gum from "8 percent" to "Sufficient for purpose in accordance with 21 CFR 172.5." This final rule would also correct printing errors in the same chart for the substance "Carrageenan" by changing the "Purpose" to "To extend and stabilize product"; and by changing the products in which carrageenan can be used to "Breading mix, sauces"; and by changing the amount that may be used to "Sufficient for purpose in accordance with 21 CFR 172.5." On October 6, 1988, FSIS published a proposed rule in the **Federal Register** titled "Use of Certain Binders in Meat and Poultry Products and Transfer of Binders in Text to the Tables of Approved Substances" (53 FR 39307), and provided 30 days for public comment. The comment period ended on November 7, 1988.

On November 24, 1989, FSIS published a correction docket (54 FR 48634) to correct several omissions in the proposed rule which published on October 6, 1988. In the proposed rule, a labeling provision for the use of binders and information in the tables of approved substances were inadvertently omitted. FSIS requested comments on these aspects of the proposed rule, and the comment period closed on December 26, 1989.

Discussion of Comments

FSIS received 5 comments in response to the proposed rule—2 from trade associations, 2 from industry members and 1 from a university professor. All of the commenters supported the intent of the proposed rule. However, one of the commenters expressed concern over the use of whey protein concentrate as a binder in whole muscle meat cuts. The commenter felt that FSIS should also provide for the use of soy flour, soy protein concentrate and soy protein isolate in such muscle cuts. The commenter believed that only permitting the use of whey protein concentrate was discriminatory to other binders.

FSIS proposed to add the use of whey protein concentrate as a binder in whole muscle meat cuts as a result of a petition for its use and FSIS's evaluation of technical data and information submitted with the petition concerning the efficacy of whey protein concentrate when used as a binder in whole muscle meat cuts. FSIS cannot propose the use of other binders, such as soy flour, soy protein concentrate, and soy protein isolate, in whole muscle meat cuts without adequate supporting data and documentation which demonstrates the technical effects of specific binders. FSIS will evaluate requests for the use of other specific binders in such products after receipt of supporting data and documentation and, if judged by FSIS to have technical merit, FSIS will propose to add such specific binders for use in whole muscle meat cuts.

It should be noted that binders are considered to be added substances when added to cured port products subject to 9 CFR 319.104. Therefore, the amount of binders added to cured pork products will be deducted when protein-fat-free calculations are performed.

Another commenter expressed concern about product labeling when these binders are used as ingredients in meat and poultry products. The commenter felt that the proposed rule did not clearly address the labeling requirements for the four proposed binders. Section 317.8(b)(16) of the Federal meat inspection regulations (9 CFR 317.8(b)(16)), requires that when binders are used as ingredients in meat and poultry products, the names of the binders must appear on the label in a prominent manner, contiguous to the product name. As discussed earlier, FSIS inadvertently omitted this labeling requirement for the four binders in the proposal. This final rule includes this labeling provision. Currently, the regulation for poultry rolls (9 CFR 381.159(a)) requires that when binders or extenders are used in excess of 3 percent in cooked or 2 percent in raw poultry, the name of the binder must be included in the product name.

Another commenter requested that FSIS provide for the use of all dextrins as binders in meat and poultry products, not just tapioca dextrin as originally requested by the petitioner. As discussed earlier, FSIS cannot propose the use of other binders, such as corn, potato, wheat or other dextrins in meat and poultry products, without adequate supporting data and documentation which demonstrates the technical effects of such dextrins as binders. In the case of dextrins made from sources other than tapioca, FSIS will evaluate specific dextrins after receipt of supporing data and documentation. If, after review, the specific dextrin is judged to have technical merit, FSIS will propose to add such specific dextrin as a binder for use in meat and poultry products.

FSIS is making certain editorial corrections to the proposal which was published on October 6, 1988, and the correction docket which was published on November 24, 1989. First, in both the proposal and the correction docket, in the table of approved substances at § 381.147(f)(4), FSIS included use limitations for the substances "gelatin" and "wheat gluten." In the table, the limitations were set at "3 percent for cooked product and 2 percent for raw product." Inclusion of these limitations was inadvertent. The correct entries for these two substances should have been "Sufficient for purpose in accordance with 21 CFR 172.5" and "Sufficient for purpose in accordance with 21 CFR 184.1322," respectively. The correct entries are set forth in this final rule in the table of approved substances.

Second, the language in § 381.159, Poultry rolls, has been revised to more clearly state the labeling requirements for these products when binders are added to them. No substantive change was made to the labeling requirements. The revised language is included in this final rule.

Therefore, for the reasons discussed in the preamble, FSIS is amending parts 317, 318, and 319 of the Federal meat inspection regulations and part 381 of the poultry products inspection regulations as set forth below.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 319

Food labeling, Meat inspection.

9 CFR Part 381

Food labeling, Poultry products inspection.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. In § 317.8, paragraph (b)(16) is revised to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(16) When cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, isolated soy protein, dried milk, nonfat dry milk, dry or dried whey, reduced lactose whey, reduced minerals whey, whey protein concentrate, calcium reduced dried skim milk, wheat gluten, tapioca dextrin, or sodium caseinate is added to sausage within the limits prescribed in part 319 of this subchapter, there shall appear on the label, in a prominent manner, contiguous to the name of the product, the name of each such added ingredient as, for example, "Cereal Added," "With Cereal," "Potato Flour Added," "Cereal and Potato Flour Added," "Soy Flour Added," "Soy Protein Concentrate Added," "Isolated Soy Protein Added," "Nonfat Dry Milk Added," "Sodium Caseinate Added," "Tapioca Dextrin Added," "Calcium Reduced Dried Skim Milk Added," or "Cereal and Nonfat Dry Milk Added" as the case may be.

* * * * *

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 451–470, 601–695; 33 U.S.C. 1254; 7 CFR 2.17, 2.55.

4. Section 318.7(c)(4), under the heading "Binders," is amended by revising the heading and the chart as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Binders and extenders	Agar-agar	To stabilize and thicken	Thermally processed canned jellied meat food products	0.25 percent of finished product.
	Algin	To extend and stabilize product	Breading mix; sauces	Sufficient for purpose in accordance with 21 CFR 172.5.
	A mixture of sodium alginate, calcium carbonate and calcium lactate/lactic acid (or glucono delta-lactone)	To bind meat pieces	Restructured meat food products	Sodium alginate not to exceed 1.0 percent; calcium carbonate not to exceed 0.2 percent; and lactic acid/calcium lactate (or glucono delta-lactone) not to exceed 0.3 percent of product formulation. Added mixture may not exceed 1.5 percent of product at formulation. Ingredients of mixture must be added dry.
	Bread	To bind and extend product	Bockwurst	3.5 percent individually or collectively with other binders.
	Calcium reduced dried skim milk.	....do	Sausages as provided in Part 319	Do.
	....do	....do	Chili con carne, chili con carne with beans.	8 percent individually or collectively with other binders.
	....do	....do	Spaghetti with meatballs and sauce, spaghetti with meat and sauce and similar products	12 percent individually or collectively with other binders.
	Carrageenan	To extend and stabilize product	Breading mix; sauces	Sufficient for purpose in accordance with 21 CFR 172.5.

Class of substance	Substance	Purpose	Products	Amount
	Carboxymethyl cellulose (cellulose gum)	do	Baked pies	Do.
	Cereal	To bind and extend product	Sausages as provided in Part 319, bockwurst	3.5 percent individually or collectively with other binders.
	do	do	Chili con carne, chili con carne with beans	8 percent individually or collectively with other binders.
	Dried milk	do	Sausage as provided in Part 319	3.5 percent individually or collectively with other binders.
	do	do	Chili con carne, chili con carne with beans	8 percent individually or collectively with other binders.
	Enzyme (rennet) treated calcium reduced dried skim milk and calcium lactate	To bind and extend product	Sausages as provided in Part 319	3.5 percent total finished product. (Calcium lactate required at rate of 10 percent of binder).
	do	do	Imitation sausages, nonspecific loaves, soups, stews	Sufficient for purpose in accordance with 21 CFR 172.5 (Calcium lactate required at rate of 10 percent of binder).
	Enzyme (rennet) treated sodium caseinate and calcium lactate	do	Imitation sausages, nonspecific loaves, soups, stews	Sufficient for purpose in accordance with 21 CFR 172.5. (Calcium lactate required at rate of 25 percent of binder).
	Gums, vegetable	do	Egg roll	Sufficient for purpose in accordance with 21 CFR 172.5.
	Methyl cellulose	To extend and to stabilize product (also carrier)	Meat and vegetable patties	0.15 percent.
	Isolated soy protein	To bind and extend product	Sausage as provided in Part 319	2 percent.
	do	do	Imitation sausages, nonspecific loaves, soups, stews	Sufficient for purpose in accordance with 21 CFR 172.5.
	do	do	Chili con carne, chili con carne with beans	8 percent individually or collectively with other binders.
	do	do	Spaghetti with meatballs and sauce, spaghetti with meat and sauce and similar products	12 percent individually or collectively with other binders and extenders.
	Sodium caseinate	do	Imitation sausages, nonspecific loaves, soups, stews	Sufficient for purpose in accordance with 21 CFR 182.1748 and 21 CFR 172.5.
	do	do	Sausage as provided in Part 319	2 percent in accordance with 21 CFR 182.1748.
	do	do	Chili con carne, chili con carne with beans	8 percent individually or collectively with other binders and extenders in accordance with 21 CFR 182.1748.
	do	do	Spaghetti with meatballs and sauce, spaghetti with meat and sauce and similar products	12 percent individually or collectively with other binders and extenders in accordance with 21 CFR 182.1748.
	Dry or dried whey	To bind or thicken	Sausage as provided in Part 319, bockwurst	3.5 percent individually or collectively with other binders and extenders.
	Reduced lactose whey	do	do	Do.
	Reduced minerals whey	do	do	Do.
	Whey protein concentrate	do	do	Do. In accordance with 21 CFR 184.1979c.
	Dry or dried whey	do	Imitation sausages, nonspecific loaves, soups, stews	Sufficient for purpose in accordance with 21 CFR 172.5.
	Reduced lactose whey	do	do	Do.
	Reduced minerals whey	do	do	Do.
	Whey protein concentrate	do	do	Do. In accordance with 21 CFR 184.1979c.
	Dry or dried whey	do	Chili con carne, chili con carne with beans, pork or beef with barbecue sauce	8 percent individually or collectively with other binders and extenders.
	Reduced lactose whey	do	do	Do.
	Reduced minerals whey	do	do	Do.
	Whey protein concentrate	do	do	Do. In accordance with 21 CFR 184.1979c.
	do	To bind meat pieces	Restructured meat food products, whole muscle meat cuts	3.5 percent individually or collectively with other binders and extenders. In accordance with 21 CFR 184.1979c.
	Soy flour	To bind and extend product	Sausage as provided in Part 319, bockwurst	3.5 percent individually or collectively with other binders and extenders.
	Soy protein concentrate	do	do	Do
	Starchy vegetable flour	do	do	Do.
	Vegetable starch	do	do	Do.
	Wheat gluten	do	do	Do. In accordance with 21 CFR 184.1322.
	Tapioca dextrin	do	do	Do. In accordance with 21 CFR 184.1277

Class of substance	Substance	Purpose	Products	Amount
	Soy flour	do	Chili con carne, chili con carne with beans	8 percent individually or collectively with other binders and extenders.
	Soy protein concentrate	do	do	Do.
	Starchy vegetable flour	do	do	Do.
	Vegetable starch	do	do	Do.
	Wheat gluten	do	do	Do. In accordance with 21 CFR 184.1322.
	Tapioca dextrin	do	do	Do. In accordance with 21 CFR 184.1277.
	Soy flour	do	Spaghetti with meatballs and sauce, spaghetti with meat and sauce and similar products	12 percent individually or collectively with other binders and extenders.
	Soy protein concentrate	do	do	Do.
	Wheat gluten	do	do	Do. In accordance with 21 CFR 184.1322.
	Tapioca dextrin	do	do	Do. In accordance with 21 CFR 184.1277.
	Xanthan gum	To maintain uniform viscosity; suspension of particulate matter, emulsion stability; freeze-thaw stability.	Meat sauces, gravies or sauces and meats, canned or frozen and/or refrigerated meat salads, canned or frozen meat stews, canned chili or chili with beans, pizza topping mixes and batter or breading mixes.	Sufficient for purpose in accordance with 21 CFR 172.5.
*	*	*	*	*

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

5. The authority citation for part 319 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

6. Section 319.140 is revised to read as follows:

§ 319.140 Sausage.

Except as otherwise provided in this section, or under the Poultry Products Inspection Act with respect to products consisting partly of poultry, sausage is the coarse or finely comminuted meat food product prepared from one or more kinds of meat or meat and meat byproducts, containing various amounts of water as provided for elsewhere in this part, and usually seasoned with condimented proportions of condimental substances, and frequently cured. Certain sausage as provided for elsewhere in this part may contain binders and extenders as provided in § 318.7(c)(4) of this subchapter. Sausage may not contain phosphates except that phosphates listed in § 318.7(c)(4) of this subchapter may be used in cooked sausage. To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of sausage which is not cooked in an amount not to exceed 3 percent of the total ingredients in the formula. Cooked sausages such as Polish sausage, cotto salami, braunschweiger, liver sausage, and similar cooked sausage products may contain no more than 10 percent of added water in the finished product. Sausage may contain Mechanically Separated (Species) used in accordance with § 319.6.

7. Section 319.143 is revised to read as follows:

§ 319.143 Breakfast sausage.

Breakfast sausage is sausage prepared with fresh and/or frozen meat; or fresh and/or frozen meat and meat byproducts, and may contain Mechanically Separated (Species) in accordance with § 319.6, and may be seasoned with condimental substances as permitted in part 318 of this subchapter. The finished product shall not contain more than 50 percent fat. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used. Binders or extenders may be added as provided in § 318.7(c)(4) of this subchapter.

8. Paragraph (e) of § 319.180 is revised to read as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

* * * * *

(e) With appropriate labeling as required by § 317.8(b)(16) of this subchapter, *e.g.*, "Frankfurter, Calcium Reduced Dried Skim Milk Added," or "Bologna, with Byproducts (or Variety Meats), Soy Flour Added," one or more of the binders and extenders as provided in § 318.7(c)(4) of this subchapter may be used in cooked sausage otherwise complying with paragraph (a) or (b) of this section.

* * * * *

9. Section 319.181 is revised to read as follows:

§ 319.181 Cheesefurters and similar products.

Cheesefurters and similar products are products in casings which resemble frankfurters except that they contain sufficient cheese to give definite characteristics to the finished article. They may contain binders and extenders as provided in § 318.7(c)(4) of this subchapter. Limits on use as provided in § 318.7 are intended to be exclusive of the cheese constituent. When any such substance is added to these products, there shall appear on the label in a prominent manner, contiguous to the name of the product, the name of each such added ingredient, as for example, "Cereal Added," "With Cereal," "Potato Flour Added," "Cereal and Potato Flour Added," "Soy Flour Added," "Nonfat Dry Milk Added," "Cereal and Nonfat Dry Milk Added," as the case may be. These products shall contain no more than 40 percent of a combination of fat and added water, and no more than 30 percent fat and shall comply with the other provisions for cooked sausages that are in this subchapter.

10. Paragraph (b)(9) of § 319.281 is revised to read as follows:

§ 319.281 Bockwurst.

* * * * *

(b) * * *

(9) Binders and extenders may be added as provided in § 318.7(c)(4) of this subchapter. Bockwurst containing any of the ingredients permitted by this subparagraph shall be labeled in

accordance with § 317.8(b)(33) of this subchapter.

* * * * *

11. Section 319.300 is revised to read as follows:

§ 319.300 Chili con carne.

Chili con carne shall contain not less than 40 percent of meat computed on the weight of the fresh meat. Mechanically Separated (Species) may be used in accordance with § 319.6. Head meat, cheek meat, and heart meat exclusive of the heart cap may be used to the extent of 25 percent of the meat ingredients under specific declaration on the label. The mixture may contain binders and extenders as provided in § 318.7(c)(4) of this subchapter.

12. Section 319.301 is revised to read as follows:

§ 319.301 Chili con carne with beans.

Chili con carne with beans shall contain not less than 25 percent of meat computed on the weight of the fresh meat. Mechanically Separated (Species) may be used in accordance with § 319.6. Head meat, cheek meat, or heart meat exclusive of the heart cap may be used to the extent of 25 percent of the meat ingredients, and its presence shall be reflected in the statement of ingredients required by part 317 of this subchapter. The mixture may contain binders and extenders as provided in § 318.7(c)(4) of this subchapter.

13. Section 319.306 is revised to read as follows:

§ 319.306 Spaghetti with meatballs and sauce, spaghetti with meat and sauce, and similar products.

Spaghetti with Meatballs and Sauce and "Spaghetti with Meat and Sauce," and similar products shall contain not less than 12 percent of meat computed on the weight of the fresh meat. Mechanically Separated (Species) may be used in accordance with § 319.6. The presence of the sauce or gravy constituent shall be declared prominently on the label as part of the name of the product. Meatballs may be prepared with farinaceous material and with other binders and extenders as provided in § 318.7(c)(4) of this subchapter.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

14. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 601–695; 33 U.S.C. 1254; 7 CFR 2.17, 2.55

15. The table of substances in § 381.147(f)(4) is amended by adding the substances gelatin, tapioca dextrin, and wheat gluten, in alphabetical order and revising the entry for sodium caseinate under the Class of Substance entitled "Binders and Extenders" as set forth below:

* * * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Binders and extenders	Gelatin	do	do	Sufficient for purpose in accordance with 21 CFR 172.5.
*	*	*	*	*
	Sodium caseinate	do	do	3 percent in cooked product, 2 percent in raw product; in accordance with 21 CFR 172.5 and 182.1748.
	Tapioca dextrin	do	do	Sufficient for purpose in accordance with 21 CFR 184.1277.
	Wheat gluten	do	do	Sufficient for purpose in accordance with 21 CFR 184.1322.

* * * * *

16. Paragraph (a) of § 381.159 is revised to read as follows:

§ 381.159 Poultry rolls.

(a) Binders or extenders may be added in accordance with § 381.147(f)(4) of this part. When binding agents are added in excess of 3 percent for cooked rolls and 2 percent for raw rolls, the common name of the agent or the term "Binders Added" shall be included in the name of the product; *e.g.*, "Turkey Roll-Gelatin Added."

* * * * *

Done at Washington, DC on August 2, 1990.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 90–19955 Filed 8–23–90; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. 90–16]

Real Estate Appraisals

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

ACTION: Final rule.

SUMMARY: Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") [1] requires the Office of the Comptroller of the Currency (the "OCC") to adopt regulations regarding the performance and utilization of appraisals by national banks. Title XI and these implementing regulations are intended to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. This final rule, and similar regulations of the other financial institutions regulatory agencies [2] and the Resolution Trust Corporation, provide the affected federal entities with added assurance that applicable real estate appraisals are performed in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective State supervision. Toward this end, the final rule identifies which transactions require an appraiser, sets forth minimum standards for performing appraisals, and distinguishes those appraisals requiring the services of a State certified appraiser from those requiring a State licensed appraiser.

EFFECTIVE DATE: This final rule is effective August 24, 1990.

[1] Public Law No. 101–73, 103 Stat. 183 (1989).

[2] The Board of Governors of the Federal Reserve System ("Board"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of Thrift Supervision ("OTS"), and the National Credit Union Administration ("NCUA").

FOR FURTHER INFORMATION CONTACT: Tommy R. Tucker, National Bank Examiner, Office of the Chief National Bank Examiner, (202) 447–1164, or Horace G. Sneed, Attorney, Legal Advisory Services Division, (202) 447–1881, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

A. Background

Title XI of FIRREA requires the OCC to establish standards for performing appraisals in connection with federally related transactions within the OCC's jurisdiction. In addition, title XI requires the OCC to identify those federally related transactions that require a State certified appraiser and those that require either a State certified or licensed appraiser. In response to this legislative mandate, the OCC has adopted this final rule.

Section 1121 of FIRREA, 12 U.S.C. 3350, defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia*, requires the services of an appraiser. The OCC has required State certified or licensed appraisers to be used for all real estate-related financial transactions except those transactions in which (i) the transaction value (as defined in the regulation) is less than or equal to $50,000, (ii) a lien is placed on real property solely through an abundance of caution, (iii) the transaction involves a lease that is not the economic equivalent of a purchase or sale; (iv) the transaction results from the renewal of an extension of credit, subject to certain conditions; and (v) a regulated institution purchases a loan or interests in loans, pooled loans, or interests in real property, including mortgage-backed securities, subject to certain conditions. The OCC, acting pursuant to section 1112 of FIRREA, 12 U.S.C. 3341, has prescribed which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser.

In addition, the OCC has adopted standards, pursuant to section 1110 of FIRREA, 12 U.S.C. 3339, for the performance of appraisals in connection with federally related transactions within the OCC's jurisdiction. These standards require that all such appraisals be written and that they conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by the Appraisal Standards Board of the Appraisal Foundation [3] and the additional standards set forth in this regulation.

The OCC and the other financial institutions regulatory agencies and the RTC intend to publish jointly the applicable portions of the USPAP for public comment in separate document. After those comments are reviewed, the OCC will publish an appendix to this rule which incorporates the relevant USPAP provisions.

This final rule is intended to supplement the OCC's appraisal guidelines [4] currently in effect and regulations regarding appraisals for other real estate owned.[5] These guidelines and regulations will remain in effect, except to the extent they are inconsistent with this final rule. Property acquired as other real estate owned after August 9, 1990, must have a initial appraisal that complies with the standards in this final rule. Subsequent estimates of value for other real estate owned must be made in accordance with the procedures set forth in 12 CFR 7.3025.

The OCC has adopted this regulation to improve the safety and soundness of all financial institutions within the OCC's jurisdiction. The soundness of real estate loans and investments made by financial institutions covered by Title XI depends upon the adequacy of the underwriting or analysis used to support these transactions. A real estate appraisal is one of several essential components of the lending process. Accordingly, through the integration of existing guidance on real estate appraisals with the additional requirements imposed by title XI, this regulation is intended to provide the affected entities with a reasonable degree of assurance that real estate appraisals used in connection with federally related transactions will be reliable.

This final rule is derived from the proposed rule published by the OCC for public comment at 55 FR 5808 on February 16, 1990. The OCC carefully considered all comments received and modified portions of the proposed rule in response to the comments. Significant changes from the proposal published on February 16, and some of the comments and suggestions received, are discussed below. Information contained in the Supplementary Information section of the Notice of Proposed Rulemaking is hereby incorporated in this notice by reference, except to the extent it may be superseded by information in this notice.

B. Effective Dates

This final rule is effective August 24, 1990. National banks must ensure that appraisals performed in connection with federally related transactions comply with the standards set forth in this regulation after that date.

Appraisals for real estate-related financial transactions entered into, or for which there was a binding commitment, before August 9, 1990, do not have to comply with the standards of this regulation; moreover, sales of loans that were originated before August 9, 1990, do not require an appraisal performed in accordance with this regulation.

State certified or licensed appraisers, as appropriate, will be required for federally related transactions as of July 1, 1991. This deadline may be extended by the Appraisal Subcommittee for a given state pursuant to provisions of title XI.

C. Comments Received on the Proposed Rule

The OCC received a total of 254 comments on the proposed rule. Some of the comments and suggestions made are discussed in this section. In addition, the Section-by-Section Analysis discusses some of the concerns raised by the comments.

Application of Provisions in Subparts A, B, and C of Part 34.

Some commenters noted that §§ 34.1 and 34.3 of subpart A may be inconsistent with the rules proposed as subpart C to part 34. Specifically, § 34.1 states that for purposes of part 34 "loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, construction project loans (except as specified in § 34.3 (f) and (g)), and land sales contracts," and § 34.3 provides that certain transactions are not real estate loans for purposes of part 34. While these provisions apply to subparts A and B, they do not apply to subpart C. The OCC is making technical amendments to §§ 34.1 and 34.3 to clarify that these provisions are only applicable to subparts A and B.

Section 34.41—Authority, Purpose, and Scope

A few commenters suggested that title XI of FIRREA did not authorize the OCC to prohibit discrimination on the basis of

[3] The Appraisal Foundation was established by several professional appraisal organizations as a not-for-profit corporation under the laws of Illinois in order to enhance the quality of professional appraisals.

[4] *See Guidelines for Real Estate Appraisal Polices and Review Procedures*, adopted by the divisions of bank supervision at the Board, FDIC and OCC.

[5] 12 CFR 7.3025.

membership in appraisal organizations. Although the OCC believes that all parts of the regulation are promulgated in accordance with the authority granted under title XI to issue rules with respect to real estate appraisal standards and qualifications for real estate appraisers (*see* section 1110 of FIRREA, 12 U.S.C. 3339, and section 1116 of FIRREA, 12 U.S.C. 3345), the OCC is amending this section by adding 12 U.S.C. 93a as additional authority for the regulatory provisions contained in the rule.

Section 34.42—Definitions

Comments were received on the following definitions:

Appraisal

Three commenters suggested changes in the definition of appraisal. Their suggestions were that the OCC (1) redefine "appraisal" as the process of developing an opinion of market value, and separately define "appraisal report" as the written statement of an opinion of market value, and (2) clarify that this term does not include appraisals of personal property.

While several entities separately define appraisal and appraisal report (as in the USPAP), the OCC is retaining the definition from the proposed rule because it already enjoys widespread use and acceptance among governmental agencies and private entities and more closely follows the statutory language requiring all appraisals issued for federally related transactions to be in writing. Also, while neither the proposal nor the final rule covers appraisals of personal property, the final rule requires an appraiser to separately value personal property included in an appraisal of real estate. *See* § 34.44(a)(13).

Complex 1-to-4 Family Residential Property Appraisal

Several commenters expressed concern about this definition. Some commenters stated that it would be possible to find one or more of the atypical factors listed in the definition in almost all real property with the result that all residential properties would have to be appraised by State certified appraisers. Others were concerned that the definition would not be workable because it seemed to require that an appraisal be completed in order to determine if a property contains atypical factors that make the appraisal complex. Finally, commenters stated that the definition requires a subjective judgment of whether a particular property is atypical, placing an institution at risk of being found in violation of the rule if a reviewing examiner's opinion differs from that of the institution.

The OCC agrees that clarification is needed and has changed the definition to state clearly that a residential real estate appraisal is considered complex when the property to be appraised, the form of ownership, or market conditions are atypical, and not solely because of the presence or absence of the particular factors cited in the proposed rule. The illustrative list of atypical factors which appeared in the proposed rule is discussed in the Section-by-Section Analysis of this preamble and additional explanation of the rule is provided. Further, the OCC is adopting a presumption that residential real estate appraisals are non-complex, subject to the institution's responsibility to ensure that all appraisals used in connection with federally related transactions are prepared by a competent licensed or certified appraiser. The final rule also permits licensed appraisers to perform complex 1-to-4 family residential property appraisals if the transaction value is less than $250,000. These changes should make it easier for regulated institutions to determine whether a licensed appraiser may be used for a particular 1-to-4 family residential property appraisal.

Federally Related Transaction

Some commenters suggested that the OCC modify this definition to exclude certain transactions and to clarify what transactions are covered. This definition was taken directly from section 1121 of FIRREA, 12 U.S.C. 3350(4). The OCC believes the definition, when used in the context of the other provisions of the final rule, clearly identifies which transactions fall within the definition.

Market Value

The definition in the proposed rule commonly is used in connection with mortgage lending by a number of governmental agencies and others. However, in the proposed rule, the definition was provided without its accompanying footnote which was included in the preamble to the proposed rule.

Five commenters suggested changes to this definition, including that the OCC shorten the definition, reinsert the footnote in the definition, exempt concessions for low and moderate income housing when applying the definition, require adjustments for atypical property, and specify the date on which market value is to be determined for property under construction.

The OCC believes that the proposed definition is appropriate. Although the footnote discusses adjustments to comparables, the information contained in the footnote is not necessary for full understanding of the definition. Moreover, since the standards for real estate appraisals require the appraisal to discuss any adjustments made by the appraiser in arriving at an estimate of market value, it is not necessary to include each of the factors that may affect market value in the definition. Accordingly, this definition is adopted as proposed.

Real Estate-Related Financial Transaction

Several commenters suggested that the OCC modify this definition to exclude certain transactions. This definition was taken directly from section 1121 of FIRREA, 12 U.S.C. 3350(5), and the OCC believes the definition, when used in context, covers only those transactions which Congress intended.

Tract Development

One commenter suggested that the OCC incorporate in the rule the discussion of this definition which appeared in the preamble to the proposed rule. The OCC believes the definition in the rule would not benefit from the inclusion of the additional discussion in the preamble. However, the OCC has modified this definition to make it clear that this term covers projects which are to be constructed as well as completed projects.

Transaction Value

The OCC included this term in the proposed rule to distinguish when appraisals are required and when appraisals may be performed by licensed appraisers. The OCC received several comments on this definition.

The commenters questioned whether this definition should be interpreted as applying to: the amount of the loan or the value of the collateral; the principal amount of the loan or the principal plus all interest to be received; or the amount of the lien associated with the transaction or the amount of all liens against the real property offered as collateral. The rule defines transaction value as the amount of the loan for extensions of credit, and the market value of the real property for sales, leases, purchases, and investments in or exchanges of real property. For transactions involving extensions of credit, the definition does not require regulated institutions to consider the total value of the collateral, the total amount of the interest payments to be received, or the total amount of the liens

against the real estate, although these may be factors considered in determining whether to extend credit.

A federal entity engaged in purchasing mortgages and selling them in the secondary market in the form of mortgage-backed securities suggested that the OCC change the definition to clarify that the transaction value for loans delivered for sale or used in mortgage-backed securities is the value of the individual loans and not the aggregate of all the loans. The OCC is adding an additional paragraph to this definition to make it clear that the transaction value is determined with reference to each loan in a mortgage-backed security or other sale of an interest in a portfolio of loans, and not to the aggregate value of the portfolio or the interest in the portfolio purchased. This is consistent with title XI which requires appraisals performed by appropriately trained appraisers to support real estate loans that are federally related transactions. FIRREA does not require each residential mortgage purchased for inclusion in an issue of mortgage-backed securities to be reappraised by a certified appraiser because the aggregate amount of the portfolio exceeds $1,000,000.

Section 34.43—Transactions Requiring State Certified or Licensed Appraisers

Comments were received as follows:

(a) Appraisals Not Required

The OCC received over 190 comments on this provision. The proposed rule recognized that not all real estate-related financial transactions require an appraisal and identified two instances in which an appraisal performed by a licensed or certified appraiser would not be required: (1) Where a lien on real property has been taken as collateral solely through an abundance of caution and where the terms as a consequence have not been made more favorable than they would have been in the absence of the lien; and (2) where a real estate-related financial transaction has a transaction value less than or equal to a *de minimis* value set at $15,000 in the proposed rule.

Abundance of Caution

Commenters requested additional guidance on applying this portion of the rule and suggested that changes in certain loan terms, such as a marginally lower interest rate or longer amortization schedule, should not trigger the requirement to obtain an appraisal of the real estate offered as collateral.

The OCC has adopted the "abundance of caution" provision as proposed. The OCC views the "abundance of caution" exception as a narrow one and, therefore, is not expanding the circumstances under which this exception applies.

This exception requires that no material term of a loan be more favorable to the borrower because the regulated institution takes real estate as collateral for the extension of credit. Accordingly, neither the amount of the loan, the rate of interest, the term of the loan, the presence or absence of a guarantor, or any other term affecting the regulated institution's ability to recover on the loan may be more favorable to the borrower. In short, this exception recognizes that a regulated institution is not required to obtain an appraisal of real estate taken as collateral if the institution would have extended credit to the borrower on exactly the same terms without the collateral. Requiring an appraisal under these circumstances would have increased the cost of taking real estate as collateral in an abundance of caution and discouraged regulated institutions from accepting additional protection in this form.

De Minimis

Out of more than 180 comments on the *de minimis* provision, the overwhelming majority suggested that the *de minimis* be raised. Suggested values ranged from $25,000 to $500,000, with the greatest number of commenters recommending that the *de minimis* value be raised to $100,000. In suggesting that the *de minimis* be raised, commenters noted that in many cases a regulated institution could make unsecured loans for amounts in excess of the $15,000 *de minimis* in the proposed rule. Commenters also argued that it was their experience that few losses were attributable to improper or fraudulent appraisals in connection with real estate-related transactions entered into by national banks where the transaction value was below $100,000.

Several commenters asserted that the low *de minimis* would increase costs for all borrowers without providing sufficient benefits to offset these costs. Commenters also noted that the financial impact of requiring the use of certified or licensed appraisers for real estate-related financial transactions is proportionately greater for transactions involving low dollar amounts. Consequently, the low *de minimis* has the effect of placing a disproportionate burden on consumers financing the purchase of low and moderate income housing, small businesses, and other borrowers using real estate as collateral for small loans.

Numerous comments on the *de minimis* level stated that national banks have not experienced substantial losses resulting from improper appraisals in connection with real estate related financial transactions below $100,000. In addition, a $100,000 *de minimis* level would avoid unnecessarily increasing the costs for home mortgage consumers and small businesses—the borrowers most likely to be involved in real estate related financial transactions below $100,000.

The OCC agrees that the $15,000 *de minimis* level is too low. Real estate transactions below $100,000 are often straightforward and it is difficult to justify the expected additional costs associated with obtaining appraisals by licensed or certified appraisers for these relatively simple transactions. Furthermore, the OCC is unaware of substantial losses to national banks from improper or fraudulent appraisals for transactions below $100,000.

While the OCC believes that the *de minimis* level may appropriately be set at $100,000, it is our understanding that the other financial institutions regulatory agencies have adopted, or will soon adopt, final regulations which will set the *de minimis* level at $50,000 for the institutions they supervise. Title XI expresses a preference for comparable regulations among depository institutions and the OCC believes that a uniform *de minimis* amount for all depository institutions is important. Consequently, the OCC is adopting a $50,000 *de minimis* level in its final rule.

Setting the *de minimis* level at $50,000 will avoid some increased costs for real estate related borrowing by consumers and may provide some additional measure of protection for federal financial and public policy interests in real estate related financial transactions. However, the OCC will continue to monitor the effect of the $50,000 *de minimis* level and may change it if circumstances indicate that the *de minimis* level should be set at a different amount.

Leases, Loan Renewals, and Loan Purchases

Commenters expressed concern about the application of the proposed rule to transactions involving leases, renewals of loans, and purchases of loans or interests in loans. The OCC has responded to these comments by providing exemptions for these transactions under certain conditions.

Other

Several commenters suggested that appraisals should not be required for transactions where the transaction value of a loan is relatively small in comparison to the market value of the real estate offered as collateral. Other commenters suggested that OCC should permit regulated institutions to use the tax value assigned by State or local governments in place of an appraisal.

Although the OCC carefully considered the feasibility of implementing these suggestions, both present problems which make them unworkable. For instance, an appraisal may be necessary to determine whether a particular loan actually represents only a small percentage of the market value of real property offered as collateral for the loan, while the basis and accuracy of property values assigned for purposes of State and local property tax assessments vary from jurisdiction to jurisdiction. Moreover, the increase in the *de minimis* level to $50,000 excludes some transactions to which these suggestions would most appropriately be applied.

(b) Transactions Requiring State Certified Appraisers

The proposed rule required the use of State certified appraisers for all federally related transactions entered into by regulated institutions involving: (i) Real estate other than 1-to-4 family residential properties; (ii) 1-to-4 family residential properties, if the transaction value exceeds $1,000,000, or 10 percent of the institution's Tier 1 capital, whichever is less (for OCC and bridge banks, certified appraisers would be required only for transactions above $1,000,000); and (iii) complex 1-to-4 family residential property appraisals. Over 50 comments were received on the use of certified and licensed appraisers.

Some commenters believed that the right balance had been struck between the use of certified and licensed appraisers. However, the majority of commenters suggested that certified appraisers were being required for a broader range of transactions than needed to satisfy the explicit requirements or stated purpose of title XI. Several commenters suggested that licensed appraisers would be qualified to perform appraisals for some small commercial properties. A number of regulated institutions in rural areas expressed particular concern that certified appraisers might not be available locally to perform appraisals on farm real estate and that certified appraisers from urban areas would not have experience valuing rural and farm properties.

A few commenters suggested that smaller institutions are placed at a competitive disadvantage by requiring them to use a certified appraiser when the value of a federally related transaction exceeds 10 percent of an institution's Tier 1 capital. Under this provision, smaller institutions would be required to obtain a certified appraisal for a transaction where a larger institution could use a licensed appraiser. Also, noting that title XI permits the use of licensed appraisers for residential property appraisals unless complexity and size require a certified appraiser, several commenters suggested that licensed appraisers should be permitted to perform complex 1-to-4 family residential property appraisals below a certain transaction value.

In the final rule, the OCC is permitting licensed appraisers, if competent, to perform appraisals for any type of property where the transaction value is less than $250,000. Thus, a licensed appraiser can perform appraisals of commercial, agricultural, and complex residential real estate if the transaction value is less than $250,000. In addition, the OCC is permitting regulated institutions to use licensed appraisers for any non-complex 1-to-4 family residential property appraisal below $1,000,000.

The OCC expects the States to establish qualification criteria for licensed appraisers that meet or exceed the qualification criteria proposed by the Appraisal Qualifications Board of the Appraisal Foundation for its "residential real property appraiser" classification. Requiring licensed appraisers to meet these minimum qualifications criteria—including testing, experience and educational requirements—will ensure that licensed appraisers generally will have demonstrated the knowledge and competency to perform appraisals for those federally related transactions for which they may be used under this rule. If a State does not establish sufficient qualification criteria for licensed appraisers, the Appraisal Subcommittee has the authority to refuse to recognize the licenses issued by that State. Moreover, the OCC has the authority under section 1116(d) of FIRREA, 12 U.S.C. 3345(d), to establish additional qualification criteria for licensed appraisers used in connection with federally related transactions within the OCC's jurisdiction.

As discussed earlier, several commenters expressed concern that the proposed definition of complex 1-to-4 family residential property appraisal is too subjective and could be interpreted too broadly. To further address this concern, the final rule permits regulated institutions to presume that any 1-to-4 family residential property appraisal is noncomplex subject to the institution's responsibility to ensure that all appraisals used in connection with federally related transactions are prepared by a competent licensed or certified appraiser.

Section 34.44—Appraisal Standards

The OCC received over 25 comments addressing the following:

(a) Minimum Standards

In accordance with section 1110 of FIRREA, 12 U.S.C. 3339, the OCC proposed that appraisals for federally related transactions be in writing and performed in accordance with generally accepted appraisal standards as evidenced by the USPAP. In addition, the proposed rule included additional standards for real estate appraisals performed in connection with federally related transactions.

(1) Compliance With the USPAP; Departure

Seven commenters expressed concern with using the USPAP in the proposed rule. Some suggested that the OCC develop its own standards stating that the Appraisal Foundation does not represent the majority of the appraisal industry. Other commenters expressed concern that regulated institutions had not been given an adequate opportunity to comment on the USPAP and would be required to comply with amendments to the USPAP without the opportunity for notice and comment.

Congress, in FIRREA, directed that the standards promulgated by the Appraisal Standards Board of the Appraisal Foundation be used as evidence of generally accepted appraisal standards and that they be the minimum standards for appraisals prepared in connection with federally related transactions. The OCC is implementing this statutory mandate by requiring that appraisals prepared for federally related transactions be performed in accordance with the USPAP.

The OCC believes that title XI and the proposed rule provided adequate notice that appraisals in connection with federally related transactions would have to comply with generally accepted appraisal practices as evidenced by the USPAP. Nevertheless, the OCC intends to publish the applicable provisions of the USPAP for comment in a separate

document. After those comments have been reviewed, the OCC will issue an amended rule which incorporates the relevant provisions of the USPAP as an appendix to this regulation.

Six commenters requested that the OCC permit the use of the USPAP Departure Provision for certain transactions. The Departure Provision allows an appraiser to produce an estimate of market value using abbreviated procedures which produce something different from the appraisal contemplated by title XI and, therefore, the OCC believes that it is inappropriate to use the Departure Provision in connection with federally related transactions.

(5) Sales History

Two commenters suggested that the requirement to report sales histories is unnecessary since they have little relevance to current market value. The OCC believes that this standard is necessary to ensure that accurate appraisals are prepared and therefore has retained this standard. This determination is discussed more fully in the Section-by-Section Analysis of this final rule.

(6) Rents and Vacancies

Commenters on this standard requested that the OCC change the rule to clarify that future rents and rents for property under construction could be used in arriving at the market value of a property. The OCC believes that the appraisal should contain an analysis and discussion of the current rents and vacancies of income-producing property so that a regulated institution can properly assess the estimate of market value. The standard requires this information to be included in the appraisal even if the appraiser uses forecasted rents and vacancies in arriving at an estimate of market value.

Another commenter suggested that appraisers should be required to analyze and report current expenses for income-producing property. The OCC agrees and has changed the final rule to incorporate that suggestion. The OCC also has substituted the term "revenues" for rents to make it clear that income generated by the property from sources other than rents should also be reported.

(9) Deductions and Discounts

Several commenters asked for clarification on how to apply this standard to construction lending and loans for remodelling or rehabilitating existing property. The Section-by-Section Analysis of this preamble has been expanded to clarify the application of this standard.

(12) Legal Description

Six commenters suggested that this standard be eliminated stating that it is not necessary to ensure proper identification of the property being appraised. The OCC believes that a legal description is necessary to ensure that appraisals are matched with the property involved in a federally related transaction. This standard has been retained.

(13) Personal Property, Fixtures, and Intangible Items

Two commenters objected to the requirement that appraisers separately value personal property in connection with an appraisal of real estate. The presence of significant personal property, fixtures, or intangible items associated with real estate can affect the market value of that real property. Therefore, this final rule requires appraisers to include a separate estimate of the value of these items when valuing the real estate. The OCC believes that this information is necessary to prepare an accurate appraisal and has retained this standard.

(14) Use of Recognized Appraisal Approaches

Several commenters suggested that it is neither feasible nor reasonable to apply all approaches to valuation when appraising certain properties, such as 1-to-4 family residential properties, and that requiring this additional information would increase the cost of appraisals. This standard requires an appraiser to follow a reasonable valuation method that addresses the three recognized approaches to estimating market value and allows the appraiser to eliminate one or more approaches if they are inappropriate for the property being appraised. The OCC believes that this standard is necessary to the preparation of a reliable appraisal and has retained this standard unchanged in the final rule.

Section 34.45—Appraiser Independence

Over 60 comments were received concerning the requirements for appraiser independence. The greatest number of comments expressed concern that this provision would prevent bank personnel from appraising property for their institutions, particularly in small institutions with a limited number of employees. Although a few commenters expressed concern about the ability of banks to maintain appropriate separation between appraisers and loan officers involved in federally related transactions, the majority stated that banks could provide appropriate safeguards to maintain the independence of appraisal personnel. Commenters also requested that the OCC clarify the level of separation necessary to comply with the rule.

As discussed in the Section-by-Section Analysis, the OCC believes that an appraiser should be independent from the lending and collection functions in order to produce an objective opinion of the market value of a property. However, the OCC also realizes that no single organizational structure would be appropriate for all banks, nor would it assure appraiser independence. Accordingly, this provision recognizes that one institution may engage fee appraisers to perform all appraisals for federally related transactions, another may establish a separate appraisal department wholly outside the lending and collection functions of the institution, while a third may establish procedures which permit a loan officer or other bank related individual to perform appraisals on real estate when he or she is not otherwise involved in the federally related transaction. The OCC believes that the current provision puts regulated institutions on notice of what is required and gives them the flexibility to develop structures and procedures that ensure appraisers are independent and not subjected to improper influences.

Section 34.46—Professional Association Membership; Competency

Comments were received as follows:

(a) Membership in Appraisal Organizations

The OCC received ten comments on the prohibition against excluding State certified or licensed appraisers from consideration for an appraisal assignment solely on the basis of membership or lack of membership in any particular appraisal organization. A few commenters asserted that title XI does not authorize the OCC to impose this requirement while the majority of commenters on this subject sought clarification that appraisal organization membership could be a factor considered when determining whether to hire an appraiser for an assignment.

The OCC is authorized to promulgate this portion of the rule under both title XI and its general rulemaking authority in 12 U.S.C. 93a. The OCC believes that this requirement is appropriate and it has been retained. Further, as stated in the Section-by-Section Analysis, a regulated institution may consider appraisal organization membership in evaluating an appraiser's qualifications

for a particular appraisal assignment, but membership may not be the sole determining factor in accepting or rejecting an appraiser.

(b) Competency

Over 80 commenters addressed competence with two concerns predominating. The first concern was that experience as a bank loan officer coupled with additional training should be sufficient to qualify to be a certified appraiser. The second concern was that local lenders are best able to assess the value of property in their primary lending area. Some commenters addressed the issue of the reliability of appraisals rendered by out of area appraisers who may have no knowledge of local real estate values. Some cited the cost and delay likely to be associated with obtaining certified or licensed appraisers from outside the local community.

All appraisals for federally related transactions must be prepared by a State certified or licensed appraiser, as appropriate, under title XI and this final rule. However, minimum qualifications necessary to become a State certified or licensed appraiser will be established by each State in accordance with the requirements of title XI and guidelines of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("FFIEC"). As further discussed in the Section-by-Section Analysis, a regulated institution is responsible for determining whether a particular State certified or licensed appraiser is competent to perform an appraisal assignment on the basis of the individual's experience and educational background.

The $50,000 *de minimis* provided in this final rule will permit individuals who are not certified or licensed appraisers to prepare evaluations of real estate for a range of real estate-related financial transactions that are not federally related transactions, provided those individuals are competent to prepare the evaluations. The OCC expects that this higher *de minimis* will help reduce overall costs since fewer transactions will require the services of a State certified or licensed appraiser.

D. Section-by-Section Analysis

Section 34.41—Authority, Purpose, and Scope

This section identifies title XI of FIRREA and 12 U.S.C. 93a as the authority under which this subpart is promulgated. Further, it identifies those institutions, including the OCC and institutions regulated by the OCC ("regulated institutions"), which must comply with the regulation.

Section 34.42—Definitions

Except where noted below, the definitions set forth in title XI apply to the terms used in this regulation.

Appraisal. This definition currently is used by nineteen federal agencies.[6] The OCC believes that this widespread use and acceptance will produce consistent appraisals.

Complex 1-to-4 family residential property appraisal. Section 1113 of FIRREA, 12 U.S.C. 3342, allows the use of a State licensed appraiser for, among other federally related transactions, 1-to-4 family residential property appraisals, "unless the size and complexity requires a State certified appraiser." The OCC considers a "complex 1-to-4 family residential property appraisal" to be one in which the property to be appraised, form of ownership, or market conditions are atypical. Examples of atypical factors may include age of improvements, architectural style, size of improvements, size of lot, neighborhood land use, potential environmental hazard liability, leasehold interests, or other unusual factors. This list is illustrative only.

Before hiring an appraiser, the institution should assess the project to determine the qualifications that an appraiser will need to complete the appraisal assignment and whether the transaction, due to its complexity, would require a certified appraiser. A regulated institution may presume that appraisals of 1-to-4 family residential properties are not complex, unless the institution has readily available information that suggests that a given appraisal will be complex. Such information may be provided, for instance, on a loan application. If the institution or assigned appraiser discovers during the assignment that the transaction is atypical or beyond the appraiser's expertise, the appraiser is required to disclose this situation to the institution and take the action necessary to remedy the deficiency. A certified appraiser could then be employed or the licensed appraiser could complete the appraisal and have a certified appraiser review and certify the appraisal.

Market value. This definition commonly is used in connection with mortgage lending by a number of government agencies and others. The definition contemplates the consummation of a sale as of a specified date and the passing of title from seller to buyer under open and competitive market conditions requisite to a fair sale. It is designed to provide an accurate and reliable measure of the economic potential of property involved in federally related transactions. Moreover, the OCC believes that widespread acceptance and use of this definition will provide consistency to appraisals.

In applying this definition of market value, adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs that are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party financial institution that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar-for-dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.[7]

Real estate-related financial transaction. This definition is the same as that set forth in section 1121(5) of FIRREA, 12 U.S.C. 3350(5), except that "and" is replaced with "or" throughout to clarify the intent of Congress.

State certified appraiser. This classification applies to appraisers who are recognized by a State as being more knowledgeable of, and experienced in, appraisals than are licensed appraisers. Section 1116 of FIRREA, 12 U.S.C. 3345, contemplates that each State or territory will adopt standards and procedures, consistent with the purposes of title XI, for obtaining the designation of "State certified appraiser." To be consistent with title XI, each State's standards and procedures must require its certified appraisers to meet, at a minimum, the criteria for certification issued by the Appraisal Qualifications Board of the

[6] *See* 49 CFR Part 24, "Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs."

[7] This paragraph regarding comparables is taken from the standard definition of "market value" used by the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), and OTS, among others. By including this paragraph in the preamble rather than the regulation, the OCC does not intend to suggest any change in the interpretation or application of the definition of "market value" as this term currently is used.

Appraisal Foundation. Moreover, no State or territory may certify an appraiser under title XI unless that individual passes an examination, administered by the State or territory, that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraisal Foundation. This rule does not prevent a State from establishing additional certification criteria.

Under FIRREA, the OCC is authorized to establish certification criteria in addition to those adopted by a given State. Additionally, the FFIEC Appraisal Subcommittee may issue a written finding that the certification criteria of a State or territory are inadequate for specified reasons. Thus, an individual may be a "State certified appraiser" only if (a) the individual complies with all state-imposed criteria and additional criteria, if any, imposed by the OCC, and (b) the appraiser certifications and licenses of a State have not been rejected by the Appraisal Subcommittee. As of July 1, 1991, appraisals for federally related transactions must be performed by State certified or licensed appraisers unless the Appraisal Subcommittee extends the deadline for a given State.

State licensed appraiser. Each State may elect to adopt licensing criteria that are less rigorous than cetification criteria. However, licensing and public policy interests. For example, simply "grandfathering" all existing appraisers generally would not be acceptable. Rather, the States and territories are to design criteria that will ensure that licensed appraisers have sufficient experience and training to perform appraisals for transactions below the dollar thresholds set forth in the rule for 1–to–4 family residential properties, complex 1-to-4 family residential properties, and nonresidential properties.

The OCC expects the States to establish qualification criteria for licensed appraisers that meet or exceed the qualifications criteria proposed by the Appraisal Qualifications Board of the Appraisal Foundation for its "residential real property appraiser" classification. Requiring licensed appraisers to meet these minimum qualifications criteria—including testing, experience and educational requirements—will ensure that licensed appraisers generally will have demonstrated the knowledge and competency to perform appraisals for those federally related transactions for which they may be used under this rule. For example, the Appraisal Qualifications Board's proposed criteria for the residential real property appraiser classification requires 75 hours of classroom instruction including instruction on use of the income approach in appraising real property. Instruction in the use of the income approach will help ensure that licensed appraisers are qualified to appraise non-residential property where the transaction value is below $250,000. The proposed criteria also require significant appraisal experience as well as successful completion of an appropriate test that covers the curriculum topics.

Additional assurance that licensed appraisers will have the qualifications necessary to perform the appraisals authorized under this rule is provided by the requirement that all appraisers comply with the USPAP Competency Provisions. Under the Competency Provision, an appraiser must notify the client if he or she discovers that an assignment raises problems that are beyond the appraiser's knowledge or experience. Moreover, the appraiser must take the necessary steps to have the assignment completed competently through personal study, affiliation with an appraiser that possesses the necessary knowledge and experience, or retention of the services of an individual with the required knowledge and experience.

As with State certified appraiser criteria, the OCC is authorized to impose additional licensing requirements. Moreover, the Appraisal Subcommittee is charged with monitoring State appraiser certifying and licensing agencies, and may reject State certifications and licenses if a State's appraisal policies, practices, or procedures are found to be inconsistent with Title XI or this regulation.

Tract development. A tract development may be units in a subdivision, condominium project, timeshare project, or any similar project meant to be sold as individual units over a period of time. A project of five or more units will be deemed to be a tract development if it is being sold, or is intended to be sold, as a single development.

Transaction value. This term is used in determining which real estate-related financial transactions require appraisals under this rule and in distinguishing which federally related transactions require appraisals performed by a State certified appraiser. For example, a State certified appraiser is required when, among other instances, an appraisal is performed in connection with any federally related transaction having a transaction value greater than $1,000,000. In applying this term, the OCC will consider a series of related transactions as one transaction if it appears that a regulated institution is attempting to evade the requirements of title XI or this regulation.

Section 34.43—Appraisals Not Required; Transactions Requiring a State Certified or Licensed Appraiser

(a) Appraisals not required

Section 1121(4) of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that, among other things, requires the services of an appraiser. The OCC recognizes that not all real estate-related financial transactions will require an appraisal under this rule and has identified five specific instances in which such an appraisal is not required. For example, the OCC does not require a certified or licensed appraisal under this rule for real estate-related financial transactions having a transaction value less than $50,000. In addition, an appraisal would not be required where a lien on real property has been taken as collateral solely through an abundance of caution. Collateral will be deemed to be taken in an abundance of caution where the terms as a consequence have not been made more favorable than they would have been in the absence of the lien. Accordingly, this exception is intended to have very limited application.

A third instance where an appraisal under this rule is not required is a lease that is not the economic equivalent of a purchase or sale or real estate. An example of such a lease is sublease by a bank of a portion of its premises to an unrelated third party. On the other hand, an assignment of a lease as collateral for the extension of credit would be the economic equivalent of a purchase or sale.

The OCC will not require an appraisal under this rule for a subsequent transaction resulting from a maturing extension of credit, provided the borrower has made all scheduled payments under the note, no new funds are advanced except as previously agreed, the borrower remains creditworthy, and there has been no obvious and material deterioration in market conditions or the physical condition of the collateral.

Finally, the OCC will not require an appraisal under this rule when a regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided the appraisal prepared for each loan, pooled loan, or real property interest

met the requirements of this regulation, if applicable, at the time of origination. Under this provision, if an appraisal which complied with this rule was prepared for the original transaction (or if no appraisal was required because the rule was not applicable to the transaction), then this rule does not require a regulated institution to obtain a new appraisal in order to purchase the loan or an interest in the loan, pooled loan, or interest in real property.

Although an appraisal complying with this rule is not required for certain real estate-related financial transactions, the OCC does not intend for these exceptions to prevent or discourage any regulated institution from obtaining an appraisal in accordance with this rule for those transactions. Moreover, the OCC expects all regulated institutions, as a matter of prudent banking practice, to obtain an appropriate evaluation of the subject real estate by a competent person (who need not be a certified or licensed appraiser) before entering into any real estate-related financial transaction. Consequently, any real estate-related financial transaction that does not require an appraisal under this rule still must have an evaluation of the property that complies with the OCC's Guidelines for Real Estate Appraisal Policies and Review Procedures.

The OCC has concluded that protection of federal financial and public policy interests in real estate-related financial transactions does not require appraisals in accordance with this rule for transactions below the *de minimis* level of $50,000 or for the other transactions described in this subsection. Moreover, the OCC believes that not requiring appraisals under this rule for these transactions will reduce the cost of compliance for the public and regulated institutions.

The OCC will continue to monitor the effect of the $50,000 *de minimis* level and may change it if circumstances indicate that the *de minimis* level should be set at a different amount. In addition, the OCC may amend the rule to add or delete real estate-related financial transactions that do not require an appraisal under this rule should additional experience with the rule indicate that modifications are appropriate.

(b) Transactions requiring a State certified appraiser

Title XI requires a State certified appraiser to be used if the size of the transaction and the complexity of the appraisal warrant the expertise of a State certified appraiser. The OCC is requiring the use of a State certified appraiser in three instances. First, all federally related transactions having a transaction value equal to or greater than $1,000,000 require an appraisal by a State certified appraiser. Second, all federally related transactions having a transaction value equal to or greater than $250,000, except those involving appraisals of 1-to-4 family residential properties, require a State certified appraiser. Third, 1-to-4 family residential property appraisals require a State certified appraiser if the transaction value is $250,000 or more and the appraisal will be complex.

(c) Transactions requiring either a State certified or licensed appraiser

Any federally related transaction that does not require the services of a State certified appraiser must be performed by, at a minimum, a State licensed appraiser. State licensed appraisers may perform appraisals of 1–to–4 family residential properties for transactions with a value up to $1,000,000 if the appraisal will not be complex. In addition, State licensed appraisers may perform appraisals in connection with any federally related transaction having a transaction value up to, but not including, $250,000. These changes are being made in anticipation of the States adopting licensing criteria sufficient to ensure that licensed appraisers will be capable of preparing appraisals for these properties.

Section 34.44—Appraisal Standards

(a) Minimum standards

Section 1110 of FIRREA, 12 U.S.C. 3339, instructs the OCC to prescribe appropriate standards for the performance of appraisals made in connection with federally related transactions within its jurisdiction. Further, section 1110 mandates that the standards require, at a minimum, that appraisals be written and that they conform to the generally accepted appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation. The OCC is empowered to require compliance with additional appraisal standards if it determines that additional standards are required in order to properly carry out its statutory responsibilities. Section 34.44 of the final regulation incorporates the minimum standards set forth in the statute and lists additional standards that apply to all appraisals performed in connection with federally related transactions.

In enacting title XI of FIRREA, Congress was responding to problems in the appraisal industry. These problems were identified by the House Committee on Government Operations during a series of hearings,[8] and have been cited repeatedly in the legislative history of title XI.[9] The OCC is adopting the following standards to further the legislative intent in addressing these problems. These standards are designed to contribute to safe and sound banking practices by requiring reliable appraisals.

(1) Compliance with USPAP; departure provision

This standard incorporates the standards in the USPAP and clarifies that the Departure Provision [10] in the USPAP does not apply to appraisals conducted in connection with federally related transactions within the OCC's jurisdiction. The OCC believes that the Departure Provision allows appraisal services to be performed which produce something different from an "appraisal" as contemplated by title XI of FIRREA. For instance, in accordance with the Departure Provision and consistent with USPAP requirements, a letter opinion might be produced that could be silent about trends of rents, vacancies, or overbuilding. Explanatory comments in the USPAP regarding the Departure Provision cite examples of when the departure provision might apply;[11] however, for purposes of the final regulation, such services are not appraisals as this term is used in title XI.

The OCC believes that the Departure Provision in the USPAP allows for the omission of data that should be included in developing and reporting appraisals rendered in connection with federally related transactions. Therefore, the OCC has determined that the Departure Provision shall not apply to such appraisals.

(2) Disclosure of competency

An appraiser is required to have the appropriate knowledge and experience required to complete an assignment competently. If such knowledge and

[8] House Comm. on Government Operations, Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market, H.R. 99–891, 99th Cong., 2d Sess. (1986).

[9] *See, e.g.*, 135 Cong. Rec. S4004 (daily ed. April 17, 1989) (statement of Sen. Dodd); H.R. Rep. No. 1001, 100th Cong. 2d Sess. pt. 1, at 19, 21–26; 133 Cong. Rec. H10709 (daily ed. Nov. 20, 1987) (statement of Cong. Barnard); 132 Cong. Rec. H3452 (daily ed. June 6, 1986) (statement of Cong. Barnard).

[10] The Departure Provision enables appraisers to "perform an assignment that calls for something less than or different from the work that would otherwise be required by the [USPAP]."

[11] These examples include introducing into evidence during a judicial proceeding a one page summary that incorporates by reference an appraiser's file or preparing a brief update of a previously prepared appraisal.

experience is initially lacking, the appraiser must disclose in the appraisal both this fact and the steps taken to comply with the Competency Provision in the USPAP.

(3) Market value

This standard requires an appraisal to document an appraiser's opinion of a property's "market value" as this term is defined. The definition of "market value" was developed by FNMA and FHLMC with the input of many professional appraisal organizations. Without such a standard, a lender might select a definition of value that allows the value of real property to be increased by favorable financing, going concern value, or special value to a specific user. This standard is necessary to obtain a consistently reliable estimate of a property's value.

(4) Written appraisals; forms

This standard sets forth the legislative mandate that all appraisals be written. Moreover, it requires an appraisal to be sufficiently descriptive to enable a reviewer to readily ascertain the estimated value reported and the rationale for that estimate. The appraisal may be in a narrative format or on a form chosen by an appraiser, but the appraisal must comply with all other provisions of the regulation. A form not initially designed for use in connection with federally related transactions may be used provided that it is modified, as necessary, to comply with the requirements of title XI and OCC regulations. Regardless of the format selected, the appraisal must be readily understandable by a third party and must reflect the complexity of the property that is appraised. This will enable the reader of the appraisal to independently determine its adequacy based upon the characteristics of the collateral appraised.

(5) Sales history

This standard is designed to enable a reviewer to compare an appraiser's opinion of a property's market value with recent sales prices. In addition to giving the reviewer a basis by which to evaluate the accuracy of the subject property appraisal, it also will assist the reviewer in identifying recent trends in market prices. For instance, a sales history may help identify a single sale or a series of sales at artificially inflated prices.

Sales histories are required for one year for 1-to-4 family residential property and for three years for all other types of property. A more demanding reporting standard for nonresidential property is appropriate because larger loan amounts are generally granted, and hence larger risk to the regulated institution incurred, when the loan security is not a 1-to-4 family dwelling.

(6) Revenues, expenses and vacancies

An appraisal should disclose current income produced by a property if the property will continue to be used to generate income after a transaction is consummated. This information is essential for an accurate picture of the market value of an income-producing property. Appraisal values should be predicated upon current revenues, expenses and current vacancies for property utilized in such a manner. That is, appraisals should be based upon income that realistically can be earned under current market and economic conditions (in light of rents being earned on comparable properties), rather than upon estimated or projected income that cannot be supported by current market conditions. If an appraiser reports a high current vacancy, this condition may require a lender to impose special conditions on the loan.

(7) Marketing period

This standard requires an appraiser to employ a marketing period that is reasonable in light of a given property's characteristics and market conditions and to disclose the assumptions used. An appraiser's opinion of market value will depend in part on the appraiser's estimate of how long a given piece of property will remain for sale. For instance, an appraisal using a long marketing period is likely to produce a higher market value than an appraisal using a shorter marketing period. This information will better enable the reviewer to assess the appraisal's accuracy.

(8) Trend analysis

An appraisal should inform the reader of any market trends, regardless of whether the trend reflects rising or declining values. For example, such trends might include increasing vacancy rates, greater use of rent concessions, or declining sales prices. Identification of negative trends is particularly important so that a regulated institution may avoid extending credit on the basis of insufficient collateral. Market trends may be indicated in market activity on the subject property, such as listings, options, or sales agreements; accordingly, such activity should be disclosed.

(9) Deductions and discounts

This standard is designed to avoid having appraisals prepared using unrealistic assumptions. For federally related transactions, the subject property must always be valued in its "as is" condition as of the date of the appraisal and this value included in the appraisal. Further, appropriate deductions or discounts are to be made from an estimated retail or stabilized value to arrive at the market value as of the date of valuation identified in the appraisal. Unleased space or unsold units pose a significant risk to an owner, buyer, or lender. For this reason, the impact of such risks must be reflected in the market value estimate.

(10) Prohibited influences

All appraisals are to be performed without pressure from someone who desires a specific value. Accordingly, every appraisal rendered in connection with a federally related transaction must include a statement to the effect that employment of the appraiser was not conditioned upon the appraisal producing a specific value or a value within a given range. Similarly, future employment prospects should not be dependent upon an appraisal producing a specified value. Employment and compensation should not be based on whether a loan application is approved, as this, too, would exert pressure on an appraiser to render whatever appraisal is necessary for the loan to be approved.

(11) Self-contained appraisals

This standard requires an appraisal to contain all information necessary to enable a reader of the appraisal to understand the appraiser's opinion. The appraisal should not incorporate by reference a document that is not readily available to the reader. Studies prepared by a third party should be verified to the extent his or her assumptions or conclusions are used. In addition, the appraiser's acceptance or rejection of a third party study and its impact on value should be fully explained. The appraisal itself should enable the reader to understand the conclusion without referring to numerous other documents. Moreover, the conclusion must be reasonable in light of the information set forth in the appraisal. These requirements will ensure that regulated institutions obtain appraisals with adequate data supporting the appraiser's opinion of value.

(12) Legal description

A legal description of the property is to be included in an appraisal to avoid confusion that may arise from less precise identification. This requirement enables a reader to compare the legal description in the appraisal to the legal description in the documents for the

loan or other transaction. The legal description is to be provided in addition to, and not in lieu of, the description required in the USPAP. The description of real property contained in a deed will satisfy this requirement.

(13) Personal property, fixtures, and intangible items

An appraisal must include a separate assessment of personal property, fixtures, or intangible items that are attached to or located on real property if the personal property, fixture, or intangible item affects the market value of the real property. Furniture and fixtures should have separate valuations because their economic life is shorter than real property improvements and may require special lending or investment considerations. If the personal property, fixture, or intangible item is not a part of the transaction, then this fact should be stated and the impact on market value should be disclosed. Favorable loan financing or any business interest or other intangible item should be valued separately within the appraisal. These requirements will help provide a reader with a more complete understanding of the market value of the real property as it will be at the time the transaction is entered into.

(14) Use of recognized appraisal approaches

At the request of clients, some appraisers have not prepared cost estimates of value, estimates of value based on the capitalization of income, or value estimates based on direct sales comparisons. This standard requires an appraiser to address each of these recognized approaches to market value and to explain how each approach was used. However, for any approach not used, an appraiser must explain why it was eliminated. This requirement is intended to produce appraisals made only after the three major approaches to market value have been considered and reconciled, thereby improving the accuracy of the appraisal. Disclosure of the fact that an approach was not used will assist the reader in evaluating the adequacy of the appraisal.

(b) Unavailability of information

The OCC realizes that some information required to be in an appraisal by the USPAP or this regulation may, on occasion, be unavailable. For example, historic rents will not exist for a building under construction at the time of appraisal. However, to assist in review an appraisal should inform the reader of any material information that is unavailable and why such information could not be obtained.

(c) Additional standards

The standards required by this regulation are the minimum standards for every appraisal made in connection with a federally related transaction. However, regulated institutions may employ additional standards if circumstances so warrant.

Section 34.45—Appraiser Independence

An appraiser's goal should be to produce an objective opinion about the market value of a property. This objectivity may be compromised if the appraiser is otherwise involved in the transaction, such as deciding whether to extend credit to be secured by such property. An opinion about the merits of the transaction potentially will affect the independence of the appraiser and the results of the appraisal. Similarly, a direct or indirect interest in the property appraised may undermine the accuracy of the appraisal.

An appraiser would have a direct interest, for example, by owning all or part of the property being appraised. An appraiser would have an indirect interest, for example, by owning property adjacent to the parcel being appraised. This indirect interest would extend to any property whose value is likely to be affected by an appraisal if the appraisal is the proximate cause for the effect. Moreover, a nonpecuniary interest, such as a desire to help an associate obtain a loan, may undermine the accuracy of an appraisal.

To further the goal of appraiser independence, the OCC requires that fee appraisers (appraisers not permanently employed by a given regulated institution) be hired by a regulated institution or its agent rather than the borrower. In order to avoid potential conflicts of interest, staff appraisers (appraisers that are permanently employed by a regulated institution) should not be supervised, controlled, or influenced by loan underwriters, loan officers, or collection officers.

The OCC recognizes that in certain cases it may be necessary for loan officers or other bank related individuals to perform appraisals. Such cases would depend on a bank's particular circumstances. An example would be a small rural bank where the only qualified individual to perform appraisals is a loan officer, and separating this person from the loan and collection departments would be difficult. In such situations, the OCC recommends that this individual perform appraisal work on loans in which he or she is not otherwise involved. In cases where loan officers or other bank related individuals perform appraisals, regulated institutions must ensure that the appraisers are qualified [12] and that appraisals are adequate. Directors and officers should abstain from any vote and/or approval involving assets on which they have performed an appraisal. In all, sufficient safeguards must be in place to permit appraisers to exercise independent judgment, thereby ensuring the validity of the appraisal process.

Section 34.46—Professional Association Membership; Competency

(a) Membership in appraisal organizations

The legislative history of title XI evidences an intent to prohibit discrimination against appraisers solely by virtue or membership of lack of membership in a particular appraisal organization.[13] Accordingly, this regulation prohibits any entity covered by title XI from basing decisions regarding the employment of appraisers solely on membership or lack of membership in an appraisal organization. An institution should review the qualifications of appraisers rather than the qualifications of appraisal organizations to ensure that a qualified individual is being employed. Membership in an organization may be considered; however, it may not be the sole determining factor in accepting or rejecting an appraiser.

(b) Competency

Not all appraisers are competent to perform every type of appraisal that will be needed in connection with federally related transactions. For instance, an appraiser who is experienced in appraising shopping centers may not possess sufficient expertise to appraise a golf course. A financial institution should look beyond an individual's title to determine if he or she has the experience and training needed to perform the appraisal. This provision is not intended to prohibit, in every circumstance, an individual from appraising a type of property with which he or she is not familiar. However, in such instances, an appraiser may perform the appraisal only in accordance with the Competency Provision in the USPAP. In addition, an

[12] It should be noted that directors, officers, or other bank related individuals who perform appraisals in connection with federally related transactions must be licensed or certified, as appropriate.

[13] *See, e.g.*, House Banking Committee Report at 484; *see also* H.R. Conf. Rep. No. 222, 101st Cong., 1st Sess., at 457 (1989).

individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if he or she is directly supervised by a licensed or certified appraiser, as appropriate, and the appraisal is approved and signed by a certified or licensed appraiser.

Section 34.47—Enforcement

Section 1120 of FIRREA, 12 U.S.C. 3349, permits the OCC to bring an action for civil money penalties against a regulated institution within its primary jurisdiction. The final rule makes clear that additional enforcement remedies available to the OCC under the Federal Deposit Insurance Act also apply. These can include civil money penalties, cease and desist orders, and orders of removal and prohibitions against institutions and institution-affiliated parties. FIRREA specifically provides that "institution-affiliated parties" includes, but is not limited to, appraisers.[14]

Waiver of Delayed Effective Date

This final rule is effective August 24, 1990. The 30-day delayed effective date otherwise required under the Administrative Procedure Act is waived pursuant to 5 U.S.C. 553(d)(3) which provides for waiver by an agency "for good cause found and published with the rule."

Immediate implementation serves the public interest by enhancing the safety and soundness of national banks. Safety and soundness is enhanced by requiring that, effective August 24, 1990, all appraisals used in connection with federally related transactions must be conducted in accordance with the uniform minimum standards required by title XI.

All parties involved have had notice of the minimum appraisal standards imposed by title XI and incorporated in this regulation, as well as the statutory requirement that regulations incorporating final appraisal rules be in effect no later than August 9, 1990. The public has had adequate notice and opportunity to comment on the subject of this appraisal regulation following publication of the proposed rule on February 16, 1990.

In addition, the OCC's Guidelines for Real Estate Appraisal Policies and Review Procedures have been in effect for many years. This final rule simply builds on these policies, and prudent banks already will have taken steps to be in compliance with the major requirements of this final rule upon its publication. Accordingly, implementation of this regulation serves the public interest by strengthening safe and sound banking practices without imposing undue hardship on national banks.

During the 30-day period following publication of the final rule, the OCC will exercise its prosecutorial discretion not to bring an enforcement action in dealing with those institutions that have made a good faith effort to comply with the final regulation but are found to be in noncompliance with its requirements.

Regulatory Flexibility Act: Executive Order 12291

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes, when adopted, are not expected to have a significant economic impact on a substantial number of small entities.

The OCC has determined that this final rule does not constitute a "major rule" within the meaning of Executive Order 12291 and Treasury Department Guidelines. Accordingly, a Regulatory Impact Analysis is not required on the grounds that this final regulation, exclusive of those effects attributable to requirements imposed by title XI of FIRREA, (1) Would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign and domestic), employment, investment, productivity or innovation, within the meaning of the executive order.

The OCC anticipates that the changes made by this regulation may increase, to some degree, certain costs for borrowers and national banks of all sizes. However, these increased costs are expected to be offset by savings realized by decreased losses. The cost increase may stem from at least two aspects of the rule. First, since national banks are required to use certified or licensed appraisers, the cost of an appraisal may rise somewhat. Some borrowers may resist the increased appraisal cost and decide not to take out a loan secured by real estate. Some banks may elect to absorb all or a portion of any increased appraisal cost, thereby reducing loan profits. Second, in this rule, OCC has expanded its existing appraisal guidelines to include specifically some additional items in appraisal reports. Those items could add to appraisal costs.

Overall, the OCC expects these changes to decrease costs to national banks of all sizes by reducing the losses associated with defaults. With the additional information about the value of the real estate involved in federally related transactions, national banks can ensure that each loan is collateralized adequately. Therefore, the cost to a bank of loan defaults should be reduced. Additionally, by reducing the losses associated with loan defaults, these changes may protect the federal deposit insurance fund and ultimately the taxpayer.

The appraisal industry (through the USPAP), the OCC, and the other federal financial institutions regulatory agencies, have required many of the appraisal procedures and requirements contained in the final rule for many years. For the most part, the final rule only codifies practices which, for prudent bankers, are usual and customary.

In addition, the OCC has made several changes to the proposed rule that should help to reduce costs for the public and institutions of all sizes while focusing regulation on those transactions for which the additional appraisal standards and additional appraiser qualifications required under this rule are most important. The principal changes are as follows:

1. The *de minimis* cutoff has been raised to $50,000 thus eliminating smaller loans from the requirements of this final rule.

2. The final rule permits competent State licensed appraisers to perform appraisals for any transaction with a transaction value less than $250,000. This should help to minimize costs to smaller institutions that concentrate on smaller loans and reduce costs for the public and all institutions by limiting the requirement to obtain more highly trained appraisers to those large transactions where losses are more likely to be large.

3. The final rule clarifies that appraisals of 1-to-4 family residential property will be presumed to be non-complex, and therefore appropriate for State licensed appraisers to perform, provided that the transaction value is less than $1,000,000.

4. The final rule drops the proposed requirement that a certified appraiser be used for appraisals of 1-to-4 family residential properties when the transaction value exceeds 10 percent of the institution's Tier 1 capital.

5. The final rule exempts additional transactions from the requirements of the rule, including loan renewals under certain circumstances, leases that are not the economic equivalent of a purchase or sale of real property, and purchases of pooled loans or interests in real property if appropriate appraisals or collateral evaluations previously have been performed.

[14] *See* FIRREA, sections 204(f)(6) and 901(b)(1).

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1557–0190. The estimated average burden associated with the collection of information in this final rule is 58 hours per recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Comptroller of the Currency, Legislative and Regulatory Analysis Division, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1557–0190), Washington, DC 20503.

List of Subjects in 12 CFR Part 34

Mortgages, National banks, Real estate appraisals, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 34 of chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for part 34 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a; 12 U.S.C. 371; 12 U.S.C. 1701j–3; title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101–73, 103 Stat. 511.

1a. The heading for part 34 is revised to read as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

2. In § 34.1 paragraph (b) is revised to read as follows:

§ 34.1 General and scope.

* * * * *

(b) *Scope.* For the purposes of 12 U.S.C. 371 and subparts A and B of this part, loans secured by liens on interests in real estate include loans made upon the security of condominiums, leaseholds, cooperatives, forest tracts, construction project loans (except as specified in § 34.3 (f) and (g)), and land sales contracts.

3. In § 34.3, the introductory text is revised to read as follows:

§ 34.3 Loans not constituting real estate loans.

The loans listed below are not real estate loans for the purposes of 12 U.S.C. 371 and subparts A and B of this part. [1] National banks have the authority to make these loans pursuant to 12 U.S.C. 24 Seventh, even when the bank takes a security interest in real estate as a matter of prudent banking practice or because such security is required by the insurer or guarantor.

* * * * *

[1] It continues to be the position of the Office that these loans are not subject to state laws which restrict the ability of national banks to make such loans. Those state laws, including laws governing amortization, maturity, loan-to-value, and aggregate limits, conflict with the federal statutory scheme which gives exclusive authority to this Office to assure the safety and soundness of national banks and the national banking system. Those laws also infringe on the ability of national banks to exercise their statutory authority.

4. A new subpart C is added to read as follows:

Subpart C—Appraisals

Sec.

34.41 Authority, purpose, and scope.
34.42 Definitions.
34.43 Appraisals not required; transactions requiring a State certified or licensed appraiser.
34.44 Appraisal standards.
34.45 Appraiser independence.
34.46 Professional association membership; competency.
34.47 Enforcement.

Subpart C—Appraisals

§ 34.41 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Office of the Comptroller of the Currency (the "OCC") under 12 U.S.C. 93a and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (Pub. L. No. 101–73, 103 Stat. 183 (1989)), 12 U.S.C. 3331 *et seq.*

(b) *Purpose and scope.* (1) Title XI provides protection for federal financial and public policy interests in real estate-related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. This subpart implements the requirements of title XI, and applies to all federally related transactions entered into by the OCC or by institutions regulated by the OCC ("regulated institutions").

(2) This subpart:

(i) Identifies which real estate-related financial transactions require the services of an appraiser;

(ii) Prescribes which categories of federally related transactions shall be appraised by a State certified appraiser and which by a State licensed appraiser; and

(iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the OCC.

§ 34.42 Definitions.

(a) *Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(b) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(c) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(d) *Complex 1-to-4 family residential property appraisal* means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(e) *Federally related transaction* means any real estate-related financial transaction entered into on or after August 9, 1990, that:

(1) The OCC or any of its regulated institution engages in or contracts for; and

(2) Requires the services of an appraiser.

(f) *Market value* means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(g) *Real estate-related financial transaction* means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(h) *State certified appraiser* means any individual who has satisfied the requirements for certification in a State or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualifications Board of the Appraisal Foundation. No individual shall be a State certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board of the Appraisal Foundation. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, partices, or procedures of the State or territory are inconsistent with Title XI of FIRREA. The OCC may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(i) *State licensed appraiser* means any individual who has satisfied the requirements for licensing in a State or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with Title XI. The OCC may, from time to time, impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(j) *Tract development* means a project of five units or more that is constructed or is to be constructed as a single development.

(k) *Transaction value* means:

(1) For loans or other extensions of credit, the amount of the loan or extension of credit;

(2) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

(3) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

§ 34.43 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisals not required.* An appraisal performed by a State certified or licensed appraiser is not required for any real estate-related financial transaction in which:

(1) The transaction value is $50,000 or less;

(2) A lien on real property has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien;

(3) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(4) There is a subsequent transaction resulting from a maturing extension of credit, provided that:

(i) The borrower has performed satisfactorily according to the original terms;

(ii) No new monies have been advanced other than as previously agreed;

(iii) The credit standing of the borrower has not deteriorated; and

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection; or

(5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each loan, pooled loan, or real property interest met the requirements of this regulation, if applicable, at the time of origination.

Any transaction for which a State certified or licensed appraiser is not required, nevertheless, must have an appropriate evaluation of real property collateral that is consistent with the OCC's Guidelines for Real Estate Appraisal Policies and Review Procedures.

(b) *Transactions requiring a State certified appraiser*—(1) *All transactions of $1,000,000 or more.* All federally related transactions having a transaction value of $1,000,000 or more shall require an appraisal prepared by a State certified appraiser.

(2) *Nonresidential transactions of $250,000 or more.* All federally related transactions having a transaction value of $250,000 or more, other than those involving appraisals of 1-to-4 family residential properties, shall require an appraisal performed by a State certified appraiser.

(3) *Complex residential transactions of $250,000 or more.* All complex 1-to-4 family residential property appraisals rendered in connection with federally related transactions shall require a State certified appraiser if the transaction value is $250,000 or more. A regulated institution may presume that appraisals of 1-to-4 family residential properties are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination whether the appraisal is complex. If during the course of the appraisal a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

(i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or

(ii) The institution may engage a certified appraiser to complete the appraisal.

(c) *Transactions requiring either a State certified or licensed appraiser.* All appraisals for federally related transactions not requiring the services of a State certified appraiser shall be prepared by either a State certified appraiser or a State licensed appraiser.

§ 34.44 Appraisal standards.

(a) *Minimum standards.* For federally related transactions, all appraisals shall, at a minimum:

(1) Conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation, except that the Departure Provision of the USPAP shall not apply to federally related transactions;

(2) Disclose any steps taken that were necessary or appropriate to comply with the Competency Provision of the USPAP;

(3) Be based upon the definition of market value as set forth in § 34.42(f);

(4)(i) Be written and presented in a narrative format or on forms that satisfy all the requirements of this section;

(ii) Be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate; and

(iii) Provide detail and depth of analysis that reflect the complexity of the real estate appraised;

(5) Analyze and report in reasonable detail any prior sales of the property being appraised that occurred within the following time periods:

(i) For 1-to-4 family residential property, one year preceding the date when the appraisal was prepared; and

(ii) For all other property, three years preceding the date when the appraisal was prepared;

(6) Analyze and report data on current revenues, expenses, and vacancies for the property if it is and will continue to be income-producing;

(7) Analyze and report a reasonable marketing period for the subject property;

(8) Analyze and report on current market conditions and trends that will affect projected income or the absorption period to the extent they affect the value of the subject property;

(9) Analyze and report appropriate deductions and discounts for any proposed construction, or any completed properties that are partially leased or leased at other than market rents as of the date of the appraisal, or any tract developments with unsold units;

(10) Include in the certification required by the USPAP an additional statement that the appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan;

(11) Contain sufficient supporting documentation with all pertinent information reported so that the appraiser's logic, reasoning, judgment, and analysis in arriving at a conclusion indicate to the reader the reasonableness of the market value reported;

(12) Include a legal description of the real estate being appraised, in addition to the description required by the USPAP;

(13) Identify and separately value any personal property, fixtures, or intangible items that are not real property but are included in the appraisal, and discuss the impact of their inclusion or exclusion on the estimate of market value; and

(14) Follow a reasonable valuation method that addresses the direct sales comparison, income, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used.

(b) *Unavailability of information.* If information required or deemed pertinent to the completion of an appraisal is unavailable, that fact shall be disclosed and explained in the appraisal.

(c) *Additional standards.* Nothing contained herein shall prevent a regulated institution from requiring additional appraisal standards if deemed appropriate.

(Approved by the Office of Management and Budget under control number 1557–0190)

§ 34.45 Appraiser independence.

(a) *Staff appraisers.* If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an appraisal are involved in the lending, investment, or collection functions of the regulated institution, the regulated institution shall take appropriate steps to ensure that the appraisers exercise independent judgment. Such steps include, but are not limited to, prohibiting an individual from performing an appraisal in connection with federally related transactions in which the appraiser is otherwise involved and prohibiting directors and officers from participating in any vote or approval involving assets on which they performed an appraisal.

(b) *Fee appraisers.* If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent, and have no direct or indirect interest, financial or otherwise, in the property or transaction. A regulated institution may accept an appraisal that was prepared by an appraiser engaged directly by another institution subject to Title XI of FIRREA, if the regulated institution that accepts the appraisal has:

(1) Established procedures for review of real estate appraisals;

(2) Reviewed the appraisal under the established review procedures, finding the appraisal acceptable; and

(3) Documented the review in writing.

§ 34.46 Professional association membership; competency.

(a) *Membership in appraisal organizations.* A State certified appraiser or a State licensed appraiser may not be excluded from consideration for an assignment for a federally related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee appraisers performing appraisals in connection with federally related transactions must be State certified or licensed, as appropriate. However, a State certified or licensed appraiser may not be considered competent solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual's experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

§ 34.47 Enforcement.

Institutions and institution-affiliated parties, including staff appraisers and fee appraisers, may be subject to removal and/or prohibition orders, cease and desist orders, and the imposition of civil money penalties pursuant to the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*, as amended, or other applicable law.

Dated: August 20, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90–19930 Filed 8–23–90; 8:45 am]

BILLING CODE 4810–33–M

Office of Thrift Supervision

12 CFR Part 545

[No. 90–1343]

RIN 1550–AA29

Release of Customer Financial Records by Federal Associations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision ("OTS" or "Office") is removing its rule governing the release of customer financial records by Federal associations and announcing its intention to propose a new regulation on the same subject. The rule was adopted by the Office's predecessor agency, the Federal Home Loan Bank Board ("Bank Board") and became effective on December 15, 1989. 54 FR 33859 (Aug. 17, 1989). The Office has determined that removal and reproposal of the rule is necessary because of the significant changes in thrift industry structure and regulation made by the Financial Institutions Reform, Recovery and Enforcement Act, Public Law No. 101–73, 103 Stat. 183 (Aug. 9, 1989) ("FIRREA"), and because of issues identified during implementation of the rule.

EFFECTIVE DATE: August 24, 1990.

FOR FURTHER INFORMATION CONTACT: Karen Solomon, Associate Chief Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–7240; or Ben F. Dixon, Policy

Analyst, Supervision, (202) 906–5746, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

On August 8, 1989, the Bank Board adopted a final regulation governing the release of customer financial records by Federal savings associations. 54 FR 33859 (Aug. 17, 1989). This rule took effect on December 15, 1989. The Office is today removing the rule in order to reevaluate its policies on disclosure of customer financial records in light of several factors including the changed circumstances resulting from the passage of the FIRREA, and clarification of issues raised following implementation of the rule. The Office wishes to emphasize that it has not determined to abandon its policy of ensuring adequate protection of customer rights when information about customers is disclosed.

President Bush signed the FIRREA into law on the day after the customer lists regulation was adopted. The FIRREA extensively amended the Home Owners' Loan Act, the Federal Deposit Insurance Act, and the Federal Home Loan Bank Act, and it repealed the National Housing Act. As a result, it has significantly changed the way savings associations operate and are regulated.

The Office wishes to reconsider, in light of the FIRREA, the effects of implementing policies on disclosure of customer financial information for Federal savings associations when similar policies are not in place for state-chartered savings associations or commercial banks. During the previous rulemaking, commenters "argued that the proposed rule puts Federal associations on an 'unequal playing field' as a result of the restrictions placed on the ability of service corporations to market products and services to their parent's customers." *Id.* at 33864. The Board noted that it has, since 1975, regulated Federal savings associations' release of customer information, see 40 FR 12853 (1975), and, thus, the final rule was "not a new or sudden concern of the Board." 54 FR 33864.

Nonetheless, the Bank Board responded to these comments, for example, by modifying the proposal to expand Federal associations' ability to disclose information without prior approval. Now that the implications of the FIRREA are clearer, the Office wishes to evaluate whether this modification was an adequate response, or whether the provisions of the rule should be extended to other financial institutions.

The Office also wishes to consider whether adequate justification exists for the rule's distinction, for purposes of releasing customer information, between wholly-owned service corporations, and affiliates in a holding company structure. The rule imposed more stringent restraints on release of information to an affiliate than to a wholly-owned service corporation. *See id.* at 33868–69. The Board's rational for this distinction was that the products and services that may be provided by a wholly-owned service corporation have previously been determined by the Bank Board to be thrift-business related, see 12 CFR 545.74 (1989), thus, customer information release to "[such] service corporations [would] not breach the privacy expectations of depositors or borrowers[.]" 54 FR 33863. The Office believes it is important to examine whether affiliates engaged in businesses similar to those of wholly-owned service corporations should have this distinction apply to them also. In addition, the Office is also interested in examining whether this distinction could exert a discouraging influence on companies outside the thrift industry that may wish to aquire a savings association and, hence, to infuse new capital into the thrift industry.

Finally, the Office has concluded, based on the scope and volume of the inquiries it has received since the regulation was published, that savings associations do not fully understand what the rule's requirements are or how to implement them. The Office, therefore, to clarify the rule's provisions, is determined to remove the rule and to repropose it in clarified form.

The Office intends to propose for public comment a new regulation on disclosure of customer financial information. The Office expects to take this action within 60 days from the effective date of this removal of the rule. At the same time the Office is considering raising the issue in a multi-agency forum such as the Federal Financial Institutions Examination Council. Discussion in such a forum is one way to explore the "competitive equality" issue mentioned above. The Office notes that a new rulemaking will provide an opportunity for it to consider interested parties' comments afresh. The Office is particularly interested in hearing from consumer groups and thrift-holding companies, or their representatives.

As a consequence of today's action, savings associations are no longer under a legal requirement to comply with OTS' Release of Customer Financial Records rule. Nor is the Office taking any action that would reinstitute the regulations that applied to disclosure of customer information before the Bank Board's adoption of 12 CFR 545.132. However, associations should be aware that state law will be controlling in this area until a new final rule is adopted.

Executive Order 12291

The Office has determined that this removal does not constitute a "major rule" and, therefore, will not require the preparation of a final regulatory impact analysis.

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required for this rule, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office hereby amends part 545, subchapter C, chapter V, title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—REGULATIONS FOR FEDERAL SAVINGS ASSOCIATIONS

PART 545—[AMENDED]

1. The authority citation for part 545 continues to read as follows:

Authority: Sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 18, 64 Stat. 891, as amended by sec. 221, 103 Stat. 267 (12 U.S.C. 1828).

§ 545.132 [Removed and reserved]

2. Section 545.132 is removed and reserved.

Date: June 29, 1990.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 90–19890 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89–NM–262–AD; Amdt. 39–6708]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 727 Series airplanes, which requires inspection to detect cracks in the slat track roller bearing bolts, and replacement, if necessary. This action is prompted by reports of broken slat track roller bearing bolts. This condition, if not corrected, could result in jamming of the affected slat or separation of the slat from the airplane.

EFFECTIVE DATE: September 30, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th Floor, Renton, Washington, or at the Seattle Aircraft Certification Office, 1601 Lind Avenue SW., 2nd Floor, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Airframe Branch, ANM–120S; telephone (206) 431–1525. Mailing address: FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., 2nd Floor, Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing series airplanes, which requires inspections to detect cracks in the slat track roller bearing bolts, was published in the **Federal Register** on April 6, 1990 (55 FR 12859).

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

Three commenters suggested the rule be revised to permit specific optional inspection procedures as alternatives to bolt removal and inspection:

Proposal #1

a. Inspect in accordance with Figure 1 of the service bulletin.

b. Verify each bolt/roller accepts lubrication.

c. Use the cotter pin hole to confirm proper bolt orientation.

Proposal #2

a. Modify bolt in accordance with Figure 2 of the service bulletin.

b. Install an index mark for use in identifying if a bolt rotates.

c. Inspect in accordance with Figure 1 of the service bulletin.

Proposal #3

Perform an external inspection in accordance with Figure 1 of the service bulletin.

For the following reasons, the FAA does not agree with any of the proposals:

Proposal #1

a. Acceptance of lubrication indicates neither whether the bolt is cracked nor if the bolt is properly oriented.

b. Confirming proper orientation of the bolt by using the cotter pin hole location is not adequate. It is possible that bolts manufactured with mislocated cotter pin holes were used since they would be structurally and functionally acceptable. In addition, using words to define the proper bolt orientation is not adequate. It would be necessary to have a sketch to clearly show the proper orientation.

Proposal #2

a. The bolt orientation needs to be controlled.

b. The method of installing an index mark must be defined.

Proposal #3

The external inspection is not adequate because it neither inspects for cracked bolts nor does it ensure that the bolts are properly oriented.

These commenters may consider revising their proposed procedures and requesting an alternate means of compliance in accordance with paragraph D. of the final rule.

One commenter stated that the proposed magnetic particle inspection is not possible on all of the bolts, since an acceptable replacement bolt is not made of magnetic material. The FAA concurs with this statement. The final rule has been changed to specify a fluorescent particle inspection for the bolts made of CRES material.

One commenter stated that there will be a conflict between the requirements of the proposed rule and those of AD 90–06–09, Amendment 39–6488 (55 FR 8370, March 7, 1990), which pertains to structural modifications of the "aging" Model 727 fleet. The FAA does not concur because AD 90–06–09 addresses modifications; this new AD addresses inspections that are necessary *prior* to the modifications required by AD 90–06–09.

Two commenters stated that the inspections should not be mandatory. One of the commenters stated the FAA was "overreacting" to isolated reports of cracked bolts. The FAA does not concur. There have been 22 cracked bolts found in service. One failure resulted in an airplane landing with a jammed slat that was partially detached. Due to the number of cracked bolts and their impact on safety, the FAA has determined that the inspections required by this AD action are necessary.

One commenter requested that the rollers be checked if the bolt is broken, deformed, visibly cracked, or heavily corroded. This is in lieu of checking rollers associated with bolts found cracked by magnetic particle inspection. The FAA finds merit in the request. However, the FAA has determined that such a procedure would require additional actions, such as a detailed visual inspection, to be considered to provide an acceptable level of safety. Procedures for requesting an alternate means of compliance are provided in paragraph D. of the AD.

One operator stated in its comments that its maintenance program did not permit accomplishment of the initial inspection prior to the proposed 2,500 flight cycle threshold. This operator did not provide technical justification for an extension of the threshold. Consequently, the FAA has determined that an extension is not warranted. However, any operator has the option of submitting to the FAA a request for an adjustment to the compliance time which provides an acceptable level of safety via the alternate means of compliance provision in paragraph D. of this AD.

Several commenters requested that the repetitive inspection interval be increased beyond the proposed 2,500 flight cycles in order to accommodate a period necessary for delivery of parts. The commenters had been advised by the manufacturer that at least 6 months would be required for parts delivery. The FAA concurs. After discussions with the manufacturer, the FAA has determined the inspection interval may be increased, without compromising safety, from the proposed 2,500 flight cycles to 5,000 flight cycles. The final rule has been changed accordingly.

One commenter stated that the 40-manhour estimate for access, inspection, and restoration is too low. The commenter stated it would take 60 to 80 manhours per airplane, plus additional time for inspection. The FAA has reviewed the estimate and finds that 70 manhours is a more reasonable estimate. The economic impact paragraph, below, has been adjusted to reflect 70 manhours per airplane as the appropriate amount of time necessary to accomplish the inspections required by this AD.

Paragraph D. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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

There are approximately 1,695 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,172 airplanes of U.S. registry will be affected by this AD, that it will take approximately 70 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 $3,281,600.

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:

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

To detect cracks in the slat track roller bearing bolts, accomplish the following:

A. Prior to the accumulation of 12,000 flight cycles or within the next 2,500 flight cycles after the effective date of this AD, whichever occurs later, conduct a magnetic particle inspection of the slat track roller bearing bolts, in accordance with Figure 2 of Boeing Service Bulletin 727-57-0172, Revision 1, dated October 12, 1989. Fluorescent particle inspection of bolts made of CRES material is required in lieu of the magnetic particle inspection. Repeat the inspection at intervals not to exceed 5,000 flight cycles.

B. If a cracked bolt is found, prior to further flight, replace the bolt and check the associated roller for smooth operation. If the roller does not turn smoothly, prior to further flight, replace the roller.

C. Modification of the bolts and slat tracks in accordance with Figures 2 and 3 of Boeing Service Bulletin 727-57-0172, Revision 1, dated October 12, 1989, constitutes terminating action for repetitive inspections required by paragraph A. of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle Aircraft Certification Office, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the ACO.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., 5th Floor, Renton, Washington, or at the Seattle Aircraft Certification Office, 1601 Lind Avenue SW., 2nd Floor, Renton, Washington.

This amendment becomes effective September 30, 1990.

Issued in Seattle, Washington, on August 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-20001 Filed 8-23-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-162-AD; Amdt. 39-6710]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, DC-9-30, and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises, publishes in the Federal Register, and makes effective as to all persons an amendment adopting Airworthiness Directive (AD) T90-16-51, which was previously made effective as to all known U.S. owners and operators of certain McDonnell Douglas Model DC-9 series airplanes by individual telegrams. This amendment requires a one-time torque check of cargo door latch spool fitting attach bolts, and retorquing or replacement of the bolts, if necessary. The amendment is prompted by a report of a broken cargo door latch spool fitting attach bolt. This condition, if not corrected, could result in inadvertent opening of the main cargo door during flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane. This amendment revises the previously-issued telegraphic AD by adding a note to clarify the applicability of the final rule.

DATES: Effective September 10, 1990. Portions of this amendment were effective earlier to recipients of telegraphic AD T90-16-51, issued August 3, 1990, and a correction to that AD issued August 7, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HCW (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Lee, Airframe Branch, ANM-122L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California; telephone (213) 988-5325.

SUPPLEMENTARY INFORMATION: On August 3, 1990, the FAA issued telegraphic AD T90-16-51, applicable to McDonnell Douglas Model DC-9 series airplanes, to require a one-time torque check of cargo door latch spool fitting attach bolts, and retorquing or replacement of the bolts, if necessary. That action was prompted by a report of a broken cargo door latch spool fitting attach bolt found on a Model DC-9 series airplane during a routine walk-around inspection. A torque check of the remaining bolts on the airplane revealed that 5 out of 28 bolts were broken. Failure of the bolts is attributed to stress corrosion. This condition, if not corrected, could result in inadvertent opening of the main cargo door during flight, and subsequently lead to loss of pressurization and reduced controllability of the airplane.

On August 7, 1990, the FAA issued a correction to telegraphic AD T90-16-51 to revise the issue date of McDonnell Douglas Service Bulletin 52-119, Revision 1, from "January 30, 1980," to "January 30, 1981."

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on August 3, 1990, to all known U.S. owners and operators of McDonnell Douglas Model DC-9 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

Paragraph A. of the final rule has been revised to include a note to clarify that the requirements of this AD are applicable to all Model DC-9-10, DC-9-30, and C-9 (military) series airplanes equipped with a forward upper cargo door, regardless of the effectivity specified in the referenced McDonnell Douglas service bulletin. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

This is considered interim action. The FAA may consider further rulemaking to require additional corrective action to ensure that the Model DC-9 cargo door latch spool fitting attach bolts will not fail due to stress corrosion.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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 revising Telegraphic AD T90-16-51, issued August 3, 1990, and its correction issued August 7, 1990, as follows:

McDonnell Douglas: Applies to Model DC-9-10, DC-9-30, and C-9 (military) series airplanes, equipped with a forward upper cargo door, certificated in any category. Compliance required within 14 calendar days after the effective date of this amendment, unless previously accomplished.

To prevent inadvertent opening of the main cargo door during flight, accomplish the following:

A. Except as provided in paragraph B. of this AD, perform a torque test on the cargo door latch spool fitting attach bolts, in accordance with the instructions for Group 1, Phase 1, of McDonnell Douglas DC-9 Service Bulletin 52-119, Revision 1, dated January 30, 1981.

Note: The requirements of this AD are applicable to all Model DC-9-10, DC-9-30, and C-9 (military) series airplanes equipped with a forward upper cargo door, regardless of the effectivity as specified in the McDonnell Douglas DC-9 service bulletin.

1. If a bolt breaks, prior to further flight, replace it with a new bolt and seal in accordance with Figure 1 of the service bulletin.

2. If a bolt passes the torque test, prior to further flight, retorque the bolt and seal in accordance with the instructions for Group 1, Phase 1, of the service bulletin.

B. The test required by paragraph A. of this AD is not required for Inconel bolts, part numbers RA21026-7-28, 77711-7-28, and 3D0031-7-28.

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

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846-0001, Attention: Business Unit Manager, Technical Publications, C1-HCW (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective September 10, 1990.

Portions of this amendment were effective earlier to recipients of telegraphic AD T90-16-51, issued

August 3, 1990, and a correction to that AD issued August 7, 1990.

Issued in Renton, Washington, on August 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-19998 Filed 8-23-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-35-AD; Amdt. 39-6709]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC-10 series airplanes, which requires the installation of a main deck cargo door "vent door-open" indicating system and installation of cargo door hinge pin retainers. This amendment is prompted by a review of all Model DC-10 cargo doors following a recent accident involving a Model DC-9 series airplane in which the main deck cargo door inadvertently opened during takeoff or shortly thereafter. This condition, if not corrected, could result in loss of pressurization and control of the airplane.

EFFECTIVE DATE: September 30, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3885 Lakewood Boulevard, Long Beach, California 90846, Attention: Manager, Technical Publication Operation C1-L71 (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Ms. Dorenda Baker, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, Airframe Branch (ANM-120L), 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5231.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to all Model DC-10 series airplanes, which requires the installation of a main deck cargo door "vent door-open" indicating system and installation of cargo door hinge pin retainers, was published in the **Federal Register** on April 4, 1990 (55 FR 12503).

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

One commenter objected to the installation of the vent door warning system, maintaining that the philosophy of the interlocked vent door combined with the main cargo door warning light provides more than enough safety redundancy without a vent door warning system. The FAA does not concur that closing the vent door is sufficient to indicate a properly closed cargo door, and has determined that the vent door position should be annunciated in the cockpit. Also, the FAA does not concur that the vent door-open indicating system is redundant to the cargo door-open indicating circuit. The vent door-open indication system is an added feature to the cargo door-open indication system to alleviate the possibility of the airplane taking off with the vent door open and, possibly, an improperly locked cargo door.

One commenter expressed concern that the FAA did not recognize that AD 77-12-04, Amendment 39-2921, allowed an alternative to the installation of a vent door. The FAA is aware of the alternative; however, this AD requires installation of a vent door-open indicating system only on main deck cargo doors equipped with a vent door.

One commenter requested that the compliance time for the installation of the vent door-open indication system be extended, since it was not sufficient to accommodate delivery of the required parts and installation time. The FAA concurs that some additional time for compliance is warranted. The manufacturer has advised that delivery of the indicating system modification kit will require a 270-day lead time. In light of this, the FAA has determined that the compliance time for installation of the vent door-open indicating system may be extended from one year to 18 months without adversely affecting safety. The final rule has been revised accordingly.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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 with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 200 Model DC-10 series airplanes of the affected design in the worldwide fleet. It is estimated that 120 airplanes of U.S. registry will be affected by the requirement to install hinge pin retainers. This installation will take approximately 30 manhours per airplane to accomplish, at an average labor cost of $40 per manhour. The cost of required parts is estimated to be $476 per airplane. Based on these figures, the total cost impact of this installation on U.S. operators is estimated to be $201,120.

Approximately 26 airplanes of U.S. registry will be affected by the requirement to install a "vent door-open" indicating system. This installation will take approximately 15 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. The cost of required parts is estimated to be $1,400 per airplane. Based on these figures, the total cost impact of this installation on U.S. operators is estimated to be $52,000.

Based on the figures explained above, the total cost impact of this proposed AD on U.S. operators is estimated to be $253,120.

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:

McDonnell Douglas: Applies to all Model DC-10 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent inadvertent opening of a cargo door in flight, accomplish the following:

A. Within 12 months after the effective date of this AD, install hinge pin retainers on each end of all cargo door hinges, in accordance with McDonnell Douglas Service Bulletin 52-129, Revision 1, dated July 23, 1975.

B. Within 18 months after the effective date of this AD, install a vent door-open indicating system on the main deck cargo door equipped with a vent door, which is approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, that will signal the appropriate flightcrew member when the main cargo door vent door is not fully closed and latched.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California, Attention Manager, Technical Publication Operation C1-L71 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective September 30, 1990.

Issued in Renton, Washington, on August 14, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-20000 Filed 8-23-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-NM-197-AD; Amdt 39-6701]

Airworthiness Directives; McDonnell Douglas Models DC-9 and C-9 (Military) Series Airplanes, Including Model DC-9-80 Series and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Models DC-9 and C-9 (Military) series airplanes, including Model DC-9-80 series and Model MD-88 airplanes, which requires certain inspections and structural modifications. This amendment is prompted by reports of recent incidents involving fatigue cracking, corrosion, and stress corrosion cracking in transport category airplanes that are approaching or have exceeded their economic design goal. These incidents have jeopardized the airworthiness of the affected airplanes. This condition, if not corrected, could result in degradation in the structural capabilities of the affected airplanes. This action also reflects the FAA's decision that long term continued operational safety should be assured by actual modification of the airframe, where feasible, rather than only by repetitive inspections for known service problems.

DATES: Effective September 24, 1990. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of September 24, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1-HCO (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW, Room, 8301, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. David Y.J. Hsu, Airframe Branch, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM-120L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5323.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD), applicable to McDonnell Douglas Models DC-9 and C-9 (Military) series airplanes, Model DC-9-80 series airplanes, and Model MD-88 airplanes, which requires certain inspections and structural modifications, was published in the **Federal Register** on September 26, 1989 (54 FR 39408).

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

One commenter, operating a fleet of Model DC-9-80 series and Model MD-88 airplanes, expected to comply with requirements for those airplanes as proposed and, therefore, expressed no objections.

One commenter suggested that the term "discrepancy" replace the term "crack," since the inspections contained in the service bulletins (S/B) listed in McDonnell Douglas Report No. MDC-K1572, "DC-9/MD-80 Aging Aircraft Service Action Requirements Document" (hereinafter referred to as "The Document") are expected to detect corrosion and wear in addition to cracking. The FAA does not concur. The FAA considers that the substitution of the term "discrepancy" would expand the scope of the AD. The intent of this rule is to address the degradation in the structural capabilities as a result of known fatigue cracking. If corrosion and wear are found during the inspections mandated by this AD, normal maintenance procedures governed by existing regulations which require appropriate corrective action will ensure the airworthiness of the airplane. The FAA has included a note in the final rule to advise the operators of their responsibility under existing regulations.

One commenter suggested that the body of this AD be expanded to include the DC-9/MD-80 Structural Repair Manual as a recognized source of FAA-approved data for specific repairs when

applicable. The FAA does not concur. The FAA considers this proposed change unnecessary, because the Structural Repair Manual is a part of the type design and is a source of FAA-approved data for specific repairs.

Two commenters objected to the required installation of the hydraulically operated thrust reverser door latches in accordance with S/B 78–38 because the cost of the modification is high. One commenter stated the cost would be $125,287 per airplane, the other stated the cost would be $7.4 million. Further, these commenters suggested that the requirement is unnecessary, due to the fact that the Model DC–9 thrust reversers have operated for many years without incident with the currently configured mechanically-operated door latches installed. The FAA does not concur with the commenters. The FAA has determined that the installation of the hydraulic latches will prevent the departure of the thrust reverser door from the airplane. There have been nine reported incidents of departure of the thrust reverser door from the airplane. Upon further investigation, the FAA has identified the accurate cost of this installation to be $64,800 per airplane for the majority (80%) of the fleet and $124,800 per airplane for the remainder of the fleet. In light of the unsafe condition addressed, this amount is not considered exorbitant in order to assure safety.

One commenter suggested that, in lieu of the installation of the hydraulically operated thrust reverser door latches, the rule should require periodic eddy current inspections of the links to detect crack development and/or surface pitting caused by corrosion; or as another alternative, the establishment of a driver link finite service life limit. The FAA does not concur with the inclusion of these alternatives in the final rule, since insufficient data was presented and a detailed analysis could not be accomplished. However, paragraph C. of the final rule provides for the use of alternate means of compliance with this AD.

One commenter requested that the requirement for installation of the hydraulically operated thrust reverser door latches be deferred until Stage III noise hardware is available. This commenter stated that the Stage III noise hardware might possibly make obsolete the hydraulic latch hardware required by the proposed rule. The FAA does not concur and has determined that, due to the unsafe condition addressed, action on this AD must not be delayed until such time that action is completed pertaining to upcoming requirements for Model DC–9 aircraft to meet Stage III noise rules. At this time, the Stage III requirements are not finalized and it is not known whether or not they will impact the requirements of this AD.

One commenter objected to proposed paragraph B. regarding the requirement to accomplish modifications by a calendar date listed in The Document in lieu of four years after the effective date of the AD. The commenter stated that the FAA, the manufacturer, and the Air Transport Association (ATA), as part of the Aging Aircraft Task Force, previously agreed that four years after the effective date of the AD would be an acceptable compliance time for those service bulletins listed in The Document that specify an incorporation threshold of December 31, 1993. The FAA agrees that the compliance time for certain modifications may be revised somewhat without compromising safety. Paragraph B. of the final rule has been revised to require that modifications be accomplished within four years after the effective date of the AD in lieu of the calendar date of December 31, 1993, as is currently specified in The Document. This change also applies to Service Bulletin 57–178, Revision 1, which specifies an incorporation date of December 31, 1991, in The Document. Additionally, Service Bulletin 52–142, which also specifies an incorporation date of December 31, 1991, in The Document, will not be mandated by this AD action, since the manufacturer has advised that it requires further revision; this will be the subject of future rulemaking.

Two commenters expressed concerns over the cost associated with the replacement of the main landing gear attach fitting in accordance with S/B 57–125. Both contended that the existing requirements of AD 80–06–04, Amendment 39–3716, are satisfactory to detect damage prior to the occurrence of an unsafe condition. Both also contended that the selection of the 4-year compliance time was arbitrary. The first commenter requested that the accomplishment of this bulletin be required at the next airframe overhaul ("D" check) or 4 years, whichever is later. The second commenter proposed that, among other things, the terminating modification be required to be accomplished prior to the accumulation of 100,000 landings or 8 calendar years after the effective date of this AD, whichever comes first. The FAA does not concur with either commenter. The FAA has determined that long term continued operational safety will be better assured by actual modification of the airframe to remove the source of the problem where feasible, rather than only by repetitive inspections for known service problems. The FAA has also determined that four years from the effective date of this AD is adequate time to accomplish the required modification and still maintain an acceptable level of safety of the airplane.

One commenter objected to the "NOTE" in proposed paragraph B. regarding the effect of the modifications of the proposed rule upon the inspection requirements of previously issued AD's. This commenter felt that perhaps a more effective way to achieve better communication is to identify those AD's which have "conflicts" with the proposed rule and make the necessary amendment to the previously issued AD's. The FAA disagrees. The note is for clarification purposes only. The FAA knows of no "conflicts" between AD's. Because many different AD's may address different requirements for the same discrepant parts, the process to revise existing AD's would be lengthy and, ultimately, may be more confusing to affected operators.

One commenter noted that the proposed rule called for certain inspections that have not as yet been defined by the manufacturer's service bulletins. The commenter further requested an opportunity to review and/or comment on those inspections, when defined, and the revised service bulletins before they are mandated by AD. The FAA agrees. The FAA has revised the final rule to mandate only those service bulletins whose inspections were defined at the time of publication of the proposed rule and those service bulletins for which McDonnell Douglas records show 100% compliance on the terminating modification. McDonnell Douglas has scheduled verification of their inspection techniques for the outstanding items to be completed by February 1991. At that time McDonnell Douglas Report MDC–K1572 will be further revised to include the revised service bulletins (approximately 25 additional bulletins for Model DC–9 and C–9 (military) series airplanes, and 8 additional bulletins for Model DC–9–80 series and Model MD–88 airplanes). The FAA will consider further rulemaking to address those revised bulletins and/or comment on any proposed new inspections related to the revised service bulletins.

Two commenters provided clarifying information on the economic impact of the proposed rule. The FAA finds this information useful. However, the FAA

has determined that the original estimated costs were based on a different method of calculation and they are presented in a different manner. In addition, the costs have been adjusted to take into consideration the exclusion of the costs associated with 25 Model DC–9 service bulletins (from the original Table 2.1 of The Document) and 8 Model DC–9–80/MD–88 service bulletins (from the original Table 2.2). Consequently, the cost estimate as presented is conservative.

One commenter expressed concern over the FAA's ability to respond to requests for alternate means of compliance; however, no instances where this may be or has been a problem were cited. The FAA considers the existing regulations, policies, and procedures, as well as current manpower and expertise, to be adequate for responding to requests for alternate means of compliance with this AD in a timely manner.

One commenter suggested that FAA Designated Engineering Representatives (DER) at the manufacturer's facility be allowed to approve certain alternate means of compliance with this AD. The FAA does not concur. Airworthiness directives are a primary responsibility of the FAA, and alternate means of compliance must be approved by the Manager, Los Angeles Aircraft Certification Office. This function cannot be delegated to a DER. While DER's are authorized to determine whether an alternative design complies with a specific requirement, they are not authorized to make discretionary determinations regarding the applicable requirements.

One commenter suggested that the wording in proposed paragraph A. be changed from "Within three years after the effective date, unless previously accomplished within the last year, perform inspections for cracks in accordance with * * *" to "Within one repetitive inspection interval after the effective date of this AD, or at the inspection threshold, whichever is later (unless currently being accomplished), begin performing inspections for cracks in accordance with * * *". The commenter reasoned that the revised wording provides an effectivity consistent with the criteria in the referenced McDonnell Douglas report. The FAA agrees. The FAA has made such a wording change in the final rule.

Two commenters expressed concerns over material availability for the completion of the required modifications on their fleets, totalling some 139 Model DC–9 aircraft. The FAA has been assured by the manufacturer it is both committed and prepared to supply necessary parts for the compliance of service action requirements specified in this AD and outlined in The Document. Therefore, operators are urged to contact the manufacturer and to make early arrangements for needed material.

One commenter suggested that in the event the manufacturer is unable to provide necessary parts in time for affected operators to incorporate the required modifications, aircraft should not be put out of service when continued inspections would assure airworthiness. The FAA disagrees. Operators are given at least 4 years to obtain the material and to schedule aircraft for the incorporation of required modifications. The FAA has determined that this is feasible and in line with the decision that long term continued operational safety is best assured by actual modification of the airframe in lieu of repetitive inspections.

One commenter noted that in the Discussion section of the proposed rule, the landing gear was mentioned as requiring modification, but in fact, only one component of the landing gear is affected in The Document. The FAA concurs. However, this fact is self-evident and, therefore, no changes need be made to this AD.

The "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC–K1572, dated September 12, 1989, identified in the Notice has been revised to: (1) Change the calendar date of December 31, 1991, to December 31, 1993; (2) remove those service bulletins that required further development of technical data before they can be implemented to Table 2.3 and 2.4; and (3) change the calendar date of December 31, 1989 to December 31, 1990, in Note 6. The FAA has determined that these changes have no substantial affect on the technical content of the report, and has revised the final rule to reflect the "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC–K1572, Revision A, dated June 1, 1990, as the appropriate service information document.

The FAA recognizes that the aging fleet program will need to be periodically updated as new data is made available. At such time the FAA may consider additional rulemaking to provide for new or revised service bulletins with accompanying changes to inspection times and methods and/or, to provide for alternate means of compliance.

Paragraph C. of the final rule has been revised to specify the current procedure for submitting requests for approval of alternate means of compliance.

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 with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,500 Model DC–9 and C–9 (Military) series airplanes, including Model DC–9–80 series and Model MD–88 airplanes, of the affected design in the worldwide fleet. It is estimated that 568 Model DC–9/C–9 series airplanes and 173 Model DC–9–80/MD–88 series airplanes of U.S. registry will be affected by this AD.

The total cost impact of this AD associated with the Model DC–9 and C–9 (Military) series airplanes is estimated to be $43,224,800 for the initial 4-year time period. This figure is calculated as follows:

a. The cost to inspect each airplane is estimated to be $37,840 over the initial 4-year time period. This figure represents an average of 946 manhours per airplane at a labor charge of $40 per manhour.

b. The cost to modify each airplane is estimated to be $38,260 over the initial 4-year time period. This figure represents $15,140 for the modification kits and $23,120 per airplane for labor to accomplish the required service actions (578 manhours per airplane at $40 per manhour).

The total cost impact of this AD associated with the Model DC–9–80 series airplanes and Model MD–88 airplanes is estimated to be $649,096 for the initial 4-year time perid. This figure is calculated as follows:

a. the cost to inspect each airplane is estimated to be $1,800 over the initial 4-year time period. This figure represents an average of 47 manhours per airplane at a labor charge of $40 per manhour.

b. The cost to modify each airplane is estimated to be $1,872 over the initial 4-year time period. This figure represents $752 for the modification kits and $1,120 per airplane for labor to accomplish the required service actions (28 manhours per airplane at $40 per manhour).

Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $43,873,896 over the initial 4-year time period. It does not include impact due to inflation, nor the cost of inspections, downtime, planning, set up, familiarization, or tool acquisition.

Additional airplanes will be affected as they accumulate time-in-service and reach the threshold for modification.

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, Incorporation by reference.

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:

McDonnell Douglas: Applies to Model DC–9 and C–9 (Military) series airplanes, including Model DC–9–80 series and Model MD–88 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural failure, accomplish the following:

A. Within the threshold for inspections specified in the service bulletins listed in Table 2.1 or Table 2.2, as applicable, of "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC–K1572, Revision A, dated June 1, 1990 (hereinafter referred to as "The Document"), or within one repetitive inspection period specified in those service bulletins after the effective date of this AD, whichever is later, inspect for cracks in accordance with those service bulletins. Repeat these inspections at intervals specified in the service bulletins listed in Table 2.1 or Table 2.2, as applicable, of The Document.

1. If cracks are found during any inspection, prior to further flight, either accomplish the terminating modification in accordance with paragraph B. of this AD, or repair in accordance with data approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: Detection of discrepancies other than cracking necessitates appropriate corrective action in accordance with the provisions of Part 43 of the Federal Aviation Regulations (FAR).

2. Modification in accordance with paragraph B. of this AD terminates the individual inspection requirements of the applicable service bulletin.

B. Prior to reaching the incorporation thresholds listed in Table 2.1 or Table 2.2, as applicable, of The Document, or within 4 years after the effective date of this AD, whichever occurs later, accomplish the structural modifications specified in the service bulletins listed in Table 2.1 or Table 2.2, as applicable, of The Document.

Note: The modifications required by this paragraph do not terminate the inspection requirements of any other AD unless that AD specifies that any such modification constitutes terminating action for those specified inspection requirements.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

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

The inspections and modifications shall be done in accordance with the "DC–9/MD–80 Aging Aircraft Service Action Requirements Document," McDonnell Douglas Report No. MDC–K1572, Revision A, dated June 1, 1990, which incorporates the following list of affected pages:

Page No.	Revision	Date
i	A	June 1, 1990.
ii	Original	September 12, 1989.
iii–vi	A	June 1, 1990.
1–36	A	June 1, 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1–HCO (54–60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC.

This amendment becomes effective September 24, 1990.

Issued in Renton, Washington, on August 6, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–19999 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

[Docket No. 18334; Amdt. No. 91–219]

RIN 2120–AA13

Revision of General Operating and Flight Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; amendment.

SUMMARY: On August 18, 1989, the FAA issued a final rule which reorganized and realigned the general operating and flight rules to make the rules easier to use. This action amends that rule to add language that was inadvertently omitted in that final rule. This rulemaking action is necessary to correct the final rule issued on August 7, 1989, and to clarify regulatory requirements.

EFFECTIVE DATE: August 24, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. William Davis, Air Traffic Rules Branch, ATP–230, Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–200, 800 Independence Avenue SW.,

Washington, DC 20591, or by calling (202) 267-3484. Requests must include the amendment number identified in this final rule. Persons interested in being placed on a mailing list for future rulemaking actions should request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the applicable procedure

Background

When Amendment No. 91-211 [Docket No. 18334) was published in the Federal Register on August 18, 1989 (54 FR 34282), certain text of the existing rule (formerly § 91.70) was inadvertently omitted. To restore the text to its intended form, it is necessary to correct this error.

This final rule amends § 91.117 (effective August 18, 1990) by adding language which was inadvertently omitted from the text published on August 18, 1989. This amendment does not alter the substantive provisions of the former § 91.70(a), and which the FAA intended to recodify as § 91.117(a) without change.

Need for Immediate Adoption

Since this amendment only corrects a publication error and does not substantively amend agency regulations, this action is a minor editorial amendment in which the public would not be particularly interested. Accordingly, I find that notice and public comment procedures are unnecessary. I further find that good cause exists for making the amendment effective in less than 30 days to eliminate ambiguity in published agency regulations as soon as possible.

Conclusion

This amendment is an editorial correction. The action incorporates language that was inadvertently omitted in a final rule which reorganized and realigned the general operating and flight rules to make the rules easier to use. The FAA has determined that this regulation is not major under Executive Order 12291. In addition, the FAA certifies that this regulation 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. This regulation is not considered significant under DOT Regulatory Policies and Procedures [44 FR 11034; February 26, 1979).

List of Subjects in Part 91

Air traffic control, Aviation safety, Flight visibility, Terminal control areas, Visual flight rules corridor.

The Amendment

For the reasons set forth above, part 91 of the Federal Aviation Regulations (14 CFR part 91) is amended as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

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

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 [as amended by Pub. L. 100-223) through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; Pub. L. 100-202; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

2. Section 91.117(a) is revised to read as follows:

§ 91.117 Aircraft speed.

(a) Unless otherwise authorized by the Administrator, no person may operate an aircraft below 10,000 feet MSL at an indicated airspeed of more than 250 knots (288 m.p.h.).

* * * * *

Issued in Washington, DC on August 17, 1990.

James B. Busey,

Administrator.

[FR Doc. 90-20002 Filed 8-23-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM90-13-000; Order No. 526]

Interim Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates

August 17, 1990.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim Rule; Notice of OMB control number.

SUMMARY: On August 2, 1990, the Commission issued an interim rule in Docket No. RM90-13-000, 55 FR 33,002 (Aug. 13, 1990), which adopted a revised interpretation of the "on behalf of" standard in section 311 of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432, and regulatory amendments to permit interstate pipelines to convert non-qualifying section 311 transportation services to blanket certificate authorization. This notice indicates that the OMB has approved the information collection provisions in this docket.

EFFECTIVE DATE: August 13, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Murrell, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-1109.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulations, 5 CFR part 1320 (1990), require that OMB approve certain information collection requirements imposed by agency rules. On August 13, 1990, the OMB approved the information collection requirements contained in Docket No. RM90-13-000 under OMB Control Number 1902-0160. The information collection provisions in Docket No. RM90-13-000 are effective through November 30, 1990.

In consideration of the foregoing, the Commission amends part 389, chapter I, title 18 of the Code of Federal Regulations as set forth below.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 389 is revised to read as follows:

Authority: 44 U.S.C. 3501-3520.

§ 389.101 [Amended]

2. In § 389.101, paragraph (b) is amended by inserting "284.223" in the Section Column and inserting "0160" in the corresponding OMB Control Number Column.

Linwood A Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19931 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 389

[Docket No. RM90-14-000; Order No. 525]

Interim Revisions to Regulations Governing Construction of Facilities Pursuant to NGPA Section 311 and Replacement of Facilities

August 17, 1990.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule; notice of OMB control number.

SUMMARY: On August 2, 1990, the Commission issued an interim rule in Order No. 525, 55 FR 33,011 (Aug. 13, 1990), which requires interstate pipelines to provide notification to the Commission of construction of facilities pursuant to section 311 of the Natural Gas Policy Act, or the planned replacement of facilities pursuant to § 2.55(b) of the Commission's regulations at least 30 days prior to commencement of any construction or replacement activity. This notice indicates that the OMB has approved the information collection provisions in Order No. 525.

EFFECTIVE DATE: August 13, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Murrell, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–1109.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulations, 5 CFR part 1320 (1990), require that OMB approve certain information collection requirements imposed by agency rules. On August 13, 1990, the OMB approved the information collection requirements contained in Order No. 525 under OMB Control Number 1902-0161. The information collection provisions in Order No. 525 are effective through November 30, 1990.

In consideration of the foregoing, the Commission amends part 389, chapter I, title 18 of the Code of Federal Regulations as set forth below.

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 389 continues to read as follows:

Authority: 44 U.S.C. 3501–3520.

§ 389.101 [Amended]

2. In § 389.101, paragraph (b) is amended by inserting "2.55" in the Section Column and inserting "0161" in the corresponding OMB Control Number Column; and inserting "264.11" in the Section Column and inserting "0161" in the corresponding OMB Control Number Column.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–19932 Filed 8–23–90; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F–0325]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of triisopropanolamine as an optional adjuvant substance in the production of olefin polymers intended for use in contact with food. This action is in response to a petition filed by DuPont Canada, Inc.

DATES: Effective August 24, 1990; written objections and requests for a hearing by September 24, 1990.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 25, 1988 (53 FR 43043), FDA announced that a food additive petition (FAP 8B4104) had been filed by DuPont Canada, Inc., c/o Keller and Heckman, 1150 17th St. NW., Washington, DC 20036, proposing that § 177.1520 Olefin polymers (21 CFR 177.1520) be amended to provide for the safe use of triisopropanolamine as an optional adjuvant substance in the production of olefin polymers intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency finds that the adjuvant additive is specifically intended for use as a Zeigler-Natta-type catalyst deactivator and antioxidant in the production of olefin polymers. The agency also concludes that the proposed food additive use is safe, and that 21 CFR part 177 should be amended as set forth below.

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

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

Any person who will be adversely affected by this regulation may at any time on or before September 24, 1990, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

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

2. Section 177.1520 is amended by alphabetically adding a new entry to the table in paragraph (b) to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(b) * * *

Substance	Limitations
* *	* * *
Triisopropanolamine (CAS Reg. No. 122-20-3).	For use as a Zeigler-Natta-type catalyst deactivator and antioxidant in the production of olefin polymers complying with § 177.1520(c), items 2.1, 2.2, and 2.3, and having a minimum density of 0.94 grams per cubic centimeter, and copolymers complying with § 177.1520(c), items 3.1 and 3.2, for use in contact with all foods under the following conditions of use: (a) films with a maximum thickness of 0.102 millimeter (0.004 inch) may be used under conditions A through H defined in Table 2 of § 176.170(c) of this chapter; and (b) articles with thickness greater than 0.102 millimeter (0.004 inch) may be used under conditions C through G defined in Table 2 of § 176.170(c) of this chapter.
* *	* * *

* * * * *

Dated: August 17, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-19962 Filed 8-23-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Occupational Exposure to Asbestos; Approval of Collection of Information Requirements

AGENCY: Occupational Safety and Health Administration; Labor.

ACTION: Final rule; approval of collection of information requirements.

SUMMARY: On June 20, 1986, OSHA published revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite in general industry and construction (51 FR 22612). On February 2, 1988, the U.S. Court of Appeals for the District of Columbia Circuit upheld the standard in most respects but remanded the case to OSHA on several issues. On February 5, 1990, OSHA published a partial response to the court's remand including promulgating several new regulatory provisions. The Agency sought clearance from the Office of Management and Budget (OMB) on certain information gathering provisions contained in the February 5, 1990 response (55 FR 3724). OSHA has received paperwork clearance for these provisions under OMB clearance numbers 1218-0133 and 1218-0134, respectively. The OMB clearance expires on April 30, 1993.

EFFECTIVE DATE: August 24, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N3637, Washington, DC 20210; telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On June 20, 1986, OSHA published revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite in general industry and construction. In these standards, OSHA reduced the 8-hour time-weighted average (TWA) permissible exposure limit (PEL) to 0.2 f/cc, and established other protective provisions. On February 2, 1988, the Court of Appeals for the District of Columbia upheld most aspects of the standard but remanded the case to OSHA on several issues.

On February 5, 1990 (55 FR 3724), OSHA published a response on certain remand issues including requiring employers to make smoking control program material available. At the same time, OSHA submitted the paperwork provisions in these requirements to the Office of Management and Budget (OMB) for clearance, although the Agency believed that the new provisions did not impose any substantial information gathering burden.

OMB has reviewed the collection of information requirements in the expanded asbestos standard in accordance with the Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 et seq., and 5 CFR part 1320. On May 2, 1990, OMB approved the information collection provisions for three years, the maximum period authorized by the Paperwork Reduction Act. All information requirements contained in 29 CFR 1910.1001(j)(5)(iv)(C) and 29 CFR 1926.58(k)(4)(iii) have received OMB paperwork clearance under OMB clearance numbers 1218-0133 and 1218-0134, respectively. The OMB clearance expires on April 30, 1993.

Authority and Signature

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 4 of the Administrative Procedures Act, 9 U.S.C. 553(d)(3), Secretary of Labor's Order No. 9-83 (48 FR 3576) and 29 CFR part 1911.

Signed at Washington, DC, this 20th day of August, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-19954 Filed 8-23-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

30 CFR Part 935

Ohio Regulatory Program; Bond Release; Correction

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

ACTION: Final rule; correction.

SUMMARY: OSM is correcting a typographical error in the final rule approving Ohio Program Amendment Number 42 published on Friday, July 20, 1990 (55 FR 29569).

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232; Telepohone: (614) 866-9578.

SUPPLEMENTARY INFORMATION: On Page 29570, third column, second full paragraph, third sentence, OAC 1501:13-9-07 should be corrected to read OAC 1501:13-7-09. The corrected sentence reads as follows:

As discussed at finding 1(a) above, however, Ohio's reference to OAC 1501:13-7-09 concerning the Performance Bond Fund cannot be approved at this time because OAC 1501:13-7-09 is currently under review

as part of Ohio proposed Amendment No. 32 and is not part of the approved Ohio program.

Dated: August 17, 1990.

Carl C. Close,

Assistant Director, Eastern Field Operations.

[FR Doc. 90-19967 Filed 8-23-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-65]

Special Local Regulations for Marine Events; Thirty-Fourth Annual Havre de Grace Powerboat Regatta, Susquehanna River, Havre de Grace, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation of 33 CFR 100.510.

SUMMARY: This notice implements 33 CFR 100.510 for the Thirty-fourth Annual Havre de Grace Powerboat Regatta. The event will be held on the Susquehanna River, west of Garrett Island. The special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations in 33 CFR 100.510 are effective for the following periods:

11 a.m. to 7 p.m., August 25, 1990.
11 a.m. to 7 p.m., August 26, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Captain Michael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Susquehanna River Optimist Club has submitted an application on June 15, 1990 to hold the Thirty-fourth Annual Havre de Grace Powerboat Regatta on August 25, and 26, 1990, on the Susquehanna River, west of Garrett Island. The powerboat race will consist of approximately sixty inboard hydroplanes, runabouts, and outboard performance crafts ranging from eight to twenty-three feet in length racing around an oval course. Three to twelve boats will race at once, at speeds up to 140 miles per hour. The races will last from three to four hours. Since this event is of the type contemplated by these regulations and the safety of the participants and spectators viewing this event will be enhanced by the implementation of special local regulations for the Susquehanna River, 33 CFR 100.510 will be in effect. Closure of the entire waterway is not anticipated and marine traffic will be allowed to proceed up the Susquehanna River using that portion of the waterway east of Garrett Island.

Dated: August 16, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 90-20063 Filed 8-23-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD7 90-74]

Special Local Regulations: City of Ft. Lauderdale

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the 13th Annual Ft. Lauderdale Jaycees New River Raft Race Festival. The event will be held on September 9, 1990, from 9 a.m. EDT until 3 p.m. EDT. The regulations are needed to promote the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations will become effective on September 9, 1990, at 8:30 a.m. EDT and terminate on September 9, 1990, at 3:30 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Contact ENS A.M. PALERMO (305) 535-4304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical as there was insufficient time to publish rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LCDR David G. Dickman, Project Attorney, Seventh Coast Guard District Legal Office, and ENS Andrea Palermo, Project Officer, USCG Group Miami.

Discussion of Regulations

The Fort Lauderdale Jaycees will sponsor the 13th Annual Fort Lauderdale Jaycees New River Raft Race Festival. The event is a race involving 125 homemade rafts twelve foot wide in any size length. Regulations are issued by the Commander, Seventh Coast Guard District Miami Florida, as a public service to promote the safety of life on navigable waters.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 USC 1233, 49 CFR 1.46 and 33 CFR 100.35

2. A temporary § 100.35-0706 is added as follows:

§ 100.35-0706 Ft. Lauderdale Jaycees New River Raft Race Festival.

(a) *Regulated Area:* The regulated area will be all navigable waters of the New River starting from the 7th Avenue boat ramp, proceeding east to the new River Light Nr. 2 (LLNR 4146) and returning to the point of origin.

(b) *Special Local Regulations:* (1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(c) *Effective Date:* These regulations become effective on September 9, 1990, from 8:30 a.m. EDT and terminate on September 9, 1990, at 3:30 p.m. EDT.

Dated: August 8, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90–19974 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP Tampa, FL Reg. 90–55]

Safety Zone Regulations; Cut "G" Channel Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard has designated Cut "G" Channel Tampa, Florida as a Safety Zone. This zone is necessary due to the silting in of the cut and the reduction of the navigable channel width from 400 to 200 feet. Vessels restricted to the channel by their draft may not meet or pass at any point in Cut "G" Channel. Vessels with a draft of 29 feet or greater shall transit Cut "G" at a slow speed and with a minimum of two tug boats, of sufficient size to control the vessel's movement, made up to it. Vessels with a draft of 31 feet 9 inches may transit Cut "G" when the height of tide is at or above mean low water. Vessels with drafts greater than 31 feet 9 inches but less than 33 feet may transit Cut "G" when the height of tide plus 31 feet 9 inches is greater than or equal to their draft. Vessels with a draft greater than 33 feet may not transit Tampa Channel Cut "G" under any condition.

EFFECTIVE DATE: This regulation becomes effective on 17 August 1990. It terminates on 31 October 1990 or unless terminated earlier because of channel dredging project progress.

FOR FURTHER INFORMATION CONTACT: LT S.P. Metruck, Coast Guard Marine Safety Office, Tampa, FL. at (813) 228–2189.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making 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 immediate action is required to prevent damage to deep draft vessels and the possible environmental harm caused by pollution from damage.

Drafting Information:

The drafters of this regulation are LT S.P. Metruck, project officer for the Captain of the Port and CDR Robert Bruce, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

This regulation is required due to the silting in of the Cut "G" Channel. This condition has reduced the usable channel width from a project width of 400 feet to 200 feet. A U.S. Army Corps of Engineers survey of the cut, completed on 18 May 1990, and a meeting with the Tampa Bay Pilots and interested Cut "G" users, on 21 May 1990, have demonstrated the need for these restrictions. Concern that a grounding or collision could result in damage to vessels and result in the release of oil or chemicals in an environmentally sensitive area makes immediate action necessary.

Federalism

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

Economic Assessment and Certification

The regulation should have little economic impact due to the low commercial traffic load in Cut "G" Channel Tampa Bay Florida. Vessels affected include tank and freight vessels calling on Port Tampa and a Florida Power Corporation power plant.

List of Subjects in 33 CFR Part 165

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

Regulation

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

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.

2. A new § 165.T07–90–55 is added to read as follows:

§165.T07–90–55 Safety Zone: Cut "G" Channel Tampa Bay Florida.

(a) *Location.* The following is a safety zone: Cut "G" Channel Tampa, Florida.

(b) *Effective date*: This regulation becomes effective on 17 August 1990. It terminates on 31 October 1990 or unless terminated earlier because of channel dredging project progress.

(c) *Regulations*: In accordance with the general regulations in 165.23 of this part:

(1) Vessels restricted to the channel by their draft may not meet or pass at any point in Cut "G" Channel.

(2) Vessels with a draft of 29 feet or greater shall transit Cut "G" at a slow speed and with a minimum of two tug boats, of sufficient size to control the vessel's movement, made up to it.

(3) Vessels with a draft of 31 feet 9 inches may transit Cut "G" when the height of tide is at or above mean low water.

(4) Vessels with drafts greater than 31 feet 9 inches but less than 33 feet may transit Cut "G" when the height of tide plus 31 feet 9 inches is greater than or equal to their draft.

(5) Vessels with a draft greater than 33 feet may not transit Tampa Channel Cut "G" under any condition.

Dated: August 17, 1990.

M.J. Schiro,

Captain, U.S. Coast Guard, Captain of the Port, Tampa, Florida.

[FR Doc. 90–19949 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–1W–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–3824–1]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental protection Agency.

ACTION: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for certain solid wastes generated by the State of Arkansas Department of Pollution Control and Ecology (ADPC&E) at the Vertac Superfund site near Jacksonville, Arkansas. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 268, 124, 270, and 271 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

EFFECTIVE DATES: August 24, 1990.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M

Street, SW. (Room M2427), Washington DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–90–ADEF–FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Dr. Robert Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–4788.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine: (1) That the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of the Rulemaking

ADPC&E petitioned the Agency to exclude from hazardous waste control specific wastes that it intends to generate. After evaluating the petition, EPA proposed, on April 11, 1990, to exclude ADPC&E's wastes from the lists of hazardous waste under 40 CFR 261.31 and 261.32 conditional upon ADPC&E meeting certain sampling, analysis and reporting requirements (see 55 FR 13556).

ADPC&E petitioned the Agency for an "upfront" exclusion. A petitioner requests an upfront exclusion for wastes that have not yet been generated or that will be subject to further treatment. When treatment is planned, an upfront delisting petition requests that an exclusion be granted based on untreated waste characteristics, pilot-scale treatment data, if available, and process descriptions. As a condition of an upfront exclusion, the Agency may impose batch testing requiremens which often include analytical testing of representative samples obtained from the full-scale system. These data can be used to verify that the treatment system, once on-line, is operating as described in the petition. The Agency may also specify verification testing limitations (*i.e.*, the maximum allowable levels of hazardous constituents of concern in the waste) in the conditions of the granted exclusion. When the actual concentrations of the constituents of concern are below these levels, the waste will not be considered hazardous. If the actual concentrations of the constituents are above these levels, the waste is still considered to be hazardous and must be retreated or disposed in accordance with RCRA Subtitle C requirements.

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant ADPC&E's petition.

II. Disposition of Delisting Petition

A. Arkansas Department of Pollution Control and Ecology, Jacksonville, AR

1. Proposed Exclusion

The State of Arkansas Department of Pollution Control and Ecology (ADPC&E) petitioned the Agency to exclude from identification as hazardous waste those by-products, kiln and cyclone ash, and calcium chloride salts and excess lime, generated during the operation of a proposed incinerator system on wastes at the Vertac site. These wastes, when generated by the incinerator, would be covered by the F020 and F023 listings (F020—"Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol)"; and F023—"Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) or tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol)") because they are derived from treating waste covered by those listing descriptions. The F020 and F023 wastes were listed because they contain tetra- and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amine and other salts (see 40 CFR 261, appendix VII). ADPC&E believes that the proposed treatment process will reduce the constituents of concern (and any other hazardous constituents) to non-hazardous levels.

In support of its petition ADPC&E submitted: (1) A detailed description of the manufacturing processes which generated the drummed wastes and the proposed incineration process; (2) a list of all the raw materials used in the manufacturing processes; (3) a list of materials to be incinerated; (4) the generic composition of the wastes to be incinerated based upon data developed by Vertac. amd analyses of the 2,4,5–T waste for the demonstration test burn at the Combustion Research Facility (CRF); (5) a list of 40 CFR part 261, appendix VIII constituents expected to be present in the wastes to be incinerated; (6) the quantity of by-products (the petitioned wastes) expected to be generated by the incineration process; (7) a theoretical list of 40 CFR part 261, Appendix VIII constituents for analysis in the incineration by-products; and (8) the proposed sampling plan for testing the incineration by-products. Since ADPC&E's petition was based on a proposed incineration system, the Agency used the vertical and horizontal spread (VHS) landfill model to establish verification testing limitation (*i.e.*, maximum allowable levels) for the hazardous constituents in the waste to be generated from the full-scale incineration system. The proposed exclusion set maximum constituent concentrations permissible in the wastes generated from the full-scale process and established testing conditions to verify that the levels of hazardous constituents in the petitioned wastes do not exceed permissible levels. The verification testing condition attached to the exclusion is designed to ensure that these constituents will not be present in the petitioned wastes above the health-based levels used in delisting decison-making.

The Agency believes that a properly designed and operated incineration system will significantly reduce the volume and toxicity of untreated, acutely hazardous wastes presently stored on the Vertac site. The Agency believes that daily sampling of the petitioned wastes initially generated by the incinerator will reflect the day-to-day variations in the composition of the untreated wastes entering the incinerator. Therefore, the Agency is requiring that the petitioner obtain and analyze twenty-four hour composite samples of each of the ash and salt

residues generated during the following time periods: (1) Incineration by-products generated from 2,4–D wastes prior to and during the incinerator's trial burn; (ii) by-products from the incineration of 2,4–D wastes for one week (or seven days if incineration is not on consecutive days) after completion of the trial burn; (iii) by-products from the incineration of blended 2,4–D and 2,4,5–T wastes for two weeks (or fourteen days if incineration is not on consecutive days) after completion of the trial burn; and (iv) by-products from the incineration of blended 2,4–D and 2,4,5–T wastes for one week (or the first seven days if incineration is not on consecutive days) if the percentage of 2,4,5–T wastes exceeds the percentage previously incinerated under the preceding condition. These samples will be collected and analyzed on a daily basis to ensure that the incinerator effectively handles the potential variation in constituent concentrations. After the completion of the first weeks of incineration of either of the two primary wastes, the petitioner will be required to analyze weekly composites of the by-products from the incineration of the Vertac drummed wastes to ensure their continued effective incineration. See 55 FR 13556, April 11, 1990, for a detailed explanation of EPA's proposal to grant ADPC&E's petition.

2. Agency Response to Public Comments

The Agency received public comments from the three commenters, one supporting the proposed rule, and two with comments opposing the exclusion of the petitioned wastes (and against the siting of the incinerator at the Vertac site). The comments submitted related to the following areas:

- Technical corrections
- Notice and comment
- Hazards to human health and welfare
- Use of pilot-scale data
- Appropriateness of upfront exclusion
- Testing provisions
- Exclusion criteria

Technical corrections. The petitioner submitted several corrections to information published in the proposed rule, and additional information describing the incinerator that was not available at the time of proposal. The corrections are summarized below:

- In Table 4 of section II.3, Materials to be Incinerated, 2,4,5–Tshould be 2,4,6–T.
- In Table 4 of section II.3, Solvents (toluene, heptane) were present in the waste at 4 percent.

The petitioner submitted additional information pertaining to the design and operation of the incineration system that had been finalized since the submittal of the delisting petition. Based on its review of this information (which is available in the RCRA public docket for today's notice), the Agency believes that the incineration system is relatively unchanged and is capable of treating the VERTAC wastes such that the delisting criteria are met.

Notice and comment. One commenter expressed concern that the public was not notified of the petition submittal prior to publication of the proposed exclusion in the Federal Register. The Agency, however, has complied with the appropriate public participation requirements for RCRA rulemaking, *i.e.*, EPA invited and considered written comments on the proposed rule pursuant to section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and provided an opportunity for requests for public hearings (see 40 CFR 25.10). The commenter did not request an extension of the comment period and did not request that a public hearing be held on the proposed exclusion. The Agency thus believes that adequate notice and opportunity for comment was provided.

Hazards to human health and welfare. This same commenter strongly opposed the proposed exclusion of the incinerator residues, claiming that such an exclusion would give the petitioner authority to ignore "serious hazard to human health and welfare." The Agency disagrees with the commenter for a number of reasons. First, one of the commenter's primary concerns appears to be with the safety associated with the incineration technology to be employed at the Vertac site. While the siting and operation of the incinerator is not contingent on the disposition of the delisting petition, the Agency notes that, under Superfund, the incinerator is subject to all applicable, relevant, and appropriate requirements (ARARs) established under other statutes, which, in the case of this unit, include the full RCRA subtitle C requirements for permitted incinerators, including the additional requirements associated with the treatment of dioxin-listed wastes. The controls and operating conditions placed on the incinerator by the part 264 standards are significant, and are designed to minimize risks and maximize safety. (The Agency also notes that the appropriate forum for concerns regarding the selection of this remedy and siting of the incinerator is the public participation process provided by the Superfund program.)

Secondly, with respect to the incineration by-products themselves, the Agency believes that the proposed testing requirements and delisting levels are quite protective, and have been designed to ensure that representative samples of the petitioned wastes are adequately characterized. Thus, the Agency believes that any wastes meeting the delisting conditions should be non-hazardous and may be managed safely in accordance with subtitle D requirements.

The Agency also believes that the weekly monitoring provisions described in the proposal (Condition (1B)) will ensure that the petitioner continues to monitor the wastes for any constituents of concern throughout the duration of the incinaration program. In addition, the Agency believes that the risks associated with the untreated wastes that are currently managed in deteriorating drums will be significantly reduced through the proposed incineration program. The operating and delisting conditions placed on the incineration process were designed to ensure that this program is protective of human health and the environment.

Use of pilot-scale data. One commenter raised the concern that the exclusion decision was based on the pilot-scale data generated at EPA's Combustion Research Facility (CRF). The Agency notes that, in 1985, EPA conducted test burns on the Vertac toluene distillation bottoms from 2,4,5-trichlorophenol production demonstrating that 99.9999 percent destruction and removal efficiencies (DREs) (see 40 CFR § 264.343) could be achieved for this waste. Analytical data for residues generated by the CRF burns demonstrated that the dioxin and furan compounds were not detectable. The Agency referenced the report describing these test burns in the proposed exclusion for ADPC&E. The commenter's specific concerns about the CRF data included (1) The pilot-scale nature of this test burn, (2) dissimilarities between the CRF incinerator and the ADPC&E unit, and (3) uncertainties about the waste incinerated by CRF. Another commenter expressed concern that the Agency cited the results of pilot-scale incineration as evidence that a DRE of 99.9999 percent can be achieved by ADPC&E for the Vertac waste.

As noted in previous rulemaking, the Agency believes that incineration technologies are not generally matrix-dependent, and can effectively treat chlorinated dibenzo-dioxins and furans. For example, see the final land disposal restrictions rule published on June 1, 1990 (55 FR 22581). In that rule, the Agency indicated that incineration can achieve equivalent levels of treatment for organic constituents in liquid and solid forms of F024 wastes containing

chlorinated dibenzo-dioxins and furans (as in the ADPC&E's petitioned wastes).

As stated in the proposed exclusion and previously in today's notice, the Agency's decision to grant an upfront exclusion for wastes that have not yet been generated or that will be subject to further treatment is based on the untreated wastes characteristics, pilot-scale treatment data, if available, and process descriptions. As with ADPC&E's petition, the Agency relies on the conditional testing requirements of the exclusion to assess whether the petitioned wastes, generated by the full-scale process, meet the delisting criteria. The Agency believes that, in support of a petition for an upfront exclusion, successful bench- or pilot-scale data can be used as an indicator of the likely effectiveness of full-scale operations. (In fact, one of the primary purposes of sub-scale studies is to predict the feasibility of large-scale efforts.) The Agency thus chose to consider the pilot-scale data generated at CRF in its review of ADPC&E's petition.[1]

In response to the commenter's concern regarding the identification of the waste treated in the CRF study, the waste treated by CRF was the Vertac 2,4,5-trichlorophenol toluene distillation bottoms.[2] This waste, as illustrated in the waste characterization data presented in the proposal (see 55 FR 13559, Tables 2 and 3), is the primary source of dioxins in the wastes to be incinerated by ADPC&E. The successful treatment of this waste, despite high levels of dioxins and dioxin precursors (2,4,5-trichlorophenol and related compounds), suggests that the petitioned waste (which includes waste with much lower levels of such compounds) can be successfully treated by incineration. Thus, although the differences between the pilot-scale and full-scale incinerators preclude the Agency from basing the exclusion decision solely on the pilot-scale data, the Agency believes that the pilot-scale results support the decision to conditionally exclude ADPC&E's petitioned wastes.

Appropriateness of upfront exclusion. One commenter stated that the actual content of some of the waste drums to be fed to the incinerator is unknown or disputed, and, because there is no requirement to analyze the untreated wastes prior to incineration, the incineration by-products may contain hazardous constituents that were not detected in the CRF tests. The commenter then argued that the exclusion should not be finalized until the results of actual incineration by-product analyses were available.

The Agency believes that the commenter is essentially arguing that the ADPC&E exclusion should not be granted as an upfront exclusion. The Agency would like to clarify that, as stated in Condition (2) of the exclusion, the incineration by-products cannot be disposed as non-hazardous until the results of the daily or weekly analysis confirm that the delisting criteria have been met. In response to the commenter's concern, however, the Agency has carefully evaluated the data submitted by ADPC&E describing the drums to be incinerated and the historical manufacturing practices by Vertac at this site. The petitioner has certified that the materials in the drums of concern were solely from the production of 2,4,5–T and 2,4–D; no other pesticides or intermediates were manufactured at this site. The petitioner provided a detailed analysis of the reagents used in the manufacture of these two products, as well as an analysis of the process chemistry and potential toxic by-products that could be present in the drummed wastes. The Agency therefore believes that, while the inventory of the drummed wastes may be in some cases incomplete, there is no reason to believe that the drums contain any contaminants that did not originate in the 2,4,5–T or 2,4–D production processes. Furthermore, the Agency believes that the conditions of the exclusion will measure any likely variability in the incineration by-products.

Testing provisions. Two commenters believed that daily testing for the first month of operations is inadequate and proposed that daily or random, short interval testing continue for the duration of the incinerator's operation. In response, the Agency notes that the proposed (and final) exclusion includes weekly testing provisions that become effective once the daily testing provisions are met. Therefore, testing of the incineration residues will continue, on a weekly basis, for the duration of the incineration schedule. However, the Agency has carefully evaluated these comments and the comments submitted by ADPC&E, and has revised the testing conditions slightly.

ADPC&E submitted comments describing the incineration schedule, which indicate that a shakedown period of up to 360 hours will occur before the trial burn to document operating conditions using 2,4–D wastes. ADPC&E indicated that, once the trial burn is completed, 2,4–D wastes will be fed to the incinerator for four to six weeks before 2,4,5–T wastes are blended and burned with the 2,4–D wastes. All residues will be clearly identified and stored. The State requested that the month-long verification testing provisions be reduced in light of this schedule (and the potential 360 hours of pre-trial burn incineration) because the State believes the operating schedule will ensure that the operators will be well versed in the operation of the unit when the 2,4,5–T wastes (which are the primary source of dioxin in the materials to be treated) are fed to the incinerator.[3] The State also suggested that if the four week testing provisions are retained, that the Agency should specify the wastes to be treated during that period.

In response to those comments, the Agency is finalizing the exclusion with slight modifications to the initial testing provisions to ensure that daily testing occur during the periods of greatest potential variability and to incorporate more specific directions regarding the waste mix to be fed to the incinerator during the initial testing period.

As discussed in the proposal, the conditions of the verification or initial testing period are designed to carefully monitor the effectiveness of the incinerator during the period of time subject to the greatest potential variability (*i.e.*, during the "shakedown" period when operators fine-tune the operation). The Agency believes that the initial verification testing requirements will provide an adequate base of information on the efficacy of the incinerator to support the exclusion of the wastes. This type of information is necessary because the exclusion is "upfront", for a process and residues that have not been characterized completely prior to the development of these data. The Agency believes that it is unnecessary to require daily testing

[1] The Agency acknowledges that differences between full- and sub-scale operations can result in differences in full- and sub-scale treatment residue characteristics. As well, the Agency recognizes that the incineration systems for the CRF and the Vertac site do differ. For these reasons, the Agency has consistently required verification data as conditions of exclusions for these types of petitions.

[2] *Pilot-Scale Incineration Test Burn of TCDD-Contaminated Trichlorophenol Production Waste.* Acurex Corporation, Environmental Systems Division, Combustion Research Facility for U.S. EPA, Hazardous Waste Engineering Research Laboratory. December 1986. Available in the RCRA public docket for the proposed rule.

[3] The commenter referred to the Syntex and canceled pesticides exclusions (see 53 FR 20103, June 2, 1988, and 53 FR 7903, March 11, 1988, respectively) which did not include the one-month testing period. It was not necessary to require this degree of testing for these exclusions because the incinerator had been characterized extensively previously and the materials to be burned were better characterized than the Vertac site wastes. In the case of the Syntex sludge, the untreated waste itself was shown to be quite homogenous.

throughout the duration of the incineration process, and that weekly testing, as described in Condition (1B) of the exclusion, should be adequate to confirm that the incineration residues continue to meet the exclusion criteria.

The Agency agrees with ADPC&E that specific wastes should be incinerated during the initial testing period to ensure that the incinerator is able to adequately treat the full range of contaminants and concentrations that may be encountered during the incineration of the Vertac site wastes. However, the Agency also believes that daily testing is required of all incineration residues generated prior to the trial burn. This is in keeping with the Agency's goal of most carefully monitoring residues generated during incinerator shakedown periods where the residues are most likely to exhibit variability due to fluctuating operating conditions.[4] Thus the agency has modified the initial testing provisions to require (1) daily testing of incineration by-products generated prior to and during the trial burn, (2) one week of daily testing for the incineration by-products generated from the 2,4–D wastes after the trial burn, and (3) two additional weeks of daily testing of the by-products from the blended 2,4–D and 2,4,5–T wastes. Subsequent to these daily testing requirements which comprise the initial testing period, ADPC&E must collect and analyze weekly composites (under Condition (1B)) to ensure that the by-products generated throughout the incineration process are adequately treated and meet the exclusion criteria. As described in the proposal and Condition (2) of the final exclusion, each batch of by-products must be stored on-site until the results of the required daily or weekly analyses confirm that that batch meets the exclusion criteria.

In addition to the daily testing requirements for the shakedown and trial-burns with the 2,4–D wastes, the Agency is specifying one additional week of daily testing for the 2,4–D incineration by-products after completion of the trial burn, and an additional two weeks of daily testing for the blended 2,4–D and 2,4,5–T incineration by-products. These specifications are in response to the State's request that the Agency specify the incineration by-products to be tested during the initial testing period and are reasonable based on the schedule for incineration submitted by the State. The one additonal week of daily 2,4–D by-product testing will supplement the testing results collected before and during the trial burn. The Agency believes that this extended testing for the 2,4–D wastes is appropriate because these wastes represent the majority of the wastes that will be generated during the incinerator's operations (see Table 1, 55 FR 13559, April 11, 1990).

Also in response to the commenter's concern regarding the identification of incinerator feeds during the initial testing period, the Agency is providing further direction in the exclusion conditions. The two weeks of additional daily testing for the blended 2,4–D and 2,4,5–T incineration by-products will demonstrate the petitioner's ability to treat the wastes with the highest concentrations of dioxins to non-hazardous levels. The terms of the exclusion specify that the petitioner may not blend higher percentages of 2,4,5–T wastes after the initial testing period that are higher than the highest percentage treated during the verification period, unless daily testing is resumed (or the resultant by-products are managed as hazardous). The resumed daily testing of the by-products from the incineration of the blended wastes must continue for one week, after which weekly testing will be required.

One commenter requesting the extended daily testing requirements believed that this was necessary to avert threats to the community of Jacksonville. The Agency believes that, due to the controls described above that will be placed on the incinerator and the delisting criteria, the incineration process itself will be safe, the residues (upon meeting the delisting criteria) will be safe for subtitle D management, and the risks posed to the Jacksonville community reduced significantly due to the treatment of the drummed wastes.

Exclusion criteria. One commenter argued that the delisting levels for lead (as well as the other inorganic constituents of concern) specified in Condition (3) are too low because they are lower than comparable levels listed in the Syntex and canceled pesticides exclusions (see 53 FR 20103, June 2, 1988, and 53 FR 7903, March 11, 1988, respectively), as well as the levels listed in the characteristic of Extraction Procedure (EP) toxicity (40 CFR 261.24). The Agency disagrees with these comments and has not modified the delisting levels specified for the inorganic constituents. The exclusion levels for the Syntex and canceled pesticides exclusions were derived, as the ADPC&E exclusion levls were, from the vertical and horizontal spread (VHS) model. This model, described in the delisting program docket (see also 50 FR 48896, November 27, 1985), consists of a number of generic assumptions about a reasonable worst-case disposal scenario (such as landfill dimensions, distance to drinking water well, *etc.*) and waste-specific criteria, including volume and toxicant concentrations. The VHS model establishes a range of dilution factors which suggest that a large volume of waste exhibiting a particular extract level could be considered hazardous, while a smaller volume of the same waste could be considered non-hazardous (see also 52 FR 33441). Because the waste volumes of the three petitions vary, delisting levels of concern for inorganic constituents in these wastes also vary.

The Agency also believes that it is inappropriate to compare delisting levels to the EP levels. The EP levels represent concentrations at which wastes clearly exhibit hazardous characteristics, while delisting levels represent those concentrations at which a waste can be exempted from the hazardous waste management system and managed as a Subtitle D waste. Thus, the Agency believes that it is logical that the ADPC&E exclusion levels are lower than the EP levels.

One commenter argued that the proposed maximum allowable levels for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) equivalents are much lower than levels established by the Agency for Toxic Substances and Disease Registry (ATSDR) for TCDD in residential soils (1.0 part per billion or ppb). The major differences between the ATSDR approach and the VHS model are summarized below:

- ATSDR used a significantly different unit cancer risk (a factor used to compute a regulatory dose) from that used by EPA to set the TCDD health-based regulatory level. Because the ATSDR unit risk factor is lower, a higher concentration could be set for the same degree of overall risk than if EPA's factor were used.
- The ATSDR approach considers exposures to dioxin contaminated soil via ingestion, dermal absorption, and inhalation, while the VHS model considers ingestion of ground water.
- The ATSDR analysis was originally meant to specify acceptable levels of contamination which have become fixed to residential soils. The ADPC&E delisting levels determined by the VHS model represent waste concentrations.

The 1 ppb action level for residential soils recommended by ATSDR

[4] The Agency notes that if the State finds that these testing provisions are too burdensome for the pre-trial burn period, that the incineration by-products can alternatively be managed as hazardous without daily testing. In other words, the testing provisions are only required if the petitioner wishes to demonstrate that the residues meet the terms of the exclusion in order to manage them as non-hazardous wastes.

corresponds to an acceptable dose level of 636 femtograms/kilogram/day (fg/kg/day). ATSDR calculated that the Virtually Safe Dose (equivalent to a cancer risk of 10^{-6}) for dioxin falls within the range of 28 fg/kg/day to 1,428 fg/kg/day, but justified the chosen value of 636 fg/kg/day as acceptable in the context of their specific analysis. If the unit cancer risk of 6.4 fg/kg/day calculated by EPA (Health Assessment Document for Polychlorinated Dibenzo-p-dioxins, U.S. EPA, 1985) is used in the methodology presented by ATSDR, the resultant "action level" would be about 100-fold less than the 1 ppb level, i.e., on the order of 10 ppt (see the docket for the final Syntex exclusion, published on June 2, 1988, 53 FR 20103, for the calculations supporting this estimation). Despite the numerous differences in the exposure scenarios and modeling approaches, this level is not significantly different from the levels of concern for ADPC&E predicted by the Delisting Program's models. Additional discussion of the Agency's use of the VHS and organic leachate models to derive maximum allowable levels for TCDD can be found in the final Syntex exclusion (see 53 FR 20106–20107, June 2, 1988).

The commenter also suggested that the Agency should consider mass balance considerations when establishing TCDD exclusion levels. The Agency hesitates to adopt this approach for a number of reasons. First, while the petitioner has certified that the drummed wastes to be incinerated originate solely from the production of 2,4–D and 2,4,5–T, full waste characterization data for the untreated wastes do not exist. Thus there is inadequate data upon which to base a mass balance demonstration. Secondly, chlorinated dioxins and furans are known to be products of incomplete combustion for halogenated incineration feedstocks (Health Assessment Document for Polychlorinated Dibenzo-p-dioxins, U.S. EPA, 1985). It is, therefore, not feasible to conduct a mass balance demonstration on the incineration by-products.

One commenter believed that 2,4,5–TCP and 2,4,5–T should be included in the analysis because they are major components of the wastes to be incinerated, and their inclusion will ensure the public that their destruction is occurring. The Agency concurs and has included these constituents in the testing parameters.

The same commenter added that the detection limits required for many of the organic constituents are less than the Superfund Contract Lab Program (CLP) detection limits for gas chromatography/mass spectrometry (GCMS). The Agency is clarifying that the levels which the petitioner is referring to are maximum allowable levels in the wastes above which the wastes would be hazardous (see Condition (3)), and were not meant to represent detection limits. In general, petitioners must use SW–846 methodologies and are expected to achieve detection limits that are in line with the practical quantitation limits listed in SW–846. Deviations from SW–846 guidelines should be explained in petition submittals. As specified in Condition (3C), ADPC&E must use a high resolution analytical method (Method 8290) for the dioxin and furan analyses and must achieve certain practical quantification limits. This condition was deemed necessary given the extremely low levels of concern for TCDD equivalents, and because Method 8290, while in use for several years, is not yet formally incorporated into SW 846.

The same commenter also argued that 1,1-dichloro-2,2-bis(4-chlorophenylethylene (DDE) and polychlorinated biphenyls (PCBs) are not in the untreated wastes and therefore should not be in the exclusion conditions. The Agency notes, however, that DDE and PCBs have frequently been included in testing criteria for dioxin-contaminated wastes because of the potential for their formation as products of incomplete combustion. The Agency, therefore, is retaining these constituents as part of the testing criteria.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that ADPC&E's incineration by-products generated using the treatment process described in ADPC&E's petition, when subject to the conditional testing requirements specified in the exclusion, should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to the Arkansas Department of Pollution Control and Ecology for by-products generated by its incineration of wastes at the Vertac Superfund Site near Jacksonville, Arkansas, described in its petition as EPA Hazardous Waste Nos. F020 and F023. The exclusion only applies to the processes and waste covered by the original demonstration. The facility would require a new exclusion if the incineration process is significantly altered, such that a change in waste composition occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to ascertain the current status of their wastes under the State law.

IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is

"major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612 whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis, which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2050–0053

VIII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: August 20, 1990.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In table 1 of appendix IX of part 261, add the following wastestream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
Arkansas Department of Pollution Control and Ecology.	Vertac Superfund site, Jacksonville, Arkansas.	Kiln ash, cyclone ash, and calcium chloride salts from incineration of residues (EPA Hazardous Waste No. F020 and F023) generated from the primary production of 2,4,5–T and 2,4–D after August 24, 1990. This one-time exclusion applies only to the incineration of the waste materials described in the petition, and it is conditional upon the data obtained from ADPC&E's full-scale incineration facility. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, ADPC&E must implement a testing program for the petitioned waste. This testing program must meet the following conditions for the exclusion to be valid: (1) *Testing:* Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW–846 methodologies. (A) *Initial testing:* Representative grab samples must be taken from each drum and kiln ash and cyclone ash generated from each 24 hours of operation, and the grab samples composited to form one composite sample of ash for each 24-hour period. Representative grab samples must also be taken from each drum of calcium chloride salts generated from each 24 hours of operation and composited to form one composite sample of calcium chloride salts for each 24-hour period. The initial testing requirements must be fullfilled for the following wastes: (i) Incineration by-products generated prior to and during the incinerator's trial burn; (ii) incineration by-products from the treatment of 2,4–D wastes for one week (or 7 days if incineration is not on consecutive days) after completion of the trial burn; (iii) incineration by-products from the treatment of blended 2,4–D and 2,4, 5–T wastes for two weeks (or 14 days if incineration is not on consecutive days) after completion of the trial burn; and (iv) incineration by-products from the treatment of blended 2,4–D and 2,4,5–T wastes for one week (or 7 days if incineration is not on consecutive days) when the percentage of 2, 4, 5–T wastes exceeds the maximum percentage treated under Condition (1)(A)(iii). Prior to disposal of the residues from each 24-hour sampling period, the daily composite must be analyzed for all the constituents listed in Condition (3). ADPC&E must report the analytical test data, including quality control information, obtained during this initial period no later than 90 days after the start of the operation. (B) *Subsequent testing:* Representative grab samples of each drum of kiln and cyclone ash generated from each week of operation must be composited to form one composite sample of ash for each weekly period. Representative grab samples of each drum of calcium chloride salts generated from each week of operation must also be composited to form one composite sample of calcium chloride salts for each weekly period. Prior to disposal of the residues from each weekly sampling period, the weekly composites must be analyzed for all of the constituents listed in Condition (3). The analytical data, including quality control information, must be compiled and maintained on site for a minimum of three years. These data must be furnished upon request and made available for inspection by any employee or representative of EPA. (2) *Waste holding:* The incineration residues that are generated must be stored as hazardous until the initial verification analyses or subsequent analyses are completed. If the composite incineration residue samples (from either Condition (1)(A) or Condition (1)(B)) do not exceed any of the delisting levels set in Condition (3), the incineration residues corresponding to these samples may be managed and disposed of in accordance with all applicable solid waste regulations.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		If any composite incineration residue sample exceeds any of the delisting levels set in Condition (3), the incineration residues generated during the time period corresponding to this sample must be retreated until they meet these levels (analyses must be repeated) or managed and disposed of in accordance with subtitle C of RCRA. Incineration residues which are generated but for which analysis is not complete or valid must be managed and disposed of in accordance with subtitle C of RCRA, until valid analyses demonstrate that the wastes meet the delisting levels. (3) *Delisting levels:* If concentrations in one or more of the incineration residues for any of the hazardous constituents listed below exceed their respective maximum allowable concentrations also listed below, the batch of failing waste must either be re-treated until it meets these levels or managed and disposed of in accordance with subtitle C of RCRA. (A) Inorganics (Leachable): Arsenic, 0.32 ppm; Barium, 6.3 ppm; Cadmium, 0.06 ppm; Chromium, 0.32 ppm; Cyanide, 4.4 ppm; Lead, 0.32 ppm; Mercury, 0.01 ppm; Nickel, 4.4 ppm; Selenium, 0.06 ppm; Silver, 0.32 ppm. Metal concentrations must be measured in the waste leachate as per 40 CFR 261.24. Cyanide extractions must be conducted using distilled water. (B) Organics: Benzene, 0.87 ppm; Benzo(a)anthracene, 0.10 ppm; Benzo(a)pyrene, 0.04 ppm; Benzo (b)fluoranthene, 0.16 ppm; Chlorobenzene, 152 ppm; o-Chlorophenol, 44 ppm; Chrysene, 15 ppm; 2, 4–D, 107 ppm; DDE, 1.0 ppm; Dibenz(a,h)anthracene, 0.007 ppm; 1, 4-Dichlorobenzene, 265 ppm; 1, 1-Dichloroethylene, 1.3 ppm; trans-1,2-Dichloroethylene, 37 ppm; Dichloromethane, 0.23 ppm; 2,4-Dichlorophenol, 43 ppm; Hexachlorobenzene, 0.26 ppm; Indeno (1,2,3-cd) pyrene, 30 ppm; Polychlorinated biphenyls, 12 ppm; 2,4,5–T, 1×10^{6} ppm; 1,2,4,5-Tetrachlorobenzene, 56 ppm; Tetrachloroethylene, 3.4 ppm; Trichloroethylene, 1.1 ppm; 2,4,5-Trichlorophenol, 21,000 ppm; 2,4,6-Trichlorophenol, 0.35 ppm. (C) Chlorinated dioxins and furans: 2,3,7,8-Tetrachlorodibenzo-p-dioxin equivalents, 4×10^{-7} ppm. The petitioned by-product must be analyzed for the tetra-, penta-, hexa-, and heptachlorodibenzo-p-dioxins, and the tetra-, penta-, hexa-, and heptachlorodibenzofurans to determine the 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin equivalent concentration. The analysis must be conducted using Method 8290, a high resolution gas chromatography/high resolution mass spectrometry method, and must achieve practical quantitation limits of 15 parts per trillion (ppt) for the tetra- and penta- homologs, and 37 ppt for the hexa- and hepta- homologs. (4) *Termination of testing:* Due to the possible variability of the incinerator feeds, the testing requirements of Condition (1)(B) will continue indefinitely. (5) *Data submittals:* Within one week of system start-up, ADPC&E must notify the Section Chief, Variances Section (see address below) when the full-scale incineration system is on-line and waste treatment has begun. The data obtained through Condition (1)(A) must be submitted to the Section Chief, Variances Section, PSPD/OSW (OS-343), U.S. EPA, 401 M Street SW., Washington, DC 20460, within the time period specified. At the Section Chief's request, ADPC&E must submit analytical data obtained through Condition (1)(B) within the time period specified by the Section Chief. Failure to submit the required data obtained from Condition (1)(A) within the specified time period or to maintain the required records for the time specified in Condition (1)(B) (or to submit data within the time specified by the Section Chief) will be considered by the Agency, at its discretion, sufficient basis to revoke ADPC&E's exclusion to the extent directed by EPA. All data must be accompanied by the following certification statement: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."

* * * * * * *

[FR Doc. 90–20011 Filed 8–23–90; 8:45 am]
BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201–1, 201–2, 201–23, 201–24, 201–38, 201–39, and 201–41

[FIRMR Amendment 19]

Implementation of Title VIII Paperwork Reduction Reauthorization Act of 1986, Regarding Automatic Data Processing Equipment

AGENCY: Information Resources Management Service, GSA.

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the August 27, 1990, effective date for a final rule regarding the Paperwork Reduction Reauthorization Act of 1986 (Pub. L. 99–500), that appeared on page 30702 in the Federal Register of Friday, July 27, 1990, (55 FR 30702). The basis for this action is to allow Federal agencies sufficient time for receipt of the revised looseleaf edition pages and to implement the significant changes in FIRMR Amendment 19. Due to this delayed effective date, FIRMR Amendment 19 now supersedes and cancels FIRMR Temporary Regulation 13 and its supplements upon October 1, 1990.

EFFECTIVE DATE: The effective date is delayed until October 1, 1990, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: William R. Loy, Regulations Branch (KMPR), Office of Information Resources Management Policy, telephone (202) 501–3194 (v) or FTS 241–3194 (v).

Dated: August 21, 1990.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 90–20076 Filed 8–23–90; 8:45 am]
BILLING CODE 6820–25–M

Proposed Rules

Federal Register
Vol. 55, No. 165
Friday, August 24, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administraton

14 CFR Part 39

[Docket No. 90-CE-29-AD]

Airworthiness Directives; GROB WERKE GmbH & Co. KG (BURKHAKT-GROB) Models G103 "Twin Astir" and G103 Twin II Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to certain GROB WERKE GmbH & Co. KG (BURKHAKT-GROB) Models G103 "Twin Astir" and G103 Twin II gliders, which would require the installation of the special forkhead nut. A report has been received of the incorrect installation of the aileron connecting bolt which caused a jamming of the aileron control system. The proposed modification will preclude this occurrence.

DATES: Comments must be received on or before October 15, 1990.

ADDRESSES: GROB Service Bulletin (S/B) No. TM 315-38/1 dated December 12, 1989, applicable to this AD, may be obtained from GROB Systems Incorporated; Aircraft Division, I-75 and Airport Drive, Bluffton, Ohio 45817; Telephone (419) 358-9015. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-29-AD room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays expected.

FOR FURTHER INFORMATION CONTACT: Heinz Hellebrand, Brussels Aircraft Certification Staff, FAA, c/o American Embassy, 15 Rue de la Loi B1040, Brussels, Belgium; Telephone 793.21.10, extension 2718; or Mr. Herman C. Belderok, Small Airplane Directorate, Aircraft Certification Service, FAA, room 1544, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6933.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-29-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

An accident investigation revealed that the owner of a GROB Twin Astir glider has reinstalled the aileron control connecting bolt in the downward direction. When this aileron connecting bolt is mounted pointing downward, it causes reciprocal interference with the air brake control connection bolt, and may result in complete functional loss of both control systems.

As an interim fix, GROB recommended the installation of a placard on the aileron control lever adjacent to the connecting bolt cautioning against the incorrect installation of the connecting bolt. As a permanent fix, GROB has issued S/B No. TM 315-38/1, dated December 12, 1989, which specifies the installation of a special design forkhead nut and removal of the placard. The installation of the special forkhead nut will preclude the incorrect installation of the aileron connecting bolt and thus prevent reciprocal interference with the airbrake control connecting bolt. The German Civil Airworthiness Authority (LBA), which has responsibility and authority to maintain the continuing airworthiness of these gliders in the Federal Republic of Germany, has classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected gliders. On gliders operated under LBA registration, this action has the same effect as an AD on gliders certified for operation in the United States. The FAA relies upon the certification of the LBA combined with FAA review of pertinent documentation in finding compliance of the design of these gliders with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of GROB S/B No. TM 315-38/1, dated December 12, 1989, and the mandatory classification of this Service Bulletin by the LBA. Based on the foregoing, the FAA believes that the condition addressed by GROB S/B No. TM 315-38/1, dated December 12, 1989, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require installation of the special forkhead nut and removal of the caution placard if installed in certain GROB Model G103 gliders.

The FAA has determined there are approximately 31 gliders affected by the proposed AD. The cost of installing the forkhead nut on these gliders as required by the proposed AD is estimated to be $40 per glider. The total fleet cost is estimated to be $1,240. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these gliders.

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

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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); 14 CFR 11.89.

§ 39.13 [Amended]

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

Grob Werke GmbH & Company KG (Burkhart Grob): Applies to Models G103 "Twin Astir" (including "Trainer") (Serial Numbers S/N) 3000 through 3291) and G103 "Twin II" (including "ACRO") (S/N 3501 through 3279) gliders certificated in any category. Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished. To preclude the incorrect installation of the aileron system connecting bolt, accomplish the following:

(a) Modify the aileron control system by the installation of a GROB forkhead nut (GROB part number 103B–4229) and the removal of the caution placard, if installed, as described in GROB Service Bulletin No. TM 315–38/1, dated December 12, 1989.

(b) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Staff, FAA, c/o American Embassy, 15 Rue de la Loi B 1040, Brussels, Belgium; Telephone 322.513.38.30 extension 2718.

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

All persons affected by this directive may obtain copies of the document referred to herein upon request to GROB Systems, Incorporated; Aircraft Division, I–75 and Airport Drive, Bluffton, Ohio 45817; Telephone (419) 358–9015; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 13, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–20003 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, 270, and 271

[Docket No. F–90–CASP–FFFFF; FRL 3824–8]

Corrective Action for Solid Waste Management Units (SWMUs) at Hazardous Waste Management Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) today is extending the comment period for the Proposed Rule published in the **Federal Register** at 55 FR 30798–30884 (July 27, 1990). That Proposed Rule would establish requirements under the Resource Conservation and Recovery Act (RCRA) for corrective action for solid waste management units (SWMUs) at facilities seeking a permit under section 3005(c) of RCRA. The proposal will establish procedures and technical requirements for implementing corrective action under section 3004(u) of RCRA.

The Agency received a number of requests for an extension of the 60-day written comment period for the Proposed Rule. These requests noted that an extension would be useful for several individuals and organizations for adequately preparing comments. Since the comprehensive requirements found in the Proposed Rule will likely have a significant impact on affected parties, and since the Agency wishes to obtain comments on any significant issues raised by the proposal from as many of these parties as possible, a 60 (sixty)-day extension to the written comment period will be provided.

In addition, the public hearings announced in the Proposed Rule at 55 FR 30798 which were originally scheduled for October 1990 have been rescheduled for December 1990 (see dates below). Following the public hearings, the Agency will provide a brief written reply comment period for parties to address the oral testimony presented at the public hearings. The Agency will not reopen the record during this short period to accept any written comments other than those that pertain to the oral testimony from the hearings.

DATES: The written comment period on the Proposed Rule published at 55 FR 30798–30884 will be extended until November 26, 1990. The public hearing dates are now scheduled as follows: December 12, 1990 in San Francisco, CA and December 10, 1990 in Washington, DC. The limited written comment period for addressing oral testimony presented at these public hearings will close on December 31, 1990.

ADDRESSES: Written comments on the Proposed Rule published at 55 FR 30798–30884 should be submitted, in triplicate, to the RCRA Docket, Docket No. F–90–CASP–FFFFF, located in Room 2427 at the U.S. Environmental Protection Agency (OS–305), 401 M Street, SW., Washington, DC 20460. The public hearings will be held at the following locations: December, 1990 at the Hyatt Regency San Francisco in Embarcadero Center, 5 Embarcadero Center, San Francisco, CA 94111 (415–788–1234); and December, 1990 at the Omini Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008 (202–234–0700).

FOR FURTHER INFORMATION CONTACT: General questions about the regulatory requirements under RCRA should be directed to the RCRA/Superfund Hotline, Office of Solid Waste, U.S. Environmental Protection Agency, Washington, DC 20460 (800) 424–9346 (toll-free) or (202) 382–3000 (local). For the hearing impaired, the number is (800) 553–7672 (toll-free) or (202) 475–9652 (local). Specific questions about the extension of the written comment period for the Proposed Rules should be directed to David M. Fagan, Office of Solid Waste (OS–341), U.S.

Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Tel. (202) 382–4497.

Dated: August 17, 1990.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 90–20012 Filed 8–23–90; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 55, No. 165
Friday, August 24, 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

Federal Crop Insurance Corporation

[Notice No. RCD-92]

Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of intent to revise the Standard Reinsurance Agreement, request for comments and proposals.

The Federal Crop Insurance Corporation hereby gives notice that, because of recent legislative interest in the Federal Crop Insurance program, the possibility exists that the Congress may find sufficient funds for the continued operation of the Federal Crop Insurance Corporation in some form.

For this reason, FCIC is reviewing the Standard Reinsurance Agreement for revision prior to the 1992 reinsurance year. Several proposals for change have been presented to the Congress and the industry.

So that FCIC may have the benefit of the views of all people interested in the Federal Crop Insurance program, we invite comments and proposals from the public and members of the crop insurance industry on the provisions which should be contained in, or removed from, the Standard Reinsurance Agreement for the 1992 reinsurance year.

DATES: Comments and proposals in response to this notice must indentify the notice number (Notice. RCD-92) and be received not later than October 1, 1990, to be sure of consideration.

ADDRESSES: Comments and proposals in response to this notice must be sent to Peter F. Cole, Secretary, Office of the Manager, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, DC 20250. All comments received pursuant to this notice will be available for inspection and copying in the location listed above during regular business hours, Monday through Friday.

Done in Washington, DC on August 20, 1990.

David W. Gabriel,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 90-19951 Filed 8-23-90; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Nursery Management Activities, Including the Control of Unwanted Vegetation, Diseases, Insects, and Other Animals in the Coeur d'Alene Nursery, Idaho Panhandle National Forests, Kootenai County, ID

AGENCY: Forest Service, USDA.

ACTION: Correction to notice of intent to prepare environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, is in the process of preparing an environmental impact statement (EIS) for pest management at the Coeur d'Alene Nursery on the Idaho Panhandle National Forests, Kootenai County, Idaho. As stated in the Notice of Intent published in the **Federal Register** of July 6, 1989 (54 FR 28451), this EIS was to cover pest management activities in the seed orchard on the site as well as seedling production in the nursery beds and greenhouses. Due to unanticipated delays in collecting sufficient information on the pesticides used in the seed orchard and because a seed orchard EIS is planned for all seed orchards in Northern Region in 1991, analysis of the seed orchard will not be covered in the Coeur d'Alene Nursery EIS.

FOR FURTHER INFORMATION CONTACT: Joseph Myers, USDA Forest Service, Coeur d'Alene Nursery, 3600 Nursery Road, Coeur d'Alene, Idaho 83814. Telephone (208) 765-7375.

Dated: August 13, 1990.

Bert Kulesza,

Acting Deputy Forest Supervisor.

[FR Doc. 90-19952 Filed 8-23-90; 8:45 am]

BILLING CODE 3410-11-M

Sequoia National Forest; Notice of Exemption

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Breckenridge Insect Salvage Sale, Greenhorn Ranger District, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from administrative appeal the decision under 36 CFR part 217 resulting from the Breckenridge Insect Salvage Sale analysis. The environmental analysis is being prepared in response to severe timber mortality in the Breckenridge Mountain area of the Sequoia National Forest. An unusually high level of mortality in commercial conifer species is being caused by drought and related insect infestation. The Breckenridge Insect Salvage analysis area is within the Lucas Creek watershed, and is adjacent to the Breckenridge Subdivision. The analysis area is approximately 20 miles east of Bakersfield, California.

There are currently much higher than normal levels of tree mortality occurring throughout the Sequoia National Forest as a result of four consecutive years of below normal precipitation. The Greenhorn District is proposing tractor harvest of 0.5 million board feet (MMBF) on approximately 750 acres in the Breckenridge Insect Salvage analysis. No new road construction or reconstruction is planned. There will be no harvest in any Spotted Owl Habitat Area (SOHA). The analysis area is within two separate emphasis areas delineated by the Sequoia National Forest Land and Resource Management Plan; dispersed recreation and sawtimber. An important analysis concern is reducing the fire hazard to the Breckenridge Subdivision.

The drought has caused a high degree of stress within the trees which reduces their natural defense mechanisms and weakens them to the extent that they are now predisposed to attack by bark and engraver beetles. Trees killed by insect attack deteriorate very rapidly. Prompt removal of the dead and dying timber minimizes value and volume loss. Excessive numbers of dead trees can lead to heavy fuel concentrations, making wildfire control extremely difficult.

The decision for the proposed project is scheduled to be issued in August 1990. If projects are delayed because of appeals (delays can be up to 100 days, with an additional 15-20 days for discretionary review by the Chief of the

Forest Service), it is likely that the projects could not be implemented this field season. This would result in a monetary loss for the proposed Breckenridge Insect Salvage Sale.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeals any decision relating to the harvest and restoration following drought-induced timber mortality in the Lucas Creek watershed, Greenhorn Ranger District, Sequoia National Forest. The environmental document under preparation will address the effects of the proposed action on the environment, will identify any required mitigation measures, will document public involvement, and will address the issues raised by the public.

EFFECTIVE DATE: This decision will be effective August 24, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Management Staff Director, Pacific Southwest Region, USDA-Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or James A. Crates, Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, CA 93257, (209) 784–1500.

ADDITIONAL INFORMATION: The environmental analysis for this proposal will be documented in the Breckenridge Insect Salvage environmental documents. In June and July of 1990, pursuant to 40 CFR 1501.7, scoping was conducted by the Greenhorn District Ranger to determine the issues to be addressed in the environmental analysis. Additionally, letters were mailed to over 100 local residents, representatives of various environmental groups, and the timber industry, to provide information on the projects and to generate public issues and concerns. The Forest is expected to complete the environmental documentation by August 30, 1990. The environmental document and related maps will be available for public review at the Greenhorn Ranger Station, 15701 Highway 178, Bakersfield, CA 93386, and at the Sequoia National Forest Supervisor's Office.

The catastrophic damage is presently occurring on over 3,200 acres of National Forest System Lands on the Lucas Creek watershed. Within this area, approximately 750 acres, with an associated 0.5 MMBF, is presently being analyzed for salvage because the percentages of dead and dying timber is highest in these areas. The value to the Forest Service of the salvage volume is estimated at $35,000. This figure does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply, and construction industries. Kern County will share 25% of the selling value for any timber that is salvaged in a commercial timber sale. Rehabilitation and restoration measures will be necessary for watershed protection, erosion prevention and fuels reduction.

The proposal is not expected to adversely affect snag-dependent wildlife species and there will be no harvest from this sale within any SOHA. No Wild and Scenic rivers, wetlands, wilderness areas, or threatened or endangered species are within the area of the proposed project.

Dated: August 17, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90–19981 Filed 8–23–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Groundfish and Crab Fisheries of the Bering Sea and Aleutian Islands Area, Groundfish Fisheries of the Gulf of Alaska, and Pacific Halibut Fisheries off the State of Alaska

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

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS), and request for scoping comments.

SUMMARY: NOAA announces its intention to prepare, in cooperation with the North Pacific Fishery Management Council (Council), a SEIS to assess the potential effects on the human environment of an interim moratorium on new entry into the groundfish, crab, and halibut fisheries off Alaska that currently are under the management authority of the Council. This moratorium would be based on recommendations by the Council to the Secretary of Commerce (Secretary) to amend the fishery management plans (FMPs) for groundfish and crab and the regulations governing the U.S. fishery for Pacific halibut. If such amendments to the FMPs and regulations are approved by the Secretary, implementation of the moratorium is expected no sooner than January 1992. In addition, NOAA announces a public scoping process for determining the scope of issues to be addressed and for identifying the significant issues related to limiting access to a public fishery resource. The intended effect of this notice is to alert the interested public to the commencement of a scoping process and to provide for public participation. This action is necessary to comply with Federal environmental documentation requirements.

DATES: Scoping comments are invited until September 28, 1990, when the scoping process will end at the conclusion of the September Council meeting. The Council's Fishery Planning Committee will meet during this period (see "scoping process" below for dates, times and locations of meetings) to discuss the problem and suggested alternative solutions. Interested persons may comment during those meetings on the scope of issues to be addressed in the SEIS. Other scoping meetings will be held as specified below (see "scoping process").

ADDRESSES: Send scoping comments to Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668. Information on time and location also may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Steve K. Davis, Deputy Director, North Pacific Fishery Management Council, 907–271–2809, or Jay J. C. Ginter, Fishery Management Biologist, Alaska Region, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The commercial harvest of groundfish in the U.S. exclusive economic zone of the Gulf of Alaska and the Bering Sea and Aleutian Islands area is governed by Federal regulations at 50 CFR 611.92 and 611.93, and 50 CFR parts 672 and 675, which implement the Gulf of Alaska groundfish FMP and the Bering Sea/Aleutian Islands groundfish FMP, respectively. The commercial harvest of king and Tanner crabs in the Bering Sea and Aleutian Islands area is governed by State of Alaska regulations at title 16, chapters 34 and 35, which implement the Bering Sea/Aleutian Islands crab FMP. The harvest of Pacific halibut in all waters off Alaska by U.S. fishermen is governed by Federal regulations at 50 CFR part 301, which implement rules developed by the International Pacific Halibut Commission (IPHC).

The groundfish and crab FMPs and their accompanying environmental impact statements (EISs) were prepared by the Council and approved by the Secretary under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The Council also has authority under the Northern Pacific Halibut Act of 1982 to develop regulations governing the catch

of Pacific halibut in U.S. waters that are in addition to, but not in conflict with, regulations developed by the IPHC. This includes authority to allocate halibut fishing opportunity among U.S. fishermen should such allocation be necessary.

Under the National Environmental Policy Act of 1969 (NEPA) and NOAA policy, a fishery management regulatory action which significantly affects the human environment requires the preparation of an EIS or SEIS. This notice of intent to prepare an SEIS complies with NEPA implementing regulations at 40 CFR 1508.22. In addition, this notice announces a scoping process pursuant to 40 CFR 1501.7 and 1508.25.

The Problem

Domestic harvesting and processing capacity in the groundfish, crab, and halibut fisheries off Alaska currently exceeds the amount necessary to harvest the annual total allowable catch of most species of groundfish, halibut, and crabs under Council authority. Further, the Council has determined that the continued entry of fishing effort into these fisheries will only add to harvesting and processing capacity and that continued entry exacerbates current fishery management difficulties or cause new problems.

Fishery managers have found that excess capacity may lead to allocation conflicts, gear conflicts, excessive bycatch of nontarget species, high grading or discard of lower valued but potentially useful fish products, poor handling of catch, insufficient attention to safety, and economic instability from boom-and-bust harvest cycles. In recent years, the Council has noted some or all of these problems in every fishery under its authority.

Although the Council continues to develop open-access regulations in an attempt to address these problems, the Council also is considering a change in the open-access nature of fisheries as a more comprehensive solution. At this time, the Council has not determined the best way to control or restrict access to commercial fishery resources in the long term. However, the Council has tentatively determined that a moratorium on new entry into the fisheries may be necessary for an interim period to curtail the increase in fishing capacity and permit the Council time to develop and assess the potential effects of alternative long-term solutions to the identified management problems. The Council is aware that such a moratorium will not resolve the fundamental problem of excess capacity in the fisheries. Instead, the purpose of the moratorium, if approved, would be to prevent continued growth in fishing capacity, while the Council assesses alternative limited-access and open-access management measures to address the overcapacity problem, and to achieve the optimum yield from the fisheries.

The public is notified that the NMFS, in cooperation with the Council, intends to prepare a SEIS on the potential effects of amending the two groundfish FMPs, the crab FMP, and the halibut fishery regulations to implement such a moratorium on entry into the specified fisheries and other reasonable alternatives, including the no action alternative.

Proposed and Possible Alternative Actions

The proposed action is to amend the FMPs and the Pacific halibut fishery regulations. These amendments would provide the Secretary authority to limit, for a specified period from the effective date of the authority, future commercial fishing opportunities for species under the purview by these FMPs and to regulate fishing vessels that qualify under, as yet unspecified, entry criteria. As currently contemplated by the Council, this limitation would apply for a period of 4 years from its effective date.

For purposes of this limitation, the term "fishing vessel" has the same meaning as defined in the Magnuson Act; that is,

> * * * any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (A) fishing, or (B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Some exceptions to the limitation on entry into the specified fisheries may be provided for, as yet, undefined reasons. For example, these may include:

(a) Small vessels under a certain length;

(b) A replacement vessel of similar harvesting and/or processing capacity to one that is lost at sea or totally destroyed;

(c) Conversion of a vessel that qualifies under the moratorium for safety purposes or to more fully use harvested fish; and

(d) Any vessel participating in any program designed to foster development of disadvantaged communities.

Alternatives to this action include, but are not limited to:

(1) Status quo or no change in the FMPs and regulations;

(2) Alternative forms of moratoria on entry; or

(3) Other forms of limited access management such as license limitation or individual fishing quotas, in conjunction with or in lieu of a moratorium on new entry.

Scoping Process

All persons affected by or otherwise interested in a decision by the Council and the Secretary to amend the groundfish and crab FMPs and the Pacific halibut regulations to provide for an interim moratorium on entry into these fisheries are invited to participate in determining the scope of significant issues to be analyzed in the SEIS. Participation includes submission of written comments to the above address or attendance at public scoping meetings.

Scoping consists of identifying the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those which may be closely related, cumulative, or similar. Alternatives include the no-action alternative, other reasonable courses of action, and mitigation measures. Impacts may be direct, indirect, or cumulative. The scoping process also will identify and eliminate from detailed study issues that are not significant or issues that have been covered in prior environmental reviews.

This scoping process begins with publication of this notice and will end on September 28, 1990, at the conclusion of the September Council meeting. Public scoping meetings are also scheduled as follows:

—August 23, 1990, at 10 a.m., in the NMFS Alaska Fisheries Science Center, Building 4, Room 2079, 7600 Sand Point Way, Seattle, Washington; and

—September 5, 1990, at 10 a.m., in Fishermen's Hall, Kodiak, Alaska.

SEIS Preparation and Decision Making Schedule

The Council has adopted a tentative schedule for FMP amendment and SEIS preparation, review, and approval. Under this schedule, analysis, and drafting of the SEIS would occur during the 6-month period beginning October 1990 through March 1991. The draft SEIS would be initially reviewed by the Council at its meeting of April 22–26, 1991. The Council would decide at this meeting whether more work on the draft SEIS was necessary or if it was acceptable for public review. If approved for public review, a notice of its availability would be filed with the Federal Register and a 45-day NEPA

public review period would occur from May 10, 1991, through June 24, 1991. At its meeting of June 24–28, 1991, the Council would decide whether to recommend the moratorium amendments to the Secretary. Oral and written comments may be submitted to the Council at its June meeting prior to its decision. If the Council's decision is affirmative, the SEIS would be submitted, with the amendment recommendation and other rule-making documents to the Secretary for review and approval or disapproval.

Under the Magnuson Act, Secretarial review is completed and an approval or disapproval decision is made within 95 days from the date of receipt of the Council's amendment recommendation. The Secretarial review process includes concurrent public comment periods of 60 and 45 days on the amendment and proposed rule, respectively. If approved by the Secretary under this schedule, a final rule implementing the moratorium on entry into the fisheries would be effected in January 1991.

Dated: August 20, 1990.

Richard H. Schaefer,

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

[FR Doc. 90–19964 Filed 8–23–90; 8:45 am]

BILLING CODE 3510–22–M

Patent and Trademark Office

Trademark Affairs Public Advisory Committee; Meeting

AGENCY: Patent and Trademark Office Commerce

ACTION: Notice.

SUMMARY: In accordance with section 10(a)(2 of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the open meeting of the Public Advisory Committee for Trademark Affairs.

DATES: The Public Advisory Committee for Trademark Affairs will meet from 10 a.m. until 4 p.m. on September 25, 1990, and from 9:30 a.m. until 12 p.m. on September 26, 1990.

PLACE: U.S. Patent and Trademark Office, 2121 Crystal Drive, Crystal Park 2, room 912, Arlington, Virginia.

STATUS: The meeting will be open to public observation; seating will be available for the public on a first-come-first-served basis. Members of the public will be permitted to make oral comments of three (3) minutes each. Written comments and suggestions will be accepted before or after the meeting on any of the matters discussed. Copies of the minutes will be available upon request.

MATTERS TO BE CONSIDERED: The agenda for the first day of the meeting is as follows:

(1) Finance
(2) Automation
(3) Strategic Planning
(4) Current Trademark Office Practice Issues

The agenda for the second day of the meeting is as follows:

(1) The Federal Advisory Committee Act
(2) Ethics and Conflicts of Interest

CONTACT PERSON FOR MORE INFORMATION: For further information, contact Lynne Beresford, Office of the Assistant Commissioner for Trademarks, Room CPK2–910, Patent and Trademark Office, Washington, DC 20231. Telephone: (703) 557–7464.

Harry F. Manbeck, Jr.,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 90–20005 Filed 8–23–90; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or severely handicapped.

EFFECTIVE DATE: September 24, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 8, 22, 29 and July 9, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 23465, 25689, 26738 and 28083) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1990:

Commodities

Table, Folding Legs, Field, 7105–00–269–9275, (50 percent of Government's Requirement)
Envelope, Case, Map & Photograph, 8460–01–113–7576
Box, Wood, Nailed, 8515–00–M00–0020, (Requirements of Pine Bluff Arsenal, Arkansas only)

Services

Mess Attendant Service, Ellsworth Air Force Base, South Dakota
Operation of Base Information Transfer Center, Maxwell Air Force Base and Gunter Air Force Base, Alabama

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 90–19986 Filed 8–23–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1990 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 24, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1990, which was published on November 3, 1989 (54 F.R. 46540):

Commodities

Tape, Pressure Sensitive, 7510–00–890–9875, 7510–00–074–5160, 7510–00–890–9872, 7510–00–074–5122, 7510–00–074–5178, 7510–00–074–5100, 7510–00–074–5174, 7510–00–890–9874, 7510–00–074–5157

Service

Assembly of Kit, Hot Food/Hot Drink, (7360–01–310–5131)

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 90–19987 Filed 8–23–90; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Air Force

To Prepare Environmental Impact Statement Disposal/Reuse of Chanute, AFB, Illinois

The United States Air Force will prepare an Environmental Impact Statement (EIS) to assess the potential environmental impacts of disposal and reuse of the property that is now Chanute Air Force Base (AFB) in Rantoul, Illinois. On March 26, 1990 the Air Force signed a Record of Decision (ROD) for closure of Chanute AFB. The Federal Aviation Administration will participate in this environmental impact analysis process as a cooperating agency.

The disposal/reuse EIS will address disposal of the property to public or private entities and the potential impacts of reuse alternatives. All available property will be disposed of in accordance with provisions of the Base Closure and Realignment Act, Public Law 100–526, and applicable federal property disposal regulations.

The Air Force is planning to conduct a scoping and screening meeting on September 12, 1990 at 7 p.m. in the Rantoul Civic Center, Rantoul, Illinois. The purpose of the meeting is to determine the environmental issues and concerns to be analyzed, to solicit comments on the proposed action and to solicit proposed disposal/reuse alternatives that should be addressed in the EIS. The proposed action is the redevelopment of Chanute AFB into a National Aviation Training, Maintenance and Technology Center. In soliciting disposal/reuse inputs, the Air Force intends to consider all reasonable alternatives to the proposed action offered by any Federal, State, and local government agency and any Federally-sponsored or private entity or individual with an interest in acquiring available property at Chaunte AFB. These alternatives will be analyzed in the EIS. The resulting environmental impacts will be used in making disposal decisions to be documented in the Air Force's Final Disposal Plan for Chanute AFB.

To ensure the Air Force will have sufficient time to consider public inputs on issues to be included in the disposal/reuse EIS and disposal alternatives to be included in the Final Disposal Plan, comments and reuse proposals should be forwarded to the address listed below by September 28, 1990. However the Air Force will accept comments at the address below at any time during the environmental impact analysis process.

For further information concerning the study of Chanute AFB disposal/reuse and the EIS activities, contact: Lt Col Tom Bartol, AFRCE–BMS/DEV, Norton AFB, CA 92409–6448, (714) 382–4891.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 90–19822 Filed 8–23–90; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER90–546–000 et al.]

EUA Power Corp. et al. Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. EUA Power Corp.

[Docket No. ER90–546–000]

August 16, 1990.

Take notice that on August 13, 1990 EUA Power Corporation (EUA Power) filed a contract for the sale of power from the Seabrook nuclear unit to Commonwealth Electric Company (COM/Elec).

The contract provides for the following terms and conditions:

1. The term shall begin June 1, 1990 and continue until cancelled by either party upon 30 days notice.

2. Sales may occur on a daily or weekly basis.

3. Payment is based upon an energy charge and an energy reservation charge.

4. The energy reservation charge shall not exceed $0.05 per kilowatt-hour, which is substantially less than the fixed cost of the unit. Any change in the cap must be mutually agreed to and filed with the Commission.

5. This contract reflect opportunity transactions. Purchases by COM/Elec will vary. A forecast of revenues cannot be made with reasonable accuracy.

EUA Power requests waiver of the notive requirement to permit the filing to become effective June 1, 1990.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Co. of New York

[Docket No. ER90–93–000]

August 16, 1990.

Take notice that on August 1, 1990, Consolidated Edison Company of New York, Inc. (Con Edison) tendered a further amendment of its December 4, 1989 filing. This amendment provides additional information regarding sales of firm power and energy to the Connecticut Light and Power Company (CL&P).

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Service Corp.

[Docket Nos. ER90–26–004 and ER89–470–000]

August 16, 1990.

Take notice that in accordance with ordering Paragraph F of the Commission's Order Accepting For Filing and Suspending Rates, Denying Motion To Reject, Ordering Summary Disposition, Noting And Granting Interventions, Denying Request For Technical Conference, Establishing Hearing Procedures, And Consolidating Dockets, issued December 20, 1989 in Docket No. ER90–26–000 and Director,

Division of Electric Power Application Review (Deficiency letter), American Electric Power Service Corporation (AEPSC) on behalf of Appalachian Power Company (APOC) and Indiana Michigan Power Company (I&M), tendered for filing on August 13, 1990, a Revised Compliance Filing.

The purpose of the Revised Compliance Filing is to revise the charges for Unit Power service to Carolina Power & Light Company (CP&L) under the Transmission and Unit Power Supply Agreement among I&M, APCO, and CP&L, dated December 14, 1988.

Copies of the filing were served upon the regulatory commissions for the state of Indiana, Kentucky, Michigan, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, and all parties.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Co. of New York

[Docket No. ER90–114–000]

August 16, 1990.

Take notice that on August 13, 1990, Consolidated Edison Company of New York, Inc. (Con Edison) tendered a further amendment of its December 19, 1989 filing. This amendment provides additional information regarding cost support for the sale of firm winter capacity and energy to Powr Authority of the State of New York the (the Authority) for resale to Hydro-Quebec.

Con Edison states that a copy of this amended filing has been served by mail upon the Authority.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Co. (Wisconsin)

[Docket No. ER90–544–000]

August 16, 1990.

Take notice that on August 10, 1990, Northern States Power Company, Eau Claire, Wisconsin [NSPW] tendered for filing: proposed changes in its currently effective Firm Power Sale for REsale Service (W–1) Rate Schedules for full requirements service; and proposed changes in its currently effective contract demand service-River Falls. NSPW states that the proposed changes are intended to increase rates for service to its existing fourteen full requirements wholesale customers and to increase rates for partial requirements service to River Falls.

NSPW states that the proposed rate schedule changes will increase revenues from sales to these customers by $767,529 based on sales for the January 1, 1991 to December 31, 1991 test year.

NSPW requests an effective date of October 10, 1990.

Copies of the filing were served upon each affected customer, the Public Service Commission of Wisconsin, and the Michigan Public Service Commission.

Comment date: August 31, 1990, in accordance with Standard Paragraph E end of this notice.

6. EUA Power Corp.

Docket No. ER90–545–000]

August 16, 1990.

Take notice that on August 13, 1990, EUA Power Corporation [EUA Power] filed a contract for the sale of power from the Seabook nuclear unit to Boston Electric Company [BECo].

The contract provides for the following terms and conditions:

1. The term shall begin June 1, 1990 and continue until cancelled by either party upon 30 days notice.

2. Sales may occur on a daily or weekly basis.

3. Payment is based upon an energy charge and an energy reservation charge.

4. The energy reservation charge shall not exceed $0.05 per kilowatt-hour, which is substantially less than the fixed cost of the unit. Any change in the cap must be mutually agreed to and filed with the Commission.

5. This contract reflects opportunity transactions. Purchases by BECo will vary. A forecast of revenues cannot be made with reasonable accuracy.

EUA Power requests waiver of the notice requirement to permit the filing to become effective June 1, 1990.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. UtiliCorp United Inc.

[Docket No. ES90–43–000]

August 16, 1990.

Take notice that on August 10, 1990, UtiliCorp United Inc. ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission") pursuant to section 204 of the Federal Power Act seeking authority to issue up to and including 500,000 shares of common stock, par value $1.00 per share, pursuant to the 1986 Stock Incentive Plan and for exemption from the competitive bidding and negotiated placement requirements.

Comment date: September 10, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Co.

[Docket No. ES90–44–000]

August 16, 1990.

Take notice that on August 13, 1990, Pennsylvania Power & Light Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission") pursuant to Section 204 of the Federal Power Act seeking authority to issue up to $400 million in short-term unsecured promissory notes including commercial paper notes on or before September 30, 1992, with a final maturity date no later than September 30, 1993.

Comment date: September 12, 1990, in accordance with Standard Paragraph E end of this notice.

9. Saguaro Power Co., A Limited Partnership

[Docket No. QF90–203–000]

August 16, 1990.

On August 6, 1990, Saguaro Power Company, A Limited Partnership of 18872 MacArthur Boulevard, Suite 400, Irvine, California 92715, 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 in or near the city of Henderson, Nevada. The facility will consist of the two combiustion turbine generators, two supplementary fired heat recovery boilers and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be exported to Pioneer Chlor Alkali Company, Inc. (Pioneer) for use in chemical manufacturing processes and for resale by Pioneer. The facility will have a maximum gross electric power production capacity of 90 MW. The primary energy source will be natural gas with No. 2 fuel oil as backup. Installation of the facility was expected to begin in second quarter of 1990. Eastern Sierra Energy Company an indirect wholly owned subsidiary of SCEcorp, an electric utility holding company, will have fifty percent equity interest in the facility.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ES90–45–000]

August 17, 1990.

Take notice that on August 14, 1990, UtiliCorp United Inc. ("Applicant") filed an application with the Federal Energy

Regulatory Commission ("Commission") pursuant to Section 204 of the Federal Power Act seeking authority to issue up to and including 100,000 shares of common stock, par value $1.00 per share, pursuant to the Bond Interest Investment and Stock Purchase Plan and for exemption from the competitive bidding and negotiated placement requirements.

Comment date: September 13, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. Northwestern Public Service Co.

[Docket No. ER90–548–000]

August 17, 1990.

Take notice that on August 16, 1990, Northwestern Public Service Company tendered for filing a Firm Interchange Transaction Agreement between Northwestern Public Service Company and Minnesota Power. Under this Agreement, Northwestern Public Service Company will sell 35 MW of firm power in accordance with Service Schedule J of the Mid-Continent Area Power Pool Agreement. This agreement provides for firm power sales during the period from November 1, 1990 through April 30, 1991 and between zero and 40 MW of firm power sales during the periods November 1, 1991 through April 30, 1992, and November 1, 1992 through April 30, 1993.

Comment date: September 4, 1990, in accordance with Standard Paragraph E at the end of this notice.

12. Sunnyside Cogeneration Associates

[Docket No. QF86–556–002]

August 17, 1990.

On July 14, 1990, Sunnyside Cogeneration Associates (Applicant), of 2920 North Academy Boulevard, Suite 201, Colorado Springs, Colorado 80903, submitted for filing an application for recertification 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 near the town of Sunnyside, Utah. The facility will consist of a circulating fluidized bed boiler and an extraction/condensing steam turbine generating unit. Steam produced by the facility will be used for space heating of a greenhouse. The primary energy source will be bitumimous coal. The net electric power production capacity of the facility will be 51,065 kW. Installation is scheduled to begin in August, 1990.

The certification of the facility was originally issued on April 24, 1987 (39 FERC ¶ 62,091 (1987)) and a recertification was issued on December 27, 1989 (49 FERC ¶ 62,288 (1989)). The instant recertification is requested due to a change in the facility's configuration. The number of boilers and steam turbine generators have decreased from two each to one.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

13. Metropolitan Edison Co.

[Docket No. ER90–388–000]

August 17, 1990.

Take notice that on July 27, 1990, Metropolitan Edison Company (Met-Ed) refiled rate sheets effecting an increase in the rate for supplemental service and a decrease in the rate for transmission service to Allegheny Electric Cooperative, Inc. Met-Ed requests waiver of the prior notice provisions and an effective date of July 24, 1990.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Co.

[Docket No. ER90–547–000]

August 17, 1990.

Take notice that on August 14, 1990, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a Conjunctive Transmission Service Agreement (CTSA) and a Power Sales Agreement (PSA) applicable for service to the Wisconsin Public Power Inc. SYSTEM (WPPI). Wisconsin Electric also has filed a Notice of Cancellation of Rate Schedule TR–1C under its FERC Tariff Original Volume No. 1, and Rate Schedule No. 57. Under the proffered Agreements WPPI will have transmitted into Wisconsin Electric's control area a portion of its ownership share of the Clay Boswell Unit No. 4 and will supplement its power requirements with purchases of firm and no-firm service from Wisconsin Electric and other suppliers.

Wisconsin Electric respectfully requests an effective date simultaneous with the Commencement Date described in each Agreement. According to Wisconsin Electric, the applicant will promptly inform the Commission when the Commencement Date becomes known with certainty. Wisconsin Electric is authorized to state that WPPI joins in the requested effective date.

Copies of the filing have been served on WPPI, and the Public Service Commission of Wisconsin.

Comment date: September 4, 1990, in accordance with Standard Paragraph E at the end of this notice.

15. The Toledo Edison Co.

[Docket No. ER90–325–000]

August 17, 1990.

Take notice that on August 13, 1990, The Toledo Edison Company (Toledo) tendered for filing supplemental information regarding a proposed Interconnection and Service Agreement between Toledo and American Municipal Power-Ohio, Inc.

Comment date: September 4, 1990, in accordance with Standard pargraph E at the end of this notice.

16. Arkansas Power & Light Co.

[Docket No. ER90–65–002]

August 17, 1990.

Take notice that on August 15, 1990, Arkansas Power & Light Company tendered for filing its refund report pursuant to the Commission's orders dated April 18, 1990 and July 11, 1990 in Docket No. ER90–65–000.

Comment date: September 4, 1990, in accordance with Standard Paragraph E at the end of this notice.

17. Portland General Electric Co.

[Docket No. ER89–581–002]

August 17, 1990.

Take notice that on July 31, 1990, Portland General Electric Company (PGE) submitted a compliance filing pursuant to Commission orders of April 30 and June 29, 1990, in Docket Nos. ER89–580 and ER89–581. The submittal implements "option 1" of the Commission's orders by providing that PGE will supply Portland General Exchange, Inc. ("PGX) with the same services at the same rates as PGX, in turn, provides to two California cities under contracts accepted for filing by the Commission.

PGE requests that its compliance filing be made effective as of September 15, 1988, when PGX's contracts with the cities took effect. Copies of PGE's submittal have been served on the cities, the Oregon Public Utility Commission, the Bonneville Power Administration, and the Public Power Council.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

18. Connecticut Light and Power Co.

[Docket No. ER85–720–015]

August 17, 1990.

Take notice that on August 10, 1990, Connecticut Light and Power Company tendered for its compliance filing in this docket in accordance with the Commission's order issued on August 10, 1990.

Comment date: August 31, 1990, in accordance with Standard Paragraph E at the end of this notice.

19. Cajun Electric Power Cooperative, Inc. v. Louisiana Power & Light Co.

Louisiana Energy and Power Authority v. Louisiana Power & Light Co.

[Docket Nos. EL90-12-002 and EL90-15-000]

August 17, 1990.

Take notice that on August 10, 1990, Louisiana Power & Light Company tendered for filing what it termed an "offer of settlement" in response to the Commission's May 3, 1990 order in these dockets directing a refund plan and consolidating proceedings.

Comment date: August 31, 1990, in accordance with Standard Paragraph E end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19933 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ-4-21-001 and TM90-11-21-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 17, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on August 16, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1, to be effective August 1, 1990:

Second Revised Substitute Second Revised Sheet No. 26
Second Revised Substitute Second Revised Sheet No. 26A
Second Revised Substitute Second Revised Sheet No. 26B
Substitute Fifth Revised Sheet No. 163

Columbia states that foregoing tariff sheets are being filed in compliance with the Commission's order issued July 26, 1990, in Docket Nos. TQ90-4-21-000 and TM90-11-000. Such order directed Columbia to refile its PGA tariff sheets to be effective August 1, 1990, to reflect the quarterly PGA rates of Kentucky—West Virginia filed on July 2, 1990.

In addition, Columbia also identifies the pagination of the Tennessee Gas Pipeline Company's rate sheets it is tracking in the PGA.

The sales rates set forth on second Revised Substitute Second Revised Sheet No. 26 reflect an increase of $.014 per Dth in the Demand rate when compared with the rates contained in Columbia's June 29, 1990, PGA filing.

Columbia states that copies of the filing were served upon the Company'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 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 August 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19938 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-107-006]

Columbia Gulf Transmission Co.; Compliance Filing

August 17, 1990.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on August 15, 1990, tendered for filing a magnetic tape containing the filing made in the above docket in hard copy on April 30, 1990.

Columbia Gulf states that this tape is being filed in compliance with the Commission's May 31, 1990 order in this proceeding, which granted Columbia Gulf an extension of time through August 15, 1990 in which to make its filing in electronic medium, as required by § 385.2011 of the Commission's Regulations (18 CFR 385.2011).

Columbia Gulf states that copies of the transmittal letter accompanying the filing were served upon the parties to the proceeding, Columbia Gulf's jurisdictional customers and 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 (1989). All such protests should be filed on or before August 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19943 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ89-1-46-000, RP86-165-000, RP86-166-000, and CP90-1984-000, Docket No. CP90-1985-000]

Kentucky West Virginia Gas Co.; and Columbia Gas Transmission Corp; Stipulation and Agreement and Certificate Applications

August 17, 1990.

Take notice that on August 14, 1990, Kentucky West Virginia Gas Company (Kentucky West) and Columbia Gas Transmission Corporation (Columbia), filed with the Federal Energy Regulatory Commission a proposed Stipulation and Agreement in settlement of all claims, issues, and matters between Kentucky West and Columbia in Docket Nos. TQ89-1-46-000, RP86-165-000 and RP86-166-000. The Agreement resolves all claims by Kentucky West against Columbia for the recovery of amounts to which Kentucky West is entitled as a result of pricing its pipeline production at applicable NGPA rates for the period December 1, 1978 through March 2, 1983. This agreement addresses only the settlement reached by and between Kentucky West and Columbia and does not address the resolution of Kentucky West's claims against any other current or former customer.

The Agreement constitutes all the necessary certificate, abandonment, and rate authority to permit: (1) Columbia to transport gas purchased by Kentucky

West or any affiliate in the Arkoma Basin, (2) Equitrans to convert its firm transportation entitlement on Columbia to Rate Schedule FTS service on Columbia, (3) Columbia and Equitrans and its affiliates to enter into transportation agreements, (4) Kentucky West to abandon sales service to Columbia under Rate Schedule PLS–1, (5) Columbia to abandon service to Equitrans under Rate Schedule X–70, and (6) Columbia to collect through its PGA demand surcharge payments and interest paid to Kentucky West reflecting NGPA rates for gas from certain wells.

Kentucky West and Columbia state that service of the transmittal letter, stipulation and agreement, explanatory statement and proposed order is being made on all parties to these proceedings and any additional parties required to be served by rule 602(d)(ii) of the Commission's Rules. Because certain certificate issues are proposed to be resolved along with the collection of NGPA prices for certain Kentucky West production, the Commission shall require interventions and protests on certificate matters to be filed by the same date as initial comments on gas repricing aspects of the settlement.

Any person desiring to be heard, file comments, or protest said filing should file a motion to intervene, protest, or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. Pursuant to rule 602(f)(2) of the Commission's Rules, initial comments on the settlement must be filed with the Commission by September 7, 1990 and reply comments must be filed by September 17, 1990.

All motions or protests on certificate matters should be filed on or before September 7, 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 that is not currently a party to any of the proceedings referenced in the caption of this notice 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–19937 Filed 8–23–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA91–1–40–000]

Raton Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 17, 1990.

Take notice that on August 14, 1990, pursuant to § 154.305 of the Commission Regulations, Raton Gas Transmission Company (Raton) submits for filing Eighteenth Revised Sheet No. 4 as part of its FERC Gas Tariff.

Raton requests that the proposed tariff sheet be made effective on October 1, 1990 to coincide with the proposed effective date of Colorado Interstate Gas Company's 3rd Rev. 2nd Sub. 1st Rev. Sheet No. 7.1 and 7.2, filed on July 30, 1990 in Docket No. TA91–1–32–000.

Raton states that the filing reflects a commodity charge increase of 5.22 cents per Mcf and decrease of 2.39 cents per Mcf in surcharge adjustment.

Raton states that copies of the filing have been served on Raton's two customers and the State Commission and are available for public inspection at Raton's Office in Raton, New Mexico.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 6, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–19939 Filed 8–23–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP89–225–009 and TA90–1–8–003]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

August 17, 1990.

Take notice that on August 15, 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:

First Substitute Fifty-Ninth Revised Sheet No. 4
First Substitute Second Revised Sheet No. 4A
First Substitute Second Revised Sheet No. 4B
First Substitute Sixth Revised Sheet No. 43

The foregoing tariff sheets are submitted in compliance with the Commission's order of July 16, 1990 in Docket Nos. RP89–225–005 and RP89–225–006 (July 16 Order). South Georgia states that the proposed tariff sheets are being filed with a proposed effective date of March 1, 1990, in accordance with the Commission's order. South Georgia states that, consistent with the July 16 Order, the tariff sheets represent the final reductions in maximum daily quantity (MDQ) levels submitted by South Georgia's customers in response to South Georgia's requests for MDQ renominations and the redesigning of South Georgia's rates in order to reflect the reduced MDQ's.

South Georgia states that copies of the filing will be served upon all of South Georgia's purchasers, shippers, interested state commissions and interested parties as well as on all parties of record in the subject 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 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 August 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–19940 Filed 8–23–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–139–001, RP89–224–001 and RP89–203–004]

Southern Natural Gas Co.; Revised Tariff Filing

August 17, 1990.

Take notice that on August 10, 1990, pursuant to Ordering Paragraph (D) of the Federal Energy Regulatory Commission's order of July 27, 1990 in the above-captioned proceedings, Southern Natural Gas Company (Southern) resubmits for filing a diskette containing a copy of Volume No. 1 of Southern's tariff.

Southern states that the volume is being resubmitted solely in order to

reflect the pagination and other corrections required by the Commission's July 27 order.

Any person during 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 August 24, 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 proceeding. Persons that are already parties to the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19944 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-139-001, RP89-224-001 and RP89-203-004]

Southern Natural Gas Co.; Revised Tariff Filing

August 17, 1990.

Take notice that on August 10, 1990, pursuant to Ordering Paragraph (D) of the Federal Energy Regulatory Commission's order of July 27, 1990 in the above-captioned proceedings, Southern Natural Gas Company (Southern) resubmits for filing a diskette containing a copy of Volume No. 1 of Southern's tariff.

Southern states that the volume is being resubmitted solely in order to reflect the pagination and other corrections required by the Commission's July 27 order.

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 August 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19945 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-147-009]

United Gas Pipe Line Co., Compliance Filing

August 17, 1990.

Take notice that on August 15, 1990, United Gas Pipe Line Company (United) submitted for filing the following tariff sheets as part of its FERC Gas Tariff, Second Revised Volume No. 1:

Effecive May 1, 1989

Sixth Substitute Original Sheet No. 4-M
Fifth Substitute Original Sheet No. 4-N
Sixth Substitute Original Sheet No. 4-O
Fifth Substitute Original Sheet No. 4-P
Sixth Substitute Original Sheet No. 4-Q
Fifth Substitute Original Sheet No. 4-Q1
Fifth Substitute Original Sheet No. 4-R

United states that this filing is made to correct the tariff sheets from the August 7, 1990, filing that reported the incorrect Monthly Take-or-Pay Flowthrough Charges. These errors occurred only in the tariff sheets, and do not affect any of the supporting worksheets or allocation costs.

United states that the filing will be served upon all parties listed on the official service list 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 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 August 24, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-19946 Filed 8-23-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3824-2]

Health Effects of Passive Smoking—Assessment of Lung Cancer in Adults and Respiratory Disorders in Children; and Environmental Tobacco Smoke—a Guide To Workplace Smoking Policies; External Review Draft

AGENCY: Environmental Protection Agency.

ACTION: Extension of the public comment period.

SUMMARY: This notice announces the extension of the public comment period for the external review drafts of (1) Health Effects of Passive Smoking: Assessment of Lung Cancer in Adults and Respiratory Disorders in Children, EPA/600/6-90/006A, dated May 1990; and (2) Environmental Tobacco Smoke: A Guide To Workplace Smoking Policies, EPA/400/6-90/004 dated June 1990. On June 25, 1990 notices were pubished in the **Federal Register** (55 FR 25873 and 25874) announcing the availability of these documents and establishing a comment period from June 25, 1990 through August 31 1990.

DATES: The Agency has extended the public comment period for both documents for an additional 30 days; the total comment period is from June 25, 1990 through October 1, 1990. Comments must be postmarked by Monday, October 1, 1990.

ADDRESSES: To obtain a copy of the draft documents, interested parties should contact the ORD Publications Center, CERI-FRN, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268, 513/569-7562. Please provide your name and mailing address and request the external review drafts by title and EPA number.

The drafts also will be available for public inspection and copying in the Public Information Reference Unit of the EPA Library, U.S. Environmental Protection Agency Headquarters, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Commenters for the health effects document are requested to submit their comments in writing to: Project Officer for Environmental Tobacco Smoke, Technical Information Staff, Office of Health and Environmental Assessment (RD-689), U.S. Environmental Protection Agency, Room 3703 Mall, 401 M Street SW., Washington, DC 20460.

Commenters for the Guide to Workplace Smoking Policies are requested to submit their comments in

writing to: Project Officer for ETS Policy Guide, Indoor Air Division (ANR-445), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. FAX# (202) 382-7991.

FOR FURTHER INFORMATION CONTACT: Health Effects of Passive Smoking: Assessment of Lung Cancer in Adults and Respiratory Disorders in Children (EPA/600/6-90/006A), Steven Bayard 202/382-382-5722 or FTS/382-5722; (2) Environmental Tobacco Smoke: A Guide To Workplace Smoking Policies (EPA/400/6-90/004), Robert Axelrad 202/475-8470 or FTS/475-8470.

Dated: August 13, 1990.

John H. Skinner,

Acting Assistant Administrator for Research and Development.

[FR Doc. 90-20013 Filed 8-23-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3824-6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed August 13, 1990 through August 17, 1990 pursuant to 40 CFR 1506.9.

EIS No. 900306, FINAL EIS, AFS, NM, Eagle Peak and Buzzard Timber Sales Management Plan, Implementation, Reserve Ranger District, Gila National Forest, Catron County, NM, Due: September 24, 1990, Contact: Michael Gardner (505) 533-6231.

EIS No. 900307, DRAFT EIS, EPA, CA, City of San Diego Clean Water Program, Siting for Secondary Treatment System and Associated Sludge Management Facilities, Funding, San Diego County, CA, Due: October 9, 1990, Contact: John Ong (415) 556-6478.

EIS No. 900308, FINAL SUPPLEMENT, NAS, MS, FL, LA, Advance Solid Rocket Motor Program, Construction and Operation of Testing Facility, Stennis Space Center Site Selection, Updated and Additional Information, COE Section 404 Permit, Hancock County, MS, Due: October 1, 1990, Contact: Dr. Rebecca C. McCaleb (601) 688-2004. This Notice of Availability should have appeared in the 08-17-90—**Federal Register**. The official NEPA review period is calculated from 8-17-90. Alternative Procedures were granted to NASA under § 1502.(4)(c) of the CEQ Regulations.

EIS No. 900309, SECOND FINAL SUPPLE, FHW, MA, Central Artery/I-93 and Third Harbor Tunnel/I-90, South Boston Haul Road Construction Dorchester Avenue to Congress Street Funding, COE Section 404 Permit and EPA NPDES Permit, City of Boston, Suffolk County, MA, Due: September 24, 1990, Contact: Mr. Alexander Almeida (617) 494-2319.

EIS No. 900310, DRAFT EIS, EPA, AL, South Baldwin County Wastewater Management Facilities, Construction Grant, South Baldwin County, AL, Due: October 8, 1990, Contact: Heinz J. Mueller (404) 347-3776.

EIS No. 900311, FINAL EIS, UAF, CA, Norton Air Force Base (AFB) Closure, 63rd Military Airlift Wing, Relocation to March AFB, Implementation, San Bernadino County, CA, Due: September 24, 1990, Contact: Patricia Calliott (618) 256-5764.

EIS No. 900312, FINAL SUPPLEMENT, MMS, Mid 1987—Mid 1992 Outer Continental Shelf (OCS) Oil and Gas Lease Sales, 5 Year Program Cumulative Impacts of OCS Development on Migratory Species Lease Offerings, Offshore the Alaska and Pacific Regions, AK, WA, CA and OR, Due: September 24, 1990, Contact: Debra Purvis (703) 787-1674.

EIS No. 900313, FINAL EIS, USN, CA, P-202 Naval Air Station Alameda and P-082 Naval Supply Center Oakland Dredging Projects, Implementation, Due: September 24, 1990, Contact: Dr. Ronald Hudson (415) 877-7695.

Amended Notices

EIS No. 900156, THIRD DRAFT SUPPLE, FHW, MA, Central Artery/I-93 to Third Harbor Tunnel/I-90 Extension, Design Modifications, Updated and Additional Information, Funding, COE Section 10 and 404 Permits, U.S. CGD Permits, and EPA NPDES Permit, Suffolk County, MA, Due: September 21, 1990, Contact: Alexander Almeida (617) 494-2319. Published FR 5-18-90—Review period extended.

Dated: August 21, 1990

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-20007 Filed 8-23-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3824-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 6, 1990 through August 10, 1990 pursuant to the Environmental Review process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-F61016-IN Rating EC2, Hoosier National Forest Land and Resource Management Plan Amendment, Implementation, Several Counties, IN.

Summary

EPA has concerns about the potential woodland impacts due to forest management, the absence of mitigation plans for threatened and endangered species, wetlands and terrestrial resources. The final EIS should provide information on these issues.

ERP No. D-BOP-C81013-NY Rating EC2, Brooklyn Metropolitan Detention Center, Construction and Operation, New York City, NY.

Summary

ERP has environmental concerns about the projects's alternatives analysis, air quality modeling, and water supply system. EPA requested that additional inormation be presented in the final EIS to address these issues.

EPR No. D-SFW-C60003-NY Rating LO, Northern Montezuma Wetlands Project, Land Acquisition for Fish and Wildlife Protection and Management, Cayuga, Wayne and Seneca Counties, NY.

Summary

EPA has no objections to the project as proposed. However, EPA requests the opportunity to be involved in the next phase of the project, which is the development of site-specific management plans.

ERP No. D-UMT-B54006-MA Rating EC2, Old Colony Railroad Rehabilitation Project, Transit Improvements, Braintree to Buzzards Bay and Massachusetts Bay to MA-24, Funding, MA.

Summary

EPA believes that this document does not provide sufficient information to allow EPA to make a preliminary finding of the project's compliance with EPA's Guidelines under Section 404 of the Clean Water Act. Additional studies are needed to assess potential effects to water resource (which include a sole source aquifer, waterways and wetlands). EPA also recommends revising the air quality analysis to use the appropriate models.

Final EISs

ERP No. F–AFS–K61103–CA, Bear Mountain Ski Resort Expansion, (formerly known as Goldmine) San Bernandino National Forest, Special Use Permit and Possible 404 Permit, San Bernandino County, CA.

Summary

EPA expressed continuing concerns regarding cumulative impacts to air quality, groundwater overdraft, solid waste generation, loss of coniferous forest habitat and visual impacts. EPA expressed its belief that many potential adverse impacts can be avoided or reduced by reconfiguring or downsizing the project. EPA recommended the preparation of a supplemental EIS to address several unresolved issues, including impacts to threatened or endangered species such as the California spotted owl and flying squirrel.

EPR No. F–AFS–K65121–CA, King-Titus Fire Recovery Project, Implementation, Klamath National Forest, Siskiyou County, CA.

Summary

EPA expressed its appreciation for the incorporation of additional mitigation measures to protect water quality and fisheries into the new Alternative J. However, EPA expressed a continuing concern with potential adverse effects on water quality, fisheries habitat and soil productivity resulting from erosion and increased sedimentation. EPA requested the adoption of additional mitigation and monitoring in the Record of Decision.

ERP No. F–FHW–F40291–IL, Elgin-O'Hare Highway/FAP Route 426 Improvement, US 20/Lake Street and Lovell Road to the proposed West O'Hare Expressway near York Road and Thorndale Avenue, Funding and COE Section 404 Permit, Cook and DuPage Counties, IL.

Summary

EPA believes that its concerns have been satisfactorily addressed. However, in view of the fact that the response to the concerns were provided only in the Coordination Section of the final EIS and were not integrated within the text of the document in question, EPA requests the opportunity to review and comment on the Record of Decision. EPA will continue to assit with developing the wetland mitigation plan.

ERP No. F–FRC–L05197–OR, Salt Caves 80 MW Hydroelectric Project No. 10199, Construction and Operation, License, Klamath River, Klamath County, OR.

Summary

EPA found this document to be unresponsive to the concerns expressed at the draft EIS stage. EPA has environmental objections to the applicants proposal due to significant water quality, resource plan, and aquatic resource concerns.

ERP No. F–USA–B11010–00, Fort Huachuca, Fort Devens and Fort Monmouth Base Realignment Transfer of Missions and Functions, Implementation, Cochise County, AZ, Worcester and Middlesex Counties, MA and Monmouth County, NJ.

Summary

Regulations

ERP No. R–NSF–A86239–00, 45 CFR Part 641; Procedures for Implementing Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (55 FR 28236).

Summary

Based on the review of the proposed procedures, EPA recommended that NSF: (1) Revise and more narrowly define categorical exclusions; (2) provide for an initial level of review of all activities (except those categorically excluded) similiar to an Environmental Assessment under NEPA that discusses alternatives, including the No Action alternative, when there is any environment impact; (3) clearly require EISs, rather than possible "environmental impact assessments" for actions which have significant environmental impacts; and (4) provide for public, federal agency and affected nations review and comment on EISs and EAs, including bilateral or multilateral documents used to meet these requirements.

Dated: August 21, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90–20008 Filed 8–23–90; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3823–8]

Final Exemption Granted to Chemical Waste Management, Inc. for Continued Injection of Hazardous Waste Subject to the Land Disposal Restrictions of the Hazardous and Solid Waste Amendments of 1984

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on exemption petition.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (U.S. EPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to Chemical Waste Management, Inc. (CWM) of Oak Brook, Illinois, for its four Class I injection wells that are located in Vickery, Ohio. As required by 40 CFR part 148, CWM has demonstrated, with a reasonable degree of certainty, that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by CWM of specific restricted wastes that include waste pickle liquor, multi-source leachate from landfills, and other industrial wastes into four Class I hazardous waste injection wells that are identified as Wells #2, #4, #5 and #6 at the CWM Vickery facility. This decision constitutes a final U.S. EPA action for which there is no Administrative Appeal.

Background

CWM submitted a petition on January 19, 1988, requesting exemption for its four injection wells located in Vickery, Ohio, from the land disposal restrictions of hazardous waste. U.S. EPA personnel reviewed all data pertaining to the petition, including, but not limited to, well construction, regional and local geology, seismic activity, penetrations of the confining zone, and the mathematical models for no migration demonstration. The U.S. EPA has determined that the geological setting at the site as well as the construction and operation of the wells are adequate to prevent fluid migration out of the injection zone within 10,000 years, as required under 40 CFR part 148. The injection zone at this site includes five geologic formations: the Mt. Simon, Rome, Conasauga, Kerbel, and Knox which are encountered between the

depths of 2346 and 2930 feet. The confining zone consists of the Wells Creek and Black River Formations which are encountered between depths of 1804 and 2346 feet. The confining zone is separated from the lowermost underground source of drinking water (USDW), at a depth of 720 feet below ground level, by a sequence of permeable and less permeable sedimentary rocks, which provides additional protection from fluid migration into drinking water sources. A fact sheet containing a more complete summary of the proposed decision was published in the Federal Register on June 18, 1990, at 55 FR 24629.

A public notice was issued on June 8, 1990, pursuant to 40 CFR 124.10, and a public hearing was subsequently held in Vickery, Ohio, on July 11, 1990. Prior to the public hearing, U.S. EPA participated in two public informational sessions, sponsored by Ohio Environmental Protection Agency (Ohio EPA), concerning the proposed exemption and the Ohio EPA's proposed modified permits. These sessions were held in Vickery on June 27, 1990. The public comment period expired on July 23, 1990.

A number of comments were received during the public comment period. Several commenters expressed interest in the interpretation of the seismic reflection data and the possibility of faults or fractures, and the effect this may have on the demonstration. The seismic reflection study will continue as an ongoing agreement between CWM and Ohio EPA. The review of all data submitted indicated that there is no evidence that faults or fractures which may allow fluid migration out of the injection zone are present. Nevertheless, CWM will be required to provide additional information as specified in Condition 7 of this exemption to further confirm the absence of such faults or fractures. One commenter requested that instead of limiting specific gravity of the injectate, the maximum injection pressure should be adjusted according to changing fluid specific gravities. The purpose of limiting the injection pressure and corresponding specific gravity is to ensure that pressure in the injection zone does not initiate new fractures or propagate existing fractures in the injection zone or confining zone. The Agency agrees that this is an acceptable method of limiting injection pressure and has modified Condition 3 of the exemption to reflect this option. A requirement to monitor specific gravity continuously is also included as part of this revised condition. A few commenters expressed concern about two old oil and gas wells, known as the Metzger and Barr wells, located within the Area of review, which may have been inadequately plugged. CWM will be required to take all reasonable steps to locate those wells, perform further investigation and, if necessary, properly plug and abandon the wells. A new condition requiring implementation of these activities has been imposed accordingly.

In addition, Condition 1 has been revised to allow averaging injection volume on a monthly basis as opposed to a daily basis. This change will not affect the volume modeled in the predicted waste migration. Conditions 5 and 6 were expanded to clarify the Agency's expectation with respect to the compliance with these conditions.

After considering all comments received and additional information supplied by the public and CWM, the U.S. EPA has determined that no new information has been presented in the public comment period which would undermine or invalidate its reasons for granting the exemption as set forth in the original Fact Sheet; accordingly, a final exemption is granted with specific conditions, some of which have been modified since proposed, listed in this notice. A responsiveness summary has been prepared for distribution to all commenters and to all who signed in at the public hearing.

Conditions

This final exemption will become effective upon the issuance of CWM's permit modifications by Ohio EPA. General conditions of this exemption may be found in 40 CFR 148.23 and 148.24. In addition, CWM must meet the following specific conditions:

(1) CWM may inject up to a combined total of 240 gallons per minute into Well Numbers 2, 4, 5 and 6, based on a monthly average;

(2) CWM may inject the exempted wastes only into the Mt. Simon Sandstone through the above four wells;

(3) CWM shall limit its injection operation to a maximum allowable surface injection pressure (MASIP) of 790 pounds per square inch gauge (psig) or as calculated by the following formula, whichever is smaller: MASIP=(0.75 psi/ft−(0.433 psi/ft×SG))×(Casing Depth, ft), where SG=specific gravity. Specific gravity shall be continuously monitored through use of in-line electronic monitoring equipment;

(4) CWM shall inject waste constituents designated on Table B of CWM's submittal dated March 19, 1990, at concentrations at or below the maximums specified on the subject Table;

(5) CWM must submit, within 60 days the exemption is granted, an approvable Groundwater Monitoring Plan that must include an implementation schedule and detailed procedures for drilling, testing and completion of a monitor well that will provide pressure data and allow fluid sampling in or below Trenton Formation. The plan shall conform to the specifications set forth in Attachments B and C of a letter from U.S. EPA to CWM dated April 18, 1990. If the Trenton proves to be an unsuitable monitoring zone, CWM shall continue drilling of the well until a suitable monitoring zone is found. Within 10 months after the issuance of the exemption, CWM shall complete the monitoring well and begin monitoring in accordance with the approved plan;

(6) CWM must submit, within 30 days after the exemption is granted, an approvable Laboratory Core Testing Plan to confirm the conservative nature of the modeling input parameters through core testing with representative wastes. This plan must include all substantive elements outlined in Attachment A of a letter dated April 18, 1990, from U.S. EPA to CWM and must be implemented according to a schedule found in the Attachment of a letter dated May 29, 1990, from CWM to U.S. EPA. CWM must complete the plan within 240 days after the exemption becomes effective.

(7) Seismic reflection studies shall continue in accordance with conditions set forth in CWM's permits-to-operate and the ongoing agreement between CWM and Ohio EPA, in order that CWM confirm the absence of faults and fractures within the Area of Review. If not already required by the Ohio permit, within 60 days after an exemption is granted, CWM must submit an approvable plan to evaluate time profiles from intermediate processing stages, to enhance shallow data, to justify seismic processing adjustments, and to investigate the possibility of a fault(s) bounding the west side of the anticline. No later than 180 days after the exemption is granted, requested seismic information which, if necessary, shall include selected re-processing of time profiles and incorporate other geophysical information, and a report summarizing the evaluations shall be submitted to U.S. EPA for review;

(8) CWM must submit, within 60 days after an exemption is granted, an approvable plan to further investigate two poorly documented oil and gas wells that have caused concern as expressed in public comments on the

proposed exemption, and to outline appropriate plugging and abandonment procedures. This plan must meet the substantive requirements set forth in 40 CFR 146.64, and U.S. EPA's guidance document "Current Technology for Determination of Abandoned Well Locations" (1986). Within 240 days after the exemption is granted, CWM shall either plug and abandon the old oil and gas wells or demonstrate the absence of fluid movement into or between USDWs through these wells;

(9) CWM must fully comply with all requirements set forth in the UIC permits issued by Ohio EPA for operation of Well Numbers 2, 4, 5, and 6.

Substantive requirements set forth in Conditions 1, 2, 3, and 5 are being incorporated into existing UIC permits for these wells by Ohio EPA.

DATES: This action is effective as of August 7, 1990.

FOR FURTHER INFORMATION CONTACT: James D. Paulson, Lead Petition Reviewer, U.S. EPA, Region V, telephone (312) 886–1497. Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

Jerri-Anne Garl,

Acting Director, Water Division.

[FR Doc. 90–20015 Filed 8–23–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3823–]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action to grant case-by-case extension.

SUMMARY: EPA is granting final approval to Cabot Corporation, Tuscola, Illinois, (Cabot) beginning on August 13, 1990, for a 3-month extension of the August 8, 1990, effective date of the hazardous waste injection restrictions applicable to injected wastewaters with the hazardous waste codes D002, and F003. This action responds to a petition submitted under 40 CFR 148.4 according to procedures set out in 40 CFR 268.5, which allows any person to request that the Administrator grant, on a case-by-case basis, an extension of the applicable effective date based on a showing that the petitioner has entered into a binding contractual commitment to construct or otherwise provide adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste. The Agency proposed action on this request in a July 11, 1990, **Federal Register** notice. *See* 55 FR 28415. As a result of the approval to this case-by-case petition, Cabot can continue to inject D002 and F003 wastewaters at Tuscola, Illinois, until November 8, 1990, but not later than this date without being subject to the prohibitions applicable to such wastes.

DATES: This action is effective August 13, 1990.

ADDRESSES: The docket for this action is located at 230 S. Dearborn, Chicago, Illinois, and is open during normal business hours, 9 a.m. to 4 p.m. The public can review all docket materials by calling (312) 886–2929 to make an appointment.

FOR FURTHER INFORMATION CONTACT: For information contact Laura Flynn at (312) 886–2929.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

A more complete discussion of the Hazardous and Solid Waste Amendments (HSWA) of 1984 to amend the Resource Conservation and Recovery Act (RCRA), may be found in previous rulemakings by the Agency. *See* 55 FR 22520, June 1, 1990.

On July 26, 1988, EPA promulgated a final rule (53 FR 28118, effective August 8, 1988), that established an effective date of August 8, 1990, for injected spent F001–F005 solvent wastes containing less than 1 percent solvent constituents. An August 8, 1990, effective date was established for specified California list wastes including acidic D002 wastes that are deep well injected. *See* 53 FR 30908, effective August 8, 1988.

Section 3004(m) of RCRA requires the Agency to set levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. Wastes that meet treatment standards established by EPA are no longer prohibited and may be land disposed.

Section 3004(d), (e), (f), and (g) also allows the applicant to demonstrate to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The no-migration petition process has been established by the Agency for injected wastes under 40 CFR 148 subpart C. *See* 53 FR 28118, July 26, 1988.

Congress recognized that adequate alternative treatment, recovery, or disposal capacity either of which is protective of human health and the environment may not be available by the applicable statutory effective dates and authorized EPA to grant a variance (based on the earliest dates that such capacity will be available) from the effective date which would otherwise apply to specific hazardous wastes (RCRA sections 3004(h)(2) and (h)(3)). In addition, under section 3004(h)(3), the Agency can grant case-by-case extensions of the statutory deadlines for up to one year beyond the applicable deadlines. This extension is renewable once for up to one additional year.

On November 7, 1986, EPA published a final rule (51 FR 40572) establishing the regulatory framework to implement the land disposal restrictions program including procedures for submitting case-by-case extensions under 40 CFR 268.5. On July 26, 1988, EPA published a final rule (53 FR 28118) establishing restrictions and requirements for Class I hazardous waste injection wells, including the framework for the no-migration petition process, and allowing case-by-case extensions under § 148.4 following § 268.5 procedures.

B. Summary of Demonstration Requirements

Case-by-case extension applications must satisfy the requirements outlined in 40 CFR 268.5. These requirements include those specified in RCRA section 3004(h)(3): The applicant must have entered into a binding contractual commitment to construct or otherwise provide alternative capacity (40 CFR 268.5(a)(2)), but, due to circumstances beyond his control, this alternative capacity cannot reasonably be made available by the applicable effective date (40 CFR 268.5(a)(3)).

In addition, EPA has interpreted the statute to require the following: The applicant must demonstrate that he has made a good faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste (40 CFR 268.5(a)(1)). Again, the applicant must demonstrate why this nationwide capacity cannot reasonably be made available by the effective date.

The applicant must also show that the alternative treatment, recovery, or disposal capacity will be adequate for all of his waste (40 CFR 268.5(a)(4)). He must submit a schedule showing the progress that will be made toward providing adequate alternative capacity by including dates for obtaining required

operating and construction permits and for completing key phases of the project (40 CFR 268.5(a)(5)), must also show that he has arranged for sufficient capacity to manage the entire quantity of waste which is the subject of his petition during the requested extension period, and must document in his application the location of all sites at which the waste will be managed (40 CFR 268.5(a)(6)). If the waste would be disposed of in a surface impoundment or landfill during the period of the extension, the unit must meet the minimum technological requirements for these units (40 CFR 268.5(a)(7)).

After an applicant has been granted a case-by-case extension, he is required to keep EPA informed of the progress being made toward obtaining adequate alternative treatment, recovery, or disposal capacity. Any change in the demonstrations made in the petition must be immediately reported to the Agency (40 CFR 268.5(f)). Also, at specified intervals, he must submit progress reports which describe the progress being made towards obtaining alternative capacity, identify any delay or possible delay in developing capacity, and describe the mitigating actions being taken (40 CFR 268.5(g)).

C. Facility Operation and Process

The Cabot facility in Tuscola, Illinois, is a chemical manufacturing plant conceived to produce fumed silicon dioxide (silica), used as an additive in many products. The central reaction in the manufacturing process is combination of silicon tetrachloride with oxygen and hydrogen to produce both fumed silica and hydrogen chloride vapor. Separation results in both fumed silica and product hydrochloric acid as well as contaminated hydrochloric acid which must be disposed of. The fumed silica is used in many varied products including paints, printing inks, decorative coatings, silicone rubber, free flowing powders, adhesives, pharmaceuticals, and cosmetics. The product hydrochloric acid has value and is sold when demand exists. The market for hydrochloric acid is irregular and sometimes the product acid must be disposed of as a waste to allow the manufacture of fumed silica to continue. These wastes are normally injected into one on-site, Class I hazardous waste injection well, Well No. 2. A second well, Well No. 1, is maintained as a standby well and is used only when Well No. 2 is undergoing testing or maintenance work. Both wells are completed for injection into the Potosi and Eminence Dolomites and the Gunter Sandstone equivalent. Well No. 1 was drilled and completed in August 1966, and Well No. 2 was completed in January 1976. Virtually all of the liquid injected into Well No. 1 was injected before Well No. 2 was completed. The total volume of fluid injected into Well No. 2 is 1,029 million gallons as of March 30, 1990, for a yearly average of 73 million gallons. For the last three years, 1987 through 1989, injection volumes have been 75, 69, and 89 million gallons, respectively.

D. No-migration Exemption Petition

Cabot submitted a no-migration petition in April 1989, requesting an exemption from the Land Disposal Restrictions pursuant to 40 CFR part 148. Several subsequent submittals have been made in response to the review of the document by USEPA. A final revision of the petition document was received on June 20, 1990. On August 7, 1990, Cabot requested that two additional waste codes, F003 and F039, be added in the no-migration petition. The Agency proposed an approval of the no-migration petition on August 9, 1990, and a 45-day public comment period began on August 10, 1990.

To assure that the waste does not leak prior to reaching the injection zone, mechanical integrity test (MITs) of the well are required. Section 148.20(a)(2)(iv) requires that satisfactory MITs be performed within one year prior to petition submission and also within one year of the USEPA's petition decision. The Cabot injection wells were tested in November of 1987. The test consisted of a radioactive tracer survey and an annulus pressure test. Mechanical integrity tests were also run in September 1988, and, most recently, in March and April 1990. Results of these tests demonstrated that Well No. 2 has mechanical integrity and confirmed the positive results recorded by continuous monitoring equipment. However, Well No. 1 apparently lost mechanical integrity early in 1990 and that well is not being used for injection. The alteration needed to restore mechanical integrity requires permit modifications which have not yet been approved by the Illinois EPA. Consequently, this proposed exemption is contingent upon restoration of mechanical integrity to Well No. 1. If the exemption is granted, Cabot will be allowed to continue injection of hazardous waste with RCRA Codes of D002, F003 and F039.

II. Summary of Proposal

A. Submission of Case-by-Case Extension

On June 14, 1990, Cabot Corporation at the Tuscola, Illinois, facility petitioned EPA to grant a 12-month extension of the effective date of the hazardous waste injection restrictions applicable to its acidic waste with the hazardous waste code D002, which is restricted by "California List" from injection, effective August 8, 1990. This submission was reviewed and additional information was received on June 26, 1990. The no-migration petition documents submitted by Cabot were also reviewed as part of the proposed action.

B. Petition Demonstration

Requirements to qualify for a case-by-case extension are enumerated in 40 CFR 268.5(a). Cabot Corporation submitted a request for the case-by-case extension, which has been determined to demonstrate Cabot's good faith efforts to manage their waste in an environmentally safe and legally acceptable manner pursuant to these requirements. Demonstrations for specific requirements are discussed below.

1. 40 CFR 268.5(a)(1) Commitment To Provide Protective Disposal Capacity

EPA believes that Cabot has shown the necessary commitment to provide protective disposal capacity within the meaning of RCRA 3004(h)(3) and 40 CFR 268.5(a)(1). These provisions require an applicant to make two showings: (1) That the proposed "disposal capacity" is "protective of human health and the environment," and (2) that Cabot has made "a binding contractual commitment to construct or otherwise provide" such capacity. The Agency construes the first phrase to mean a no-migration unit. No-migration findings in 40 CFR part 148 or 268 provide for a variance to the land disposal prohibitions and, accordingly, are functionally equivalent to compliance with treatment standards under part 268. Moreover, the statute defines protective disposal capacity for purposes of RCRA 3004 (d), (e), and (g) as no-migration units. EPA also considers no-migration capacity as protective disposal capacity for purposes of RCRA 3004(h)(2).

2. 40 CFR 268.5(a)(2) Binding and Contractual Commitment

With respect to showing a "binding contractual commitment", where applicants have already-constructed (and, indeed, are operating) the disposal units at issue, EPA interprets the regulatory language to require objective indicia of applicants' commitment to provide this capacity. EPA's approach is in line with similar practical intrpretations of regulatory language

For example, the Agency has construed the term "commenced construction" to include facilities which have completed construction but did not commence operations. *See* 46 FR 2344, 2346 (January 9, 1981).

EPA does not believe that the simple filing of a no-migration petition provides sufficient indication that the applicant will provide protective disposal capacity. Where an applicant seeks to provide treatment capacity, EPA can rely on design criteria as a basis to predict that the treatment capacity will provide for treatment in compliance with 40 CFR part 268. Where the Agency has determined that a no-migration petition is sufficient to propose a no-migration finding, this proposed finding is legitimate indicia that the applicant is, in good faith, committed to providing protective disposal capacity for purposes of 40 CFR 268.5. *See* 55 FR 22520. *See* FR 22520. In addition, case-by-case extensions necessarily involve predictions about future capacity. For example, such predictive findings specifically include the need for permits that may not yet be issued. *See* 40 CFR 268.5(a) (5).

Today's proposed case-by-case extension is based on objective indicia of the applicant's commitment to provide disposal capacity through continued use of its deep wells. Since the petitioner's application is based on already constructed wells, this petitioner's commitment is more tangible than petitions based solely on contracts to construct such capacity. *See* RCRA 3004(h) (3). Second, the injection wells have been permitted under both RCRA and SDWA standards, thus further demonstrating a commitment to provide this capacity. The applicant has demonstrated that only a no-migration finding prevents the units from being available as protective disposal capacity. Finally, EPA has a good basis for believing that this capacity will, in fact, be provided in a short period of time. EPA has proposed approval of the no-migration petition for the Cabot facility.

3. 40 CFR 268.5(a)(3) Requirements to Seek Alternative Capacity and Reasons Alternative Capacity Cannot Reasonably be Made Available by the Applicable Effective Date

The applicant's commitment to provide protective disposal capacity is not the sole basis for EPA granting a case-by-case extension. Under 40 CFR 268.5(a) (1), he must also make a good faith effort to seek other protective treatment, recovery, or disposal, where feasible, during the period that applicants' proposed alternative capacity is not available. Such good faith efforts under § 268.5(a) (3). Cabot has attempted to find alternative capacity for waste disposal during the period between the effective date of August 8, 1990, and the final petition decision date.

Cabot has pursued the no-migration process with a good faith belief that the Agency would provide a no-migration finding by the August 8, 1990, effective date. Cabot first began preparing for submittal of its no-migration petition in the Summer of 1987, a year before the part 148 rules were issued in final form. Although Cabot submitted its petition to the Agency over one year ago, in April, 1989, both industry and the Agency have learned from experience that the no-migration petition process is taking substantially more time than initially had been envisioned.

The no-migration finding is a precondition to the provision of the alternative disposal capacity. The Agency needed additional time to assess exemption petition material supplied by the petitioner. The no-migration review process is the reason that the applicant's wells could not be available as no-migration units by the effective prohibition dates.

According to the demonstration supplied by the applicant, several leogistic problems make short-term capacity not reasonably available. Despite the presence of capacity to dispose of the waste, the capacity cannot be used due to the limited facilities for loading at the Tuscola facility. Studies cited in sections of the letter of June 25, 1990, entitled, A. Long Term Treatment and B. Temporary Alternatives, indicate that at least a year woudl be required for construction of loading facilities. Therefore, unless an extension to the effective date is granted, Cabot will be forced to cease operations due to lack of disposal capacity.

Cabot's facility relies on immediate disposal in on-site injection wells. In order to make the necessary adjustments, the facility would need to temporarily shut down, perform necessary retooling and repiping, and construct a transportation system to move the large volumes of waste at issue. These factors indicate that the other capacity is not reasonably available for short-term waste management. EPA has relied on similar criteria in providing nationwide variances under RCRA 3004(h)(2). *See* 55 FR 22520.

There is limited other capacity under Section 268.5(a) (1) to eventually handle the waste from Cabot's facility. However, due to Cabot's claimed logistic problems of retooling, repiping, and transportation of the large volume of waste at issue, this other capacity is not reasonably available during the short period of time EPA anticipates is necessary to process the final no-migration petition decision for these wells.

4. 40 CFR 268.5(a)(4) Adequate Alternative Treatment

The capacity of the constructed well will be sufficient to manage the entire quantity of waste that is the subject of the application pursuant to § 268.5(a) (4). If, as is anticipated, the proposal to approve the petition is approved, Cabot woudl then continue to use the deepwell system to dispose of acidic waste water and unsold by-product acid. The deepwell system has the capacity to dispose of several times the volume of the Cabot waste stream.

5. 40 CFR 268.5(a)(5) Detailed Schedule

Cabot has provided an outline of how and when alternative capacity will be available pursuant to § 268.5(a)(5). Cabot has constructed two Class I wells to provide for economical and environmentally safe disposal. In mid 1987, Cabot solicited proposals for a demonstration of no-migration pursuant to 40 CFR part 148. Pursuant to 40 CFR 268.5(a)(5), Cabot has submitted a chronology showing what progress occurred from this period through submission of the most recently revised petition document on June 20, 1990. Cabot's management believed that a petition for exemption from land disposal restructions could be prepared by consultants and subsequently approved by the USEPA before the effective date for D002 wastes. Because of the sparsity of site-specific data, an approvable demonstration of no migration was not accomplished and submitted in a revised petition until June, 1990. In the letter of June 4, 1990, requesting a case-by-case extension, a schedule, prepared for the Cabot exemption petition, indicates that a final decision on this petition will not be made before the end of September 1990, in order to allow USEPA technical staff and consultants time to review the now complete package and complete the administrative requirements of 40 CFR part 124.

6. 40 CFR 268.5(a)(6) Adequate Capacity

Cabot has arranged for adequate capacity to manage its waste during an extension and has documented in the application the location of all sites at

which waste will be managed (§ 268.5(a)(6)). If the extension is granted, Cabot will be able to continue to dispose of acidic waste waters, waste acid, and spent solvent through the deepwell disposal system until a final decision on the petition is reached. If the petition is denied then Cabot will be forced to close the facility until physical alterations are made to allow either on-site treatment or off-site disposal.

7. 40 CFR 268.5(a)(7) Surface Impoundments

Any waste managed in a surface impoundment or landfill during the extension period must meet the requirements of paragraph (h)(2) of this § 268.5(a)(7). This condition is not applicable in Cabot's case because no such storage unit will be used.

C. Proposed Action

For the reasons discussed above, the Agency believes that Cabot's demonstrations have satisfied all the requirements for a case-by-case extension of the effective date of the hazardous waste injection restrictions applicable to D002. Therefore, the Agency proposed an extension of the August 8, 1990, effective date of the restrictions on D002 for Cabot Corporation, Tuscola, Illinois, for continued injection. The proposed action was published in the July 11, 1990, **Federal Register** to begin a 30-day comment period. The public comment period ended on August 10, 1990. *See* 55 FR 28415.

III. Response to Comments

Only one comment was received by the Agency concerning the proposed case-by-case extension. Re-evaluation of Cabot's wastestream revealed that the acetone, found at concentrations of about 0.2 percent of the health based limit in the injectate, is spent solvent and the applicable waste code is F003 rather than U002. The effective date for land disposal restrictions for F003 is August 8, 1990, whereas that for U002 will be on November 8, 1990. Therefore, Cabot has asked that the case-by-case extension be granted to F003 in addition D002. Cabot also disposes of a multisource leachate (F039) leached from a closed waste impoundment at the site. The effective date for this waste code is November 8, 1990; hence, no extension is requested for that waste at this time.

The Agency agrees that F003 should also receive an extension. The modeling required for the no-migration petition took the effects of acetone in the injectate into account and its presence has no effect on the safety of the injection operation. Therefore, F003, spent solvent waste, is also given a 3-month extension by this ruling.

IV. Agency Action

Since no other comments were received by the Agency concerning the proposed case-by-case extension, USEPA has determined that its reasons for granting the exemption remain valid and that final exemption should be granted to both D002 and F003 wastes, and published in the **Federal Register**.

Therefore, EPA is granting an extension of the August 8, 1990, effective date of the restrictions on D002 and F003 for Cabot Corporation, Tuscola, Illinois, for injection into Well No. 2. These wastes, which would not not be prohibited from land disposal, could be injected over a 3-month period, starting from the effective date of August 13, 1990, until a final decision of the applicant's no-migration petition is made, but not later than November 8, 1990. If that decision approves the no-migration variance, then the case-by-case extension will expire. If EPA has not finalized the no-migration petition by November 8, 1990, Cabot must cease injection until the no-migration petition is approved. If EPA denies the no-migration variance, then the case-by-case extension will expire on November 8, 1990.

Cabot must submit a progress report 2 months after the effective date of the extension is granted, addressing the progress being made to obtain alternative disposal capacity. The Agency must be notified of any change in the conditions specified in the petition. The extension would remain in effect unless Cabot fails to make a good faith effort to meet the schedule for completion, the Agency denies or revokes any required permit, or if conditions certified in the application change. Prior to revoking this case-by-case extension for failure to comply with environmental laws, the Agency will comply with all due process requirements.

Authority: Secs. 1006, 2002(a), 3001, and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6924).

Dated: August 13, 1990.

Ralph R. Bauer,

Acting Regional Administrator, EPA Region V.

[FR Doc. 90–20010 Filed 8–23–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3823–6]

Proposing the Granting of Exemption to Cabot Corp., Tuscola, IL, for Continued Injection of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant an exemption to the Cabot Corporation, Tuscola, Illinois, for the continued injection of waste hydrochloric acid and specified hazardous constituents recovered by the storm water collection system.

SUMMARY: The United States Environmental Protection Agency (USEPA or Agency) today is proposing to grant an exemption from the ban on disposal of hazardous wastes through injection wells to the Cabot Corporation, Cab-O-Sil Division, Tuscola, Illinois (Cabot). Cabot may inject certain Resource Conservation and Recovery Act (RCRA) regulated wastes in its Wells No. 1 and No. 2 after the prohibition effective date for each listed waste if the exemption is granted. The wastes are hazardous by reason of corrosivity due to content of unsalable by-product hydrochloric acid and acidic wastewaters, and toxicity due to solvents leached from a closed waste storage impoundment and spent solvent from cleaning laboratory glassware. Cabot submitted a petition to the EPA under 40 CFR part 148, which allows the owner or operator of Class I wells injecting hazardous waste to petition the Administrator to determine whether his continued injection of certain hazardous wastes is harmful to human health or the environment. After a comprehensive review, the EPA has determined that there is a reasonable degree of certainty that Cabot's injected waste will not migrate out of the injection zone over the next 10,000 years.

DATES: The USEPA is requesting public comments on today's proposed decision. Comments will be accepted until September 24, 1990. Comments received after the close of the comment period will be stamped "Late". A public hearing will be scheduled for this proposed action and notice will be given in a local paper and to all people on a mailing list developed by the USEPA and the Illinois Environmental Protection Agency (Illinois EPA). If you wish to be notified of the date and location of the public hearing, please contact the persons listed below.

ADDRESSES: Submit written comments, by mail, to: United States Environmental Protection Agency Region V,

Undergound Injection Control Section (5WD–TUB–9), 230 South Dearborn Street, Chicago, Illinois 60604, Attn: Richard J. Zdanowicz, Chief.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, UIC Section, Water Division, USEPA, Region V, Chicago, Illinois, Office Telephone Number: (312) 886–2939.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

The Hazardous and Solid Waste Amendments of 1984 (HSWA), enacted on November 8, 1984, impose substantial new responsibilities on those who handle hazardous waste. The amendments prohibit the continued land disposal of untreated hazardous waste beyond specified dates, unless the Administrator determines that the prohibition is not required in order to protect human health and the environment for as long as the waste remains hazardous (sections 3004(d)(1), (e)(1), (f)(2), and (g)(5) of RCRA). The statute specifically defined land disposal to include any placement of hazardous waste in an injection well (section 3004(k) of RCRA). After the effective date of prohibition, hazardous waste can be injected under only two circumstances.

(1) When the waste has been treated in accordance with the requirements of 40 CFR part 268 pursuant to section 3004(m) of RCRA, (the EPA has adopted the same treatment standards for injected wastes in 40 CFR part 148, subpart B); or

(2) When the owner/operator has demonstrated that there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. Applicants seeking an exemption from the ban must demonstrate either:

(a) That the waste undergoes a chemical transformation so as to no longer pose a threat to human health and the environment; or

(b) That fluid flow is such that injected fluids would not migrate vertically upward out of the injection zone or laterally to a point of discharge in a period of 10,000 years (40 CFR 148.20(a)).

On July 26, 1988 (53 FR 28118) the USEPA promulgated final regulations which govern the submission of petitions for exemption from the injection prohibition (40 CFR part 148). A time frame of 10,000 years was specified for the demonstration, not because migration after that time is of no concern, but because a demonstration which can meet a 10,000 year time frame will likely provide containment for a substantially longer time period, and also allow time for geochemical transformations which would render the waste nonhazardous or immobile. Thus, the Agency's standard does not imply that leakage will occur at some time after 10,000 years; rather, it is a showing that leakage will not occur within that time frame.

B. Facility Operation and Process

The Cabot facility in Tuscola, Illinois, is a chemical manufacturing plant conceived to produce fumed silica, SiO_2 or silicon dioxide, which is used as an additive in many products. The central reaction in the manufacturing process is combination of silicon tetrachloride with oxygen and hydrogen to produce both fumed silica and hydrogen chloride vapor. The reaction may be described by the following equation:

$$SiCl_4+2H_2+O_2 = SiO_2+4HCl$$

The fumed silica and the hydrogen chloride vapor must be separated. This separation results in both fumed silica and product hydrochloric acid as well as wastewaters contaminated with hydrochloric acid which must be disposed of. The fumed silica is used in many varied products including paints, printing inks, decorative coatings, silicone rubber, free flowing powders, adhesives, pharmaceuticals, and cosmetics. The product hydrochloric acid has value and is sold when demand exists. The market for hydrochloric acid is irregular and sometimes the product acid must be disposed of as a waste to allow the manufacture of fumed silica to continue. These wastes, along with surface runoff and seepage into a subsurface drainage system, are normally injected into one on-site, Class I hazardous waste injection well, Well No. 2. A second well, Well No. 1, is maintained as a standby well and is used only when Well No. 2 is undergoing testing or maintenance work. Both wells are completed for disposal into the Potosi and Eminence Dolomites and the Gunter Sandstone equivalent. Well No. 1 was drilled and completed in August 1966, and Well No. 2 was completed in January 1976. Virtually all of the 219 million gallons of liquid injected into Well No. 1 was injected before Well #2 was completed. The total volume of fluid injected into Well No. 2 is 1,029 million gallons as of March 30, 1990, for a yearly average of 73 million gallons. For the last three years, 1987 through 1989, injection volumes have been 75, 69, and 89 million gallons, respectively.

C. Waste Minimization

Hydrochloric acid is a by-product of many industrial processes. The amount of hydrochloric acid used in other industrial processes is less than that which is produced. Therefore, some waste is inevitable despite attempts to reduce inefficiencies in the generation and treatment processes.

Section 3002(b) of RCRA requires that generators of hazardous waste have "* * * a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable." Cabot has implemented a waste minimization program which includes:

(1) Installation of secondary bag filters on all production units to reduce the frequency of acid sump dumps from 21 to less than 6 per week. Reduction of waste acid has been approximately 200,000 gallons of 32% hydrochloric acid per year.

(2) Installation of a vent condenser to recover and recycle silicon tetrachloride previously vented to the tank farm vent scrubber. This reduced the acid generated while scrubbing this stream by at least 90%, approximately 55,000 gallons per year.

(3) Increased effort to market by-product acid, including employment of a full time salesman.

(4) Increased storage capacity for by-product acid to reduce amount disposed of during periods of low sales.

As a result of the initiatives undertaken, the pH of the injected waste stream is approximately 2 during periods when it is not necessary to dispose of by-product acid. Continuing efforts to reduce the amount of acid waste include:

(1) Improving the effectiveness of the acid collection system to recycle and recover more salable acid.

(2) Evaluation of methods to improve acid quality to make it more salable.

(3) Investigation of use of the by-product acid as a raw material for an new production facility to be constructed adjacent to the current plant.

D. Submission

On April 17, 1989, Cabot submitted a petition for exemption from the land disposal restrictions on hazardous waste injection under the HSWA Amendments to RCRA pursuant to the regulations set forth at 40 CFR part 148. This submission was reviewed and major revision documents are dated January 30, 1990, and June 19, 1990. Several supplemental submissions were made during this period and thereafter to resolve deficiencies. The total submission was reviewed by staff at the USEPA, the Illinois EPA, and, in part, by the Illinois State Geological Survey and the Illinois State Water Survey as well as private consultants hired by the USEPA to assist in its review.

II. Basis for Determination

The draft decision to approve Cabot's petition for continued injection was reached after a careful consideration of the factors involved in an environmentally protective injection operation. These factors include: the type of waste injected, well construction, well operation, proof of mechanical integrity of the wells, properties of the injection and confining zones, including their ability to receive and confine the waste, a detailed search for any abandoned boreholes which may serve as a conduit for upward waste migration, and comprehensive modeling of the existing waste plume and future growth and movement of the plume, both vertically and laterally, for the next 10,000 years. In order to be conservative, the values used for input into the models were consistently chosen so as to over-predict the waste plume movement caused by the injection activity. The following sections describe each of these factors in more detail.

A. Waste Description and Analysis

The hazardous wastes being injected into Cabot's Class I wells bear three RCRA waste codes. Briefly, these wastes are: Hydrochloric Acid and wastewaters contaminated with Hydrochloric Acid which are hazardous because they are corrosive (i.e., pH is less than or equal to 2.0, hence, its waste code is D002), leachate (F039) contaminated with small amounts of 1,1 Dichloroethylene, 1,2 Dichloroethylene, Methylene Chloride, Phenol, Tetrachloroethylene, and Trichloroethylene from a closed waste storage impoundment, and low concentrations of residual, spent Acetone (F003) rinsed from laboratory glassware cleaned with solvent. The injected waste at Cabot has an average pH of less than 0.5. Other wastes, particularly cleaning and maintenance wastes, are drummed and shipped off site for incineration.

The prohibition effective dates for the three waste codes are: D002, August 8, 1990; F003, August 8, 1990; and F039, May 8, 1992. An additional three month extension for D002 and F003 has been proposed, specific to Cabot's facility, to allow time for this proposed action to become final. Hence, the prohibition effective date for those two constituents will be November 8, 1990, if the extension is granted.

B. Well Construction and Operation

Cabot Well No. 1 was constructed in 1966 with two strings of casing and Cabot Well No. 2 was constructed with three strings of casing in late 1975 and completed in early 1976 (See Figure 1). Each string of casing in each well is cemented to the surface. Injection takes place through tubing inserted into polished-bore receptables on packers at depths of 4864 feet and 4900 feet, respectively. Waste within the injection tubing is isolated from the casing by an annulus filled with a corrosion inhibiting liquid. A pressure greater than the injection pressure is maintained within the annulus of each well. A monitoring system is designed to trigger alarms and warn an operator to shut off injection if the injection rate, the injection pressure, or the annulus pressure approach the permitted limits, or if the annulus system loses liquid.

At full production, the average injection rate at Cabot varies from a low of 85 gallons per minute (gpm) to a high which may approach 300 gpm, depending on sale of acid and the amount of rainfall. In 1989 the average monthly flow rate was 171 gpm and has been 150 gpm through the last three years. Hydrological conditions are such that injection is accomplished with no pressure at the surface. The maximum permitted injection pressure of 50 pounds per square inch (psi), gauge, measured at the surface, is far below the amount necessary to intitiate or propagate fractures in the injection zone. The increased pressure necessary to dispose of Cabot's waste stream at maximum flow conditions is about 3 psi and the level of the injectate in the well is more than 130 feet below the ground surface.

C. Mechanical Integrity Test Information

To assure that the waste does not leak prior to reaching the injection zone, mechanical integrity tests (MITs) of the well are required. Section 148.20(a)(2)(iv) requires that satisfactory MITs be performed within one year prior to petition submission and also within one year of USEPA's petition decision. The Cabot injection wells were tested in November of 1987. The test consisted of a radioactive tracer survey (RTS) and an annulus pressure test. Mechanical integrity tests were also run in September, 1988, and, most recently, in March and April, 1990. Results of these tests demonstrated that Well No. 2 has mechanical integrity and confirmed the positive results recorded by continuous monitoring equipment. However, Well No. 1 apparently lost mechanical integrity early in 1990 and that well is not being used for injection. The alteration needed to restore mechanical integrity requires permit modifications which have not yet been approved by the Illinois EPA. Consequently, this proposed exemption is contingent upon restoration of mechanical integrity to Well No. 1.

D. Site Description

As part of the "no migration" demonstration under part 148, subpart C, any Class I hazardous waste injection well petitioner must identify the strata within an injection zone which will halt fluid movement above the injection interval and additional strata above the injection zone which can act as a confining zone. The injection zone is divided into two parts: The injection interval and the containment interval. The injection interval includes the rock strata into which waste is directly emplaced. The containment interval is the rock strata which will ensure containment of the waste for at least 10,000 years. The confining zone is additional rock strata capable of preventing fluid movement above the injection zone. This section describes the properties of each interval with emphasis on those characteristics which make it a good receiving or confining zone.

1. Regional Geology

The geology in the vicinity of the facility is known through studies of geophysical well logs and cuttings from the Cabot wells and a number of other nearby wells, particularly a Class I waste injection well operated by U.S. Industrial Chemicals and the Walter J. Buck No. 2 which was drilled for oil exploration by Elton M. Botts and

reopened by Cabot Corporation and plugged in 1989. These wells are within one mile of the Cabot wells. There are other wells which penetrate the confining and injection zones within ten miles of the Cabot facility. All depths given in this fact sheet are from the logs of Cabot's Well No. 2 and are depths below the kelly bushing unless otherwise noted.

The Cabot facility is located in Douglas County, near Tuscola, Illinois. It is situated near the base of the Tuscola Anticline, a feature which is part of the LaSalle Anticlinal Belt, a subregional structural feature running south-southeast through the northeastern portion of the Illinois Basin. The Lasalle Anticlinal Belt was formed by compression associated with basin formation during the late Paleozoic Era. The Precambrian basement rock is overlain by a sedimentary rock sequence approximately 8,200 feet thick at the Cabot site. The rock units, consisting of carbonates, sandstones, siltstones, and shales, dip to the west-southwest at about 100 feet per mile. Over 2,500 feet of sedimentary strata were differentially removed by erosion at the crest of the Tuscolar Anticline within 5 miles of the Cabot well site.

As shown in Figure 1, the lowermost underground source of drinking water (USDW), defined as water with less than 10,000 milligrams per liter total dissolved solids, is within the Moccasin Springs Formation, the base of which is located at a depth of approximately 2,700 feet at the well site. The top of the injection zone is the Oneota Dolomite at a depth of 4,442 feet. There are, thus, about 1,750 feet of separation between the top of the injection zone and the base of the lowermost USDW.

The Cabot facility is located in an area of low seismic risk. Earthquakes that may cause damage in the future are most likely to be centered in seismically active areas to the south and southeast, namely, the New Madrid and Wabash Valley fault zones located in Arkansas, Tennessee, Kentucky, Missouri, southern Indiana and southern Illinois. Approximately ten earthquakes have been recorded within a 50-mile radius of the Cabot facility. All recorded earthquakes have been of low intensity, ranging from I to IV on the Modified Mercalli Scale. Damage to disposal well systems or alteration of the hydrogeologic properties of the injection or confining zones would not be expected to occur from intensity IV earthquakes. For example, damage to underground pipes would be expected to occur only for intensity levels of IX or greater. Seismic activity induced by injection activity is also highly unlikely due to the low injection pressure.

2. Injection Zone Description

The injection zone must have sufficient permeability, porosity, thickness, and areal extent to contain injected hazardous fluids within the zone. The injection zone at Cabot consists of the upper portion of the Franconia Dolomite, the Potosi Dolomite, the Eminence Dolomite, the Gunter Formation, and the Oneota Dolomite, from a depth of approximately 5,400 to 4,442 feet, a total thickness of about 1,000 feet (Figure 1). These formations extend over much of the midwestern United States and reach the surface approximately 250 miles away, in Wisconsin. At the Cabot site, each of the formations within the injection zone is laterally extensive as documented by the geologic literature.

At Cabot, the injection interval, or the interval into which waste is directly emplaced, is the upper part of the Franconia Dolomite, the Potosi Dolomite, the Eminence Dolomite, the Gunter Formation, and part of the Oneota Dolomite, located between the depths of 5,400 and 4,778 feet, with a thickness of 622 feet. Analysis of well logs and cutting samples from the Cabot site shows that the porosity and permeability of the rock matrix are generally low; porosity averages about 4 percent. However, a secondary porosity-permeability system in the form of an extensive network of vugs (small solution cavities), microfractures, and, possibly, fractures allows the injection and storage of liquid at low pressure.

Dolomite, the major constituent of the injection inverval, is subject to chemical reaction with the waste with the ultimate production of soluble salts (calcium chloride and magnesium chloride), carbon dioxide, and water. This reaction results in neutralization within a short time after the injected acid comes into contact with the formations of the injection interval. At the temperatures and pressure existing in the injection interval, any free carbon dixode is in a supercritical state, that is, its properties are intermediate between those of a gas and a liquid. This low density fluid forms a blanket at the top of the injection interval and may prevent upward migration of the injected liquid. These effects, although not accounted for in the modeling, provide additional conservatism in the demonstration.

The upper portion of the injection zone which will prevent movement of the injectate out of the injection zone is the containment interval. At the Cabot site, this interval is 336 feet thick and includes most of the Oneota Dolomite. The strata within the injection interval consist predominantly of dolomite with interbedded sandy dolomites, shales, and sandstones. The porosity of the dolomite is variable, ranging between 2 and 10 percent. The containment interval also contains two prominent sandstone members with a total thickness of 15 feet. The porosity of these sandstones is approximately 11 percent.

Shales within the containment interval play an important part in preventing vertical movement of liquids due to their low permeability and plastic properties. The base of the containment interval has been placed at the base of a 2-foot shale which can be traced from well to well within the area of review. Four similar shale intervals contain 7 additional feet of shale and there are numerous thinner shale interbeds. X-ray diffraction analysis indicates that the shales in the injection zone contain about 80 percent illite. This clay tends to behave plastically under pressure and expands when wetted. These properties are expected to seal fractures. Correlations of the gamma ray logs indicate that the shales, even very thin beds, are laterally continuous. The vertical permeability of all the shales within the injection zone is modeled as 0.5 millidarcy (md) which is several orders of magnitude higher than is expected. Because of the low pressure differential across the shale, even thin shales will substantially inhibit the vertical movement of waste through this zone. In addition, the natural hydraulic system is such that an overall, slightly downward pressure gradient from the St. Peter Sandstone to the Eminence and Potosi Dolomite may exist, even during injection operations.

3. Confining Zone Description

The confining zone must be (1) Laterally continuous, (2) free of known transecting, transmissive faults and fractures over an area sufficient to prevent fluid movement, and (3) of sufficient thickness and possessing lithologic and stress characteristics that inhibit the vertical propagation of fractures. The confining zone for the Cabot injection operation consists of the Shakopee Dolomite, which is laterally extensive and free of known transmissive faults and fractures throughout the area of review. At the Cabot site, it is located between 4,124 and 4,442 feet and has a thickness of 318 feet (Figure 1). Net shale thickness within the confining zone is at least 45 feet. It is separated from the lowermost

USDW by over 1,400 feet of permeable and less permeable strata.

Although the confining zone is predominantly dolomite, it contains significant sand and shale strata. The sand intervals will act as pressure bleed-off zones if necessary; the shales seal fractures and their low permeability limits upward migration. Based on a review of all available information, the Agency has determined that the Shakopee Formation is an adequate confining zone for Cabot's injection operation.

4. Area of Review

The area of review (AOR) is the area within which the petitioner must identify all wells which penetrate the confining zone and demonstrate that they have been properly completed or plugged. The AOR for Class I hazardous waste injection wells is within a 2-mile radius around the well bore, unless a larger area is required based on the calculated cone of influence. The cone of influence is the area within which the pressure buildup due to injection exceeds that necessary to raise fluid through an abandoned well bore or natural conduit from the injection zone to the base of the lowermost USDW. At the Cabot site the pressure increase caused by injection is so small that movement of either the injectate or formation liquids from the injection zone through the St. Peter sandstone is impossible. Thus, there is no cone of influence at the Cabot site and the area of review is 2 miles. The two nearby wells mentioned in section D(1) are the only wells within the area of review which penetrate the confining zone. The USI well is properly completed as a Class I disposal well and the second well, the Walter J. Buck No. 2 has been properly plugged by Cabot. Cabot has performed a search for wells within a 5-mile radius of the injection wells, and found that there are five wells that penetrate the confining zone near the edge of the northeast quadrant of this area. These wells are outside of the cone of influence of Cabot's wells and are adequately sealed to prevent vertical migration given the lack of a pressure differential to induce movement.

E. Model Demonstration of No Migration

The demonstration of no migration of hazardous constituents from the injection zone at Cabot involes the use of a family of productive mathematical models known as Sandia Waste-Isolation Flow and Transport Code (SWIFT II). This family of models can be used to predict the vertical transport of waste from the injection well. The SWIFT numerical code has been widely used and extensively verified, as reported in various publications. The long history of development and the successful use of SWIFT II for sites similar to Cabot provide confidence that the model is well validated and is appropriate for use at this site. Lateral transport of waste is modeled using analytical methods which determine the volume that the plume will occupy.

1. Model Development and Calibration

The Cabot model was developed by incorporating geological and hydrogeological data from the vicinity of the site into a conceptual model. These data were derived from well logs, cuttings from the wells, cores, published literature, and well tests. The model contains 38 stratigraphic layers extending from the lower portion of the Potosi Dolomite to 50 feet above the base of the lowermost USDW. Reasonably conservative values were chosen for all parameters used to model waste transport; details of this are discussed below.

To increase the conservatism of the estimate of upward migration, the horizontal permeability was set at 3.6 darcies, the value of which would cause a pressure increase of 10 psi at a flow rate of 400 gpm. In fact, a pressure rise of just 7.34 psi is expected at that rate of injection. The pressure in the lowermost USDW has probably been affected by pumping at two well fields used to obtain water for the use of residents of Tuscola. However, the low pressure in the injection zone and the presence of the St. Peter Sandstone, which is a massive buffer between the confining zone and the USDW, make the probability of contamination of the USDWs due to the effects of the injection activities extremely remote.

The waste plume was modeled in two ways: the plume movement was calculated both laterally within the Potosi and Eminence Dolomites and the Gunter Sandstone and vertically into the overlying Oneota Dolomite.

2. Pressure Analysis

The pressure within the injection interval at the time injection began in 1966 was not measured. Nevertheless, sufficient information about subsequent pressure is recorded to show that there has been no long-term pressure increase in injection interval. In particular, the pressure transmitted through the liquid filled annuli of the two wells prior to the alteration of the completion type from liquid seal to packer in 1988 were nearly constant through the history of injection into Well No. 2. During recent testing, injection at rates up to 235 gpm caused pressure in the injection interval to increase by only about 3 psi. Within six minutes of the cessation of injection, this pressure increase had dissipated and the pressure stabilized at 1,970 psi, absolute, at a measuring depth of 4,690 feet. At the top of the injection interval at 4,778 feet, the pressure is very close to 2,008 psi, absolute. The lack of measurable pressure buildup is believed due to the thickness of the injection interval and presence of an extensive network of vugs, microfractures, and, possibly, fractures developed during dolomitization and formation of the LaSalle Anticlinal Belt. This network consists of fractures at various scales. The largest allow the waste and naturally occurring waters to move with little resistance and the smallest allow hydraulic access to a large percentage of the primary pore space present within the rock matrix. Thus, despite the low primary porosity and permeability and the very slight compressibility of both the native waters occurring in the injection zone and the wastewaters, a very large volume of liquid-filled pore space is available to absorb the pressurizing effects of injection. The result is that pressure due to injection activity is not a significant factor at the Cabot site.

3. Short-Term Vertical Migration

A conservatively estimated pressure buildup acting throughout the operational period was used as a basis for modeling the vertical migration of waste. Vertical transport at Cabot is most sensitive to pressure buildup and the observed pressure buildup during maximum injection episodes, about 3 psi, is less than one third of the modeled value, 10.2 psi. Vertical migration is less sensitive to changes in the vertical permeability and thickness of the shale at the base of the Oneota Formation because such changes do not greatly affect the average through the formation.

Neither the horizontal nor vertical permeabilities of the strata above the injection zone have been measured. Therefore, reasonably conservative values have been chosen for vertical permeabilities of each rock type. These vertical permeabilities are: for dolomite, 1.67 md; for sand, 10 md; and for shale, 0.5 md. The value used for horizontal permeability, 10 md, is not, itself, conservative for all rock types. However, the extremely low horizontal pressure gradient makes this acceptable.

A final-to-original concentration ratio of 0.003 (10 times the dilution sufficient to increase the pH of the waste from 0.5 to 2 and more than enough to reduce the concentration of all harzardous constituents to nonharzardous levels)

was used to define the edge of the waste plume. The modeling shows that, during the operational period, vertical migration will not exceed 132 feet.

4. Long-Term Vertical Migration

Molecular diffusion is the primary transport mechanism for the vertical migration of waste after pressure increase due to injection has dissipated. The extent of molecular diffusion is a function of the tortuosity of pores and the rate of diffusion of the various molecules as well as time. Geologic literature and log analysis were used to determine a reasonably conservative tortuosity of 0.15. This, and an assumption of a diffusivity of 2×10^{-9} square meters per second, yields a coefficient of molecular diffusion of 3×10^{-10} square meters per second. Based on these values and the use of the conservative final-to-original concentration ratio of 0.003 to define the waste front, the maximum vertical displacement of the waste front during a 10,000 year post-operational period is 238 feet from the point at which the waste leaves the well. For practical purposes, this point is at the casing shoe of Well No. 2, through which virtually all of the waste is injected. However, because the packer in Well No. 1 can no longer be set to hold pressure in the annulus at an equivalent depth where a leak is suspected, upward movement is calculated to begin at 4,830 feet, the lowest point at which the packer can be set securely. This calculation indicates that the waste will remain in the containment interval, at least 171 feet below the top of the injection zone. At this distance, the concentration of all hazardous constituents will be less than health-based limits. These calculations do not take into account the effect of attenuation which normally occur during movement of solutions through earth materials.

5. Short-Term Lateral Migration

The distance of laterial migration of waste during the operational period was calculated by accounting for volumetric displacement by the injected waste. The waste plume is assumed to migrate laterally within a 200 feet thick interval having an effective porosity of 1 percent. To account for uncertainty in the calculation of porosity, hydrodynamic dispersion, and to add conservatism, the cumulative volume of liquid assumed to be injected during the life of the well was tripled for the plume size calculation.

The modeled effective thickness, 200 feet, is considerably less than the interval between the total depth of Well No. 2 and the base of the fiberglass casing, 437 feet. The porosity was determined from log analysis of the Walter Buck No. 2 well. The estimates are conservative for both effective thickness and porosity. The effective thickness is more likely to be the interval between the lowermost shale of the containment interval and the uppermost effective shale below the total depth of the well. Model results indicate that the waste will migrate laterally approximately 17,700 feet from the well during the 41.5-year operational period.

6. Long-Term Lateral Migration

During the 10,000-year post-operational period, the waste plume will migrate due to the natural flow of groundwater in the injection interval. An apparent groundwater flow velocity in the range of 0.33 feet per year, based on published literature estimates, would result in an additional drift of the waste plume of 3,300 feet in 10,000 years. Buoyancy of the waste will lead to additional migration. Mapping indicates that a dip of 1.2° is possible at the well site; elsewhere within the waste plume the rate and direction of dip are different. Using the same conservation values used elsewhere results in a conservative estimate of 2,500 feet for migration due to buoyancy. For conservatism, the effects of regional groundwater flow and buoyancy are added to the distance of plume spreading due to volumetric displacement and, therefore, the waste plume will remain within 23,500 feet or 4.5 miles of Well No. 2.

Therefore, Cabot has demonstrated, to a reasonable degree of certainty, that hazardous constitutents will not migrate vertically more than 240 feet nor laterally more than 4.5 miles in a 10,000 year period. Hazardous constituents will not migrate vertically out of the injection zone nor laterally to a point of discharge, within this time period.

F. Quality Assurance and Quality Control

Cabot and its consultants have demonstrated that adequate quality assurance and quality control plans were followed in preparing the petition. Cabot has followed appropriate protocol for locating records for penetrations in the AOR, for collection and analysis of geological and hydrogeologic data, for waste characterization, and for all tasks associated with the modeling demonstration.

III. Conditions of Petition Approval

As a condition of granting this proposed exemption from the ban on injection of corrosive wastes (D002) with toxic constitutents including spent, non-halogented solvents (F003), and multisource leachate (F039) the EPA requires that the following conditions be met by Cabot:

(1) The monthly average injection rate must not exceed 400 gallons per minute;

(2) The concentrations of constituents included in the injected leachate will not exceed the amounts listed as proposed maximum allowable concentrations in table 8–6 in the petition document;

(3) Injection shall occur only into the Potosi and Eminence Dolomites, and the Gunter Sandstone;

(4) The injection zone shall consist of the Franconia, Potosi, Eminence, and Oneota Dolomites and the Gunter Sandstone, found between approximately 5,400 and 4,442 feet in Cabot's Well No. 2.

(5) The petitioner shall fully comply with all requirements, including financial assurances for closure and post-closure care, set forth in the Underground Injection and Control permit issued by Illinois EPA.

(6) The petitioner must restore the mechanical integrity of Well No. 1 before the final exemption becomes effective.

Dated: August 9, 1990.

Dale S. Bryson,

Director, Water Division, Region V, U.S. Environmental Protection Agency.

BILLING CODE 6560-50-M

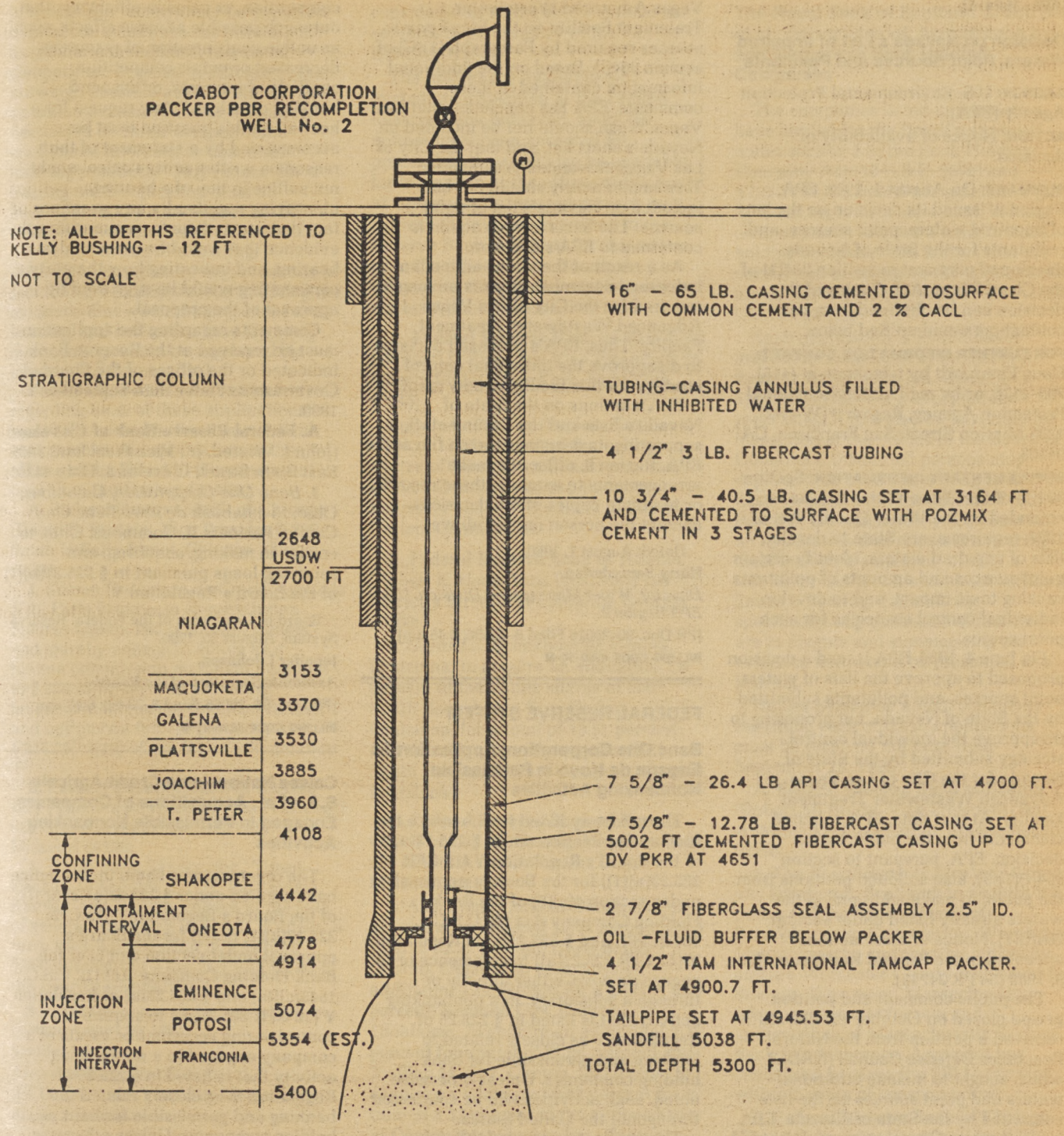

CABOT CORPORATION
PACKER PBR RECOMPLETION
WELL No. 2
NOTE: ALL DEPTHS REFERENCED TO KELLY BUSHING – 12 FT
NOT TO SCALE
STRATIGRAPHIC COLUMN
16" – 65 LB. CASING CEMENTED TOSURFACE WITH COMMON CEMENT AND 2 % CACL
TUBING–CASING ANNULUS FILLED WITH INHIBITED WATER
4 1/2" 3 LB. FIBERCAST TUBING
10 3/4" – 40.5 LB. CASING SET AT 3164 FT AND CEMENTED TO SURFACE WITH POZMIX CEMENT IN 3 STAGES
2648
USDW
2700 FT
NIAGARAN
3153
MAQUOKETA
3370
GALENA
3530
PLATTSVILLE
3885
JOACHIM
3960
T. PETER
4108
CONFINING ZONE
SHAKOPEE
4442
CONTAIMENT INTERVAL
ONEOTA
4778
4914
EMINENCE
INJECTION ZONE
5074
POTOSI
5354 (EST.)
INJECTION INTERVAL
FRANCONIA
5400
7 5/8" – 26.4 LB API CASING SET AT 4700 FT.
7 5/8" – 12.78 LB. FIBERCAST CASING SET AT 5002 FT CEMENTED FIBERCAST CASING UP TO DV PKR AT 4651
2 7/8" FIBERGLASS SEAL ASSEMBLY 2.5" ID.
OIL –FLUID BUFFER BELOW PACKER
4 1/2" TAM INTERNATIONAL TAMCAP PACKER. SET AT 4900.7 FT.
TAILPIPE SET AT 4945.53 FT.
SANDFILL 5038 FT.
TOTAL DEPTH 5300 FT.

FIGURE 1

[FRL-3824-5]

Decision on Nevada's List of Impaired Waters, Point Sources and Pollutants

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of availability of decision.

SUMMARY: On August 1, 1990, EPA, Region 9, issued its decision on the lists of impaired waters, point sources, and pollutants for the State of Nevada developed pursuant to section 304(1) of the Clean Water Act. Copies of this decision can be obtained from the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Doug Eberhardt by telephone at (415) 705–2176, or by mail at: Environmental Protection Agency, Region 9 (W–3–2), 1235 Mission Street, San Francisco, CA 94103.

SUPPLEMENTARY INFORMATION: Section 304(1) of the Clean Water Act, as amended by the Water Quality Act of 1987, requires every State to develop lists of impaired waters, identify certain point sources and amounts of pollutants causing toxic impact, and to develop individual control strategies for each point source.

On June 4, 1989, EPA issued a decision proposed to approve the lists of waters, point sources, and pollutants submitted by the State of Nevada, but proposing to disapprove the individual control strategy submitted by the State of Nevada for the City of Las Vegas Advanced Wastewater Treatment Facility. At that time, EPA solicited comments from the public on its decision. EPA, pursuant to section 304(l)(1)(3), also solicited petitions from the public to make additions to the waters already listed under section 304(l)(1). Notice of these actions appeared in the Federal Register on June 9, 1989 (54 FR 24748).

The public comment and petition period closed on October 13, 1989. EPA received a petition from the Natural Resources Defense Council (NRDC) which sought to include additional waters and point sources on the lists submitted by the State of Nevada. EPA has considered the petition and decided not to add the waters and point sources to the Nevada lists. EPA's response to NRDC's petition is contained in its decision.

The City of Las Vegas and the Nevada Division of Environmental Protection submitted comments to EPA concerning EPA's proposed decision to include Las Vegas Wash on Nevada's short list, required by Paragraph (1)(B) of section 304(l), and to include the City of Las Vegas Advanced Wastewater Treatment Facility on the list of point sources required by Paragraph (1)(C) of section 304(l). Based on the additional information contained in these comments, EPA has concluded that Las Vegas Wash should not be included on Nevada's short list, and that the City of Las Vegas Advanced Wastewater Treatment Facility should not be included on Nevada's list of point sources. The basis for this action is contained in EPA's decision.

As a result of the above action, an individual control strategy is no longer required for the City of Las Vegas Advanced Wastewater Treatment Facility. Thus, EPA's proposed decision to disapprove the individual control strategy for this facility is now moot.

EPA's actions on the State of Nevada's lists and the documentation supporting its decisions are on file at the EPA, Region 9, office. To make arrangements to examine these records, or to obtain copies of the decisions, contact the person named above.

Dated: August 1, 1990.

Harry Seraydarian,

Director, Water Management Division, U.S. EPA Region 9.

[FR Doc. 90–20016 Filed 8–23–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Banc One Corporation; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 13, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to establish *de novo* Banc One Capital Partners II, Columbus, Ohio, to engage in making, acquiring, and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19956 Filed 8–23–90; 8:45 am]

BILLING CODE 6210–01–M

Caisse Nationale de Credit Agricole S.A. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's RegulationY (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the

proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 13, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Caisee Nationale de Credit Agricole S.A., Paris France; to acquire Index Futures Group, Inc., Chicago, Illinois, and thereby engage in acting as a futures commission merchant pursuant to § 225.25(b)(18); and providing investment advise on financial futures and options on futures pursuant to § 225.25(b)(19) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Turon Banc Shares, Inc., Turon, Kansas; to acquire Sylvia, Inc., Sylvia, Kansas, and thereby engage in the sale of general insurance in Sylvia, Kansas, a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19957 Filed 8–23–90; 8:45 am]

BILLING CODE 6210–01–M

John R. PFeffer, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 7, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. John R. PFeffer, Naples, Florida; to acquire 13.25 percent of the voting shares of Hometown Bancorporation, Darien, Connecticut, and thereby indirectly acquire The Bank of Darien, Darien, Connecticut.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. Gerard E. Schexnayder, Gretna, Louisiana; to acquire an additional 1.8 percent of the voting shares of Gulf South Bancshares, Inc., Gretna, Louisiana, for a total of 13.51 percent, and thereby indirectly acquire Gulf South Bank and Trust Company, Gretna, Louisiana.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. A.G. Bond, Canton, Oklahoma, to acquire an additional 10.52 percent for a total of 32.27 percent; Doris Bond, Canton, Oklahoma, to acquire an additional 1.71 percent for a total of 6.93 percent; Kenneth Cox, Canton, Oklahoma, to acquire an additional 5.38 percent for a total of 21.68 percent; and Twillah M. Cox, Canton, Oklahoma, to acquire an additional 0.82 percent for a total of 3.32 percent of the voting shares of Canton BancShares, Inc., Canton, Oklahoma, and thereby indirectly acquire Community State Bank, Canton, Oklahoma.

Board of Governors of the Federal Reserve System, August 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19958 Filed 8–23–90; 8:45 am]

BILLING CODE 6210–01–M

The Royal Bank of Scotland Group plc, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have appled for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their veiws in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 13, 1990.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. The Royal Bank of Scotland Group plc, Edinburgh, Scotland; to acquire 100 percent of the voting shares of BankWorcester Corporation, Worcester, Massachusetts, and thereby indirectly acquire Worcester County Institution for Savings, Worcester, Massachusetts, which engages in the sale and underwriting of Massachusetts Savings Bank Life Insurance. Applicant has committed to cease the SBLI activities within 2 years of consummation.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illiinois 60690:

1. Fidelity Company, Dyersville, Iowa; to acquire 80 percent of the voting shares of Clarence Bancshares, Inc., Clarence, Iowa, and thereby indirectly acquire Community State Bank, Clarence, Iowa.

2. Garwin Bancorporation, Garwin, Iowa; to become a bank holding company by acquiring 96.50 percent of

the voting shares of Farmers Savings Bank, Garwin, Iowa.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Commerce Bancshares, Inc., Kansas City, Missouri; to acquire Commerce Bank of Platte County, N.A., Kansas City, Missouri, a *de novo* bank.

Board of Governors of the Federal Reserve System, August 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19959 Filed 8–23–90; 8:45 am]

BILLING CODE 6210–01–M

SunTrust Banks, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a previous **Federal Register** Notice (FR Doc. 90–18238) published as page 31896 of the issue for Monday, August 6, 1990.

Under the Federal Reserve Bank of Atlanta, the entry for SunTrust Banks, Inc., is amended to read as follows:

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. SunTrust Banks, Inc., Atlanta, Georgia, and Trust Company of Georgia, Atlanta, Georgia; to acquire the deposits and certain related loans of eighteen branch offices of Anchor Savings Bank FSB, Atlanta, Georgia, pursuant to § 225.25(b)(9) of the Board's Regulation Y. The branch offices are located in Fulton, De Kalb and Douglas Counties. The proposed acquisition has been structured in a manner in which provides that Trust Company of Georgia will organize four interim Georgia chartered thrift institutions, specifically, SunTrust/Atlanta Interim Savings Bank, Atlanta, Georgia; SunTrust/Gwinnett Interim Savings Bank, Lawrenceville, Georgia; SunTrust/Cobb Interim Savings Bank, Altanta, Georgia; and SunTrust/Savannah Interim Savings Bank, Savannah, Georgia. The Interim banks will be transferred to one of Trust Company Bank's subsidiaries, pursuant to a purchase and assumption transaction under the authority of the Oakar Amendment of FIRREA, included in section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)). These activites will be conducted in the State of Georgia.

Comments on this application must be received by August 30, 1990.

Board of Governors of the Federal Reserve System, August 20, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–19960 Filed 8–23–90; 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 consummatation 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 permerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080690 AND 081790

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Artal N.V., Howard P. Marguleas, Sun World International, Inc	90–1866	08/06/90
Medtronic, Inc., Bio-Medicus, Inc., Bio-Medicus, Inc.	90–1873	08/06/90
Clarion Co., Ltd., McIntosh Laboratory, Inc., McIntosh Laboratory, Inc.	90–1896	08/06/90
Federal Express Corporation, UAL Corporation, United Air Lines, Inc.	90–1901	08/06/90
The Clayton & Dubilier Private Equity Fund IV L.P., The Clayton & Dubilier Private Equity Fund III L.P., Homeland Holding Corporation	90–1934	08/06/90
Leon Hess, Amerada Hess Corporation, Amerada Hess Corporation	90–1878	08/09/90
Texfi Industries, Inc., The Jefferson Mills, Inc., The Jefferson Mills, Inc.	90–1929	08/09/90
Mellon Bank Corporation, The Drexel Burnham Lambert Group Inc., Burnham Leasing Corporation	90–1931	08/09/90
Victor G. Incendy, Charles Conston and Shirley Conston (spouses), Conston Corporation	90–1962	08/09/90
BCI Associates, L.P., ConAgra, Inc., ConAgra, Inc	90–1671	08/10/90
ConAgra, Inc., BCI Associates, L.P., Beatrice Company	90–1673	08/10/90
Robert Bosch Industrietreuhand KG, Airflow Research and Manufacturing Corp., AR&M Partners	90–1819	08/10/90
First Financial Management Corporation, The Dun & Bradstreet Corporation, Zytron Corporation	90–1876	08/10/90
Westinghouse Electric Corporation, Marshall S. Cogan, Knoll Nevada, Inc., Knoll International, Inc.	90–1926	08/10/90
Rochester Telephone Corporation, Northern States Power Company, Northern States Power Company (Minot Telephone Division)	90–1942	08/10/90
UAL Corporation, Carl C. Icahn, Trans World Airlines, Inc	90–1943	08/10/90
Mr. Minoru Isutani, MKDG II, a Colorado partnership, MKDG II, a Colorado partnership	90–1952	08/10/90
Mr. Minoru Isutani, MKDG IV, a Colorado partnership, MKDG IV, a Colorado partnership	90–1953	08/10/90
Health Care Service Corporation, Lincoln National Corporation, Preferred Financial Corporation	90–1961	08/10/90
The Morgan Stanley Leveraged Equity Fund II, L.P., The Lincoln Group Incorporated, The Lincoln Group Incorporated	90–1891	08/13/90
JELD-WEN, Inc., Twin Y Corporation, Twin Y Corporation	90–1907	08/13/90
Settlement dated 31st December 1985, Ronald O. Perelman, Crosman Products, Inc	90–1915	08/13/90
Toufic Aboukhater, The Henley Group, Inc., The Henley Group, Inc	90–1944	08/13/90
American International Group, Inc., Alaska Air Group, Inc., Alaska Air Group, Inc	90–1862	08/14/90
Swire Pacific Limited, CML Group, Inc., Carroll Reed, Inc	90–1918	08/14/90
Electricite de France S.A., Pinnacle West Capital Corporation, Malapai Resources Company	90–1872	08/16/90
American Brands, Inc., The Moen Group, Inc., The Moen Group, Inc	90–1919	08/16/90
RCS Health Care Partners, L.P., Equity Holdings Limited, DeVilbiss Health Care, Inc	90–1948	08/16/90
W.R. Grace & Co., Whitehall Associates, L.P., RJR Nabisco Inc	90–1781	08/17/90
Everett I. Mundy, George I. Reynolds, Valley Cable Vision, Inc.	90–1880	08/17/90
Robert E. Tudek, George I. Reynolds, Valley Cable Vision, Inc	90–1881	08/17/90

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 080690 AND 081790—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Franz Haniel & Cie GmbH, David J. Bautsch, 29 Super Market, Inc	90-1914	08/17/90
Norcen Energy Resources Limited, Skelgas Group Incorporated, Skelgas Group Incorporated	90-1932	08/17/90
Equifax Inc., Telecredit, Inc., Telecredit, Inc	90-1947	08/17/90
First Financial Management Corporation, American Federal Bank, F.S.B., Finance South, Inc	90-1950	08/17/90
Aon Corporation, Crabtree Capital Corporation, The Credit Life Insurance Company	90-1951	08/17/90
F.H. Faulding & Co., Limited, Moleculon, Inc., Moleculon, Inc	90-1975	08/17/90
Media/Communications Partners Limited Partnership, MCP, Inc., MCP, Inc	90-1986	08/17/90

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 90-19968 Filed 8-23-90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 901-0092]

T&N plc; 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 Manchester, England, manufacturer to divest within twelve months certain thinwall engine bearing assets and certain tri-metal heavywall assets to a Commission-approved acquirer or acquirers; and if required by the acquirer, would require the respondent to supply input material for five years. If neither the respondent nor the the trustee successfully divest the assets, the order would require the divestiture of J.P. Industries' McConnelsville, Ohio, facility in addition to certain thinwall engine bearing assets.

DATES: Comments must be received on or before October 23, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:
Ernest Nagata, FTC/S-2105, Washington, DC 20580, (202) 326-2714.

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 Section § 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 J.P. Industries, Inc. ("JPI") by T&N Automotive Components Inc., an indirect, wholly-owned subsidiary of T&N plc ("T&N"), and T&N having been furnished with a copy of a draft complaint that the Bureau of Competition has presented to the Commission for its consideration and which, if issued by the Commission, would charge T&N with violations of the Clayton Act and the FTC Act, and it now appearing that T&N is willing to enter into an agreement containing an order to divest certain assets and to cease and desist from certain acts:

It is hereby agreed by and between T&N, by its duly authorized officers and attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent T&N is a corporation organized, existing and doing business under and by virtue of the laws of the United Kingdom with its principal executive offices at Bowdon House, Asburton Road West, Trafford Park, Manchester M17 1RA, England.

2. JPI is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan with its principal executive offices at 325 East Eisenhower Parkway, Ann Arbor, Michigan 48108-3388.

3. T&N admits all of the jurisdictional facts set forth in the draft of complaint here attached.

4. T&N 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 with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify T&N, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by T&N that the law has been violated as alleged in the draft of 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 T&N, (a) Issue a complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following order to divest and to cease and desist in disposition of the proceeding and (b) make information public with respect thereto. When so entered, the order to divest 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 the offices of Sullivan & Cromwell at 125 Broad Street, New York, New York 10004 shall constitute service. T&N 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. T&N has read the draft of complaint and order contemplated hereby. T&N 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. T&N 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. *T&N* means T&N plc, a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom with its principal offices at Bowdon House, Asburton Road West, Trafford Park, Manchester M17 1RA, England, its predecessors, subsidiaries, divisions, groups and affiliates controlled by T&N (including, after the acquisition, JPI), and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

2. *JPI* means J.P. Industries, Inc., a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan with its principal offices at 325 East Eisenhower Parkway, Ann Arbor, Michigan 48108–3388, its predecessors, subsidiaries, divisions, groups and affiliates controlled by JPI, and their respective directors, officers, employees, agents, and representatives, and their respective successors and assigns.

3. *Plain engine bearings* means engine bearings characterized by having interfacing surfaces with relative motion of a sliding nature that provide support to a shaft rotating over a thin film of oil. Plain engine bearings include half bearings, bushings and thrust washers.

4. *Vandervell* means Vandervell Limited, a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom, which is a wholly-owned subsidiary of T&N engaged in the manufacture of plain engine bearings at a factory located in Maidenhead, England.

5. *Vandervell America* or *VanAm* means the business of selling plain engine bearings for U.S. gasoline and diesel applications into the U.S. aftermarket now carried on by Vandervell America, Inc. of Tucker, Georgia, a wholly-owned subsidiary of T&N.

6. *AE Auto Parts* means AE Auto Parts Limited, a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom, which is a wholly-owned subsidiary of T&N engaged in the sale of a range of automotive and diesel truck components into the aftermarket from a facility located in Bradford, England.

7. *Glacier* means The Glacier Metal Co. Ltd., a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom, which is a wholly-owned subsidiary of T&N engaged in the manufacture and sale of plain engine bearings.

8. *Commission* means the Federal Trade Commission.

9. *Aftermarket* means the sale of parts to replace used, worn or damaged parts in gasoline and diesel engines, excluding sales of bearings to original equipment manufacturers.

10. *Thinwall engine bearing assets* means the assets and information that T&N will divest relating to the manufacture and sale of thinwall engine bearings. Those assets consits of the following:

(a) All assets relating to the sale, marketing and distribution of bearings for U.S. gasoline engine applications manufactured by Vandervell directed to the U.S. aftermarket that are based at VanAm's facility in Tucker, Georgia, including, but not limited to, all customer lists, inventory (to be repackaged in plain boxes), and assignment of the building lease and all agreements with sales agencies and fee warehouses, excluding any trademarks or trade names;

(b) All tooling that is or has been located at Vandervell's factory in Maidenhead, England that is or has been used for the manufacture of bearings for U.S. gasoline applications (including, but not limited to, the 486 primary part numbers in current use and 76 primary part numbers that have been withdrawn from the U.S., all of which are listed in Appendix A [1] and/or, at the acquirer's option, all specifications relating to such tooling;

(c) Specifications for tooling used for the manufacture of bearings for U.S. diesel applications at Glacier's facility in Kilmarnock, Scotland that are sold and/or offered for sale in the U.S. aftermarket through VanAm, either directly or as agent for AE Auto Parts (the part numbers of which are listed in Appendix B [2];

(d) An agreement by T&N to manufacture and supply bearings in the quantities ordered for the applications described in subparagraphs I.10.(b) (excluding the 76 primary part numbers that have been withdrawn from the U.S.) and I.10.(c) for a period of up to two (2) years (but in no event after Vandervell has transferred to the acquirer that tooling necessary to manufacture a given part number) at current transfer prices between AE Auto Parts Limited and VanAm plus freight and duty plus an annual increase equal to any increase in the United Kingdom Index of Producer Prices for the previous year;

(e) At the option of the acquirer, an agreement by T&N to supply, for a period of at least five (5) years, cast copper lead, sintered copper lead or aluminum strip (whichever the acquirer may choose to buy) used or to be used within the 5-year period by T&N to manufacture the bearings described in subparagraphs I.10.(b) and I.10.(c) for sale into the U.S. aftermarket, such strip to be used by the acquirer to manufacture bearings using the former Vandervell tooling or tooling made by or for the acquirer to the specifications described in subparagraphs I.10.(b) and I.10.(c), and such strip to be supplied by T&N at (i) The average price (excluding freight and duty) prevailing in other arm's-length sales of strip to third parties in the previous year plus an increase equal to any increase in the United States or United Kingdom Index or Producer Prices, whichever is applicable, since the end of that year, or (ii) a negotiated price not to exceed T&N's fully allocated cost of manufacturing strip plus 10%, whichever of the two is lower, plus freight and duty;

(f) Specifications for appropriate machining and overlay electroplating equipment to the extent such equipment is not already in the possession of the acquirer; and

[1] Appendix A not published as a part of this document.

[2] Appendix B not published as a part of this document.

(g) Manufacturing know-how (to the extent the acquirer does not already possess it) with respect to tooling, machining, electroplating and quality control necessary to make commercially saleable engine bearings for the part numbers identified in subparagraphs I.10.(b) and I.10.(c).

11. *Tri-metal heavywall engine bearings* means copper lead bearings with an overlay plating or lead tin or lead tin copper that have a wall thickness of greater than one-quarter of an inch.

12. Tri-metal heavywall engine bearing assets means the assets and information that T&N will divest relating to the manufacture and sale of tri-metal engine bearings. Those assets consist of the following:

(a) At the option of the acquirer, an agreement to supply for a period of at least five (5) years sintered copper lead slab for the manufacture by the acquirer of the tri-metal heavywall bearings referred to in subparagraph I.12.(d), such slab to be supplied at (i) The average price (excluding freight and duty) prevailing in other arm's-length sales of slab to third parties in the previous year plus an increase equal to any increase in the United Kindgom Index of Producer Prices since the end of that year, or (ii) a negotiated price not to exceed T&N's fully allocated cost of manufacturing slab plus 10%, whichever of the two is lower, plus freight and duty;

(b) At the option of the acquirer, either or both (i) centrifugal casting equipment substantially equal in design, manufacturing capability and production capacity to the centrifugal casting equipment currently used to cast tri-metal heavywall bearings at T&N's Ilminster facility (if T&N opts to purchase centrifugal casting equipment for the acquier, then such equipment shall be sold at T&N's cost of acquiring the equipment); and/or (ii) an agreement to supply rough castings for the tri-metal heavywall bearings referred to in Subparagraph I.12.(d), to be machined into finished bearings by the acquier; if the acquier opts to buy rough castings rather than or in addition to centrifugal casting equipment, those rough castings shall be sold to the acquier at a negotiated price not to exceed T&N's fully allocated cost of manufacturing rough castings plus 10% freight and duty for a period of at least five (5) years;

(c) Specifications for appropriate machining and overlay electroplating equipment to the extent such equipment is not already in the possesion of the acquirer; and

(d) Manufacturing know-how and T&N's proprietary design information, if any [to the extent not already in the possession of the acquirer), customer details and tooling (and/or, at the acquirer's option, specifications for such tooling) for (i) Any tri-metal heavywall engine bearings that are, or within the past five (5) years have been, supplied to the same United States customer by both T&N and JPI (to the extent that can be ascertained from T&N's and JPI's existing business records); or (ii) any tri-metal heavywall engine bearings as to which either T&N or JPI is in the process of acquiring tooling needed to meet an outstanding U.S. purchase order if those tri-metal heavywall engine bearings are, or within the past five (5) years have been, supplied to the same United States customer by the other company (to the extent that can be ascertained from T&N's and JPI's existing business records). Where a customer has authority to prevent T&N from providing customer details and tooling to an acquirer pursuant to this Order, T&N shall use its best efforts to secure authority from the customer to provide such customer details and tooling to the acquier.

13. *Fully allocated cost* means the manufacturing cost of the product in question in the most recent twelve-month period plus allocated selling and marketing, research and development and administrative costs (allocated on the same basis as those are currently allocated to T&N's engine bearing business).

14. *Transfer price* means the price that is negotiated between a T&N manufacturing entity and a T&N sales entity based on the former's financial objectives, anticipated order load for the coming year and projected productivity improvements and on the latter's minimum required profit margin and ability to source the product more cheaply from sources outside the T&N group. The transfer price between Vandervell and AE Auto Parts for each of the applications described in subparagraph I.10.(b) is set out in Appendix A attached hereto and the transfer price between Glacier and AE Auto Parts for each of the applications described in Subparagraph I.10.(c) is set out in Appendix B attached hereto.

15. *McConnelsville facility* means all of JPI's assets used in material production and manufacture and sale of engine bearings that are located in McConnelsville, Ohio.

II

It is further ordered that T&N shall shall comply with all the terms of the Asset Maintenance and Improvement Agreement executed on August —, 1990 and attached hereto as Appendix C and made a part of this Order. Said Agreement shall continue in effect until such time as T&N or the trustee has accomplished all divestitures required by paragraphs III, IV, VII and VIII of this Order or until such time as the said Agreement provides.

III

It is further ordered that:

A. T&N shall divest the thinwall engine bearing assets within twelve (12) months from the date this Order becomes final; provided, however, that if the Commission has not approved or disapproved of a proposed divestiture within one hundred and twenty (120) days of the date the application for such divestiture has been put on the public record, the running of the divestiture period shall be tolled until the Commission approves or disapproves of the divestiture. The divestiture shall be only to an acquier (or acquiers) that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to remedy the lessening of competition resulting from the acquisition of JPI by T&N as alleged in the Commission's complaint in this manner.

B. T&N shall, as soon as practicable, but not later than sixty (60) days after Commission approval of an acquirer, deliver to the accquier all of the production technology, know-how, specifications and other information or documentation required to be divested pursuant to Paragraph III of this Order.

C. On reasonable notice to T&N from an approved acquirer, T&N shall provide technical assistance and know-how to the acquirer with respect to the manufacture and sale of engine bearings to be made using the divested assets. Such technical assistance shall include, but not be limited to, consultation with knowledgeable T&N employees and training at the acquirer's manufacturing facility. T&N may charge to said approved acquirer the reasonable costs T&N shall incur providing such technical assistance, including reimbursement, commensurate with the salary and benefits of the T&N personnel involved, for the time plus expenses of such T&N personnel. T&N shall continue providing such technical assistance for a period of time sufficient to satisfy the management of the acquirer of the thinwall engine bearing assets that it is capable of producing commercially saleable engine bearings utilizing the former Vandervell assets; provided, however, that T&N shall not be required to continue providing such technical assistance for more than two (2) years

after an agreement of sale divesting the thinwall engine bearing assets is approved by the Commission.

IV

It is further ordered that:

A. T&N shall divest the tri-metal heavywall engine bearing assets within twelve (12) months from the date this Order becomes final; provided, however, that if the Commission has not approved or disapproved of a proposed divestiture within one hundred and twenty (120) days of the date the application for such divestiture has been put on the public record, the running of the divestiture period shall be tolled until the Commission approves or disapproves of the divestiture. The divestiture shall be only to an acquirer (or acquirers) that recive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to remedy the lessening of competition resulting from the acquisition of JPI by T&N as alleged in the Commission's complaint in this matter.

B. T&N shall, as soon as practicable, but no later than sixty (60) days after Commission approval of an acquirer, deliver to the acquirer the production technology, know-how, specifications and other information or documentation required to be divested pursuant to Paragraph IV of this Order.

C. On reasonable notice to T&N from an approved acquirer, T&N shall provide technical assistance and know-how to the acquirer with respect to the manufacture and sale of engine bearings to be made with the divested assets. Such technical assistance shall include, but not be limited to, consultation with knowledgeable T&N employees and training at the acquirer's manufacturing facility. T&N may charge to said approved acquirer the reasonable costs T&N shall incur providing such technical assistance, including reimbursement, commensurate with the salary and benefits of the T&N personnel involved, for the time plus expenses of such T&N personnel. T&N shall continue providing such technical assistance for a period of time sufficient to satisfy the management of the acquirer of the tri-metal heavywall bearing business that it is capable of producing commercially saleable engine bearings utilizing the assets to be divested; provided, however, that T&N shall not be required to continue providing such technical assistance and training for more than four (4) years after an agreement of sale divesting the tri-metal heavywall bearing business is approved by the Commission.

V

It is further ordered that if T&N has not divested the thinwall engine bearing assets as provided in paragraph III within twelve (12) months after the date this Order becomes final (or within the divestiture period as it may be extended pursuant to subparagraph III.A), T&N shall consent to the appointment by the Commission of a trustee who shall have the power and authority to divest the thinwall engine bearing assets. However, if a trustee has already been appointed to divest the tri-metal heavywall engine bearing assets pursuant to Paragraph VI, such trustee shall have the power and authority to divest the thinwall engine bearing assets.

VI

It is further ordered that if T&N has not divested the tri-metal heavywall engine bearing assets as provided in paragraph IV within twelve (12) months after the date this Order becomes final (or within the divestiture period as it may be extended pursuant to subparagraph IV.A), T&N shall consent to the appointment by the Commission of a trustee who shall have the power and authority to divest the tri-metal heavywall engine bearing assets. However, if a trustee has already been appointed to divest the thinwall engine bearing assets pursuant to paragraph V, such trustee shall have the power and authority to divest the tri-metal heavywall engine bearing assets.

VII

It is further ordered that:

A. In the event that the Commission or the Attorney General brings an action pursuant to section 5(*1*) of the Federal Trade Commission Act, 15 U.S.C. 45(*1*), or any other statute enforced by the Commission, T&N shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee pursuant to paragraph V, VI, VII, or VIII of this Order shall preclude the Commission or the Attorney General from seeking civil penalties and other relief available to it, including a court-appointed trustee, pursuant to section 5(*1*) of the FTC Act, or any other statute enforced by the Commission, for any failure by T&N to comply with this Order.

B. If a trustee is appointed by a court or the Commission pursuant to paragraph V, VI or VII of this Order, T&N shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

(1) The Commission shall select the trustee, subject to the consent of T&N, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

(2) Within thirty (30) days after appointment of the trustee and subject to the approval of the Commission and, in the case of a court-appointed trustee, of the court, T&N shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures.

(3) Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the assets covered by paragraphs III and IV of this Order. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestitures. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission or, for a court-appointed trustee, by the court; provided, however, that the Commission or the court may only extend the divestiture period for an additional period not to exceed one (1) year.

(4) The trustee shall have full and complete access to the personnel, books, records and facilities of T&N. T&N shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. T&N shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by T&N shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

(5) Subject to T&N's absolute and unconditional obligation to divest at no minimum price and the purpose of the divestitures as stated in paragraphs III and IV, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available with each acquiring entity for the divestiture of the thinwall engine bearing assets and the tri-metal heavywall engine bearing assets. Divestiture of the thinwall engine bearing assets and the tri-metal heavywall engine bearing assets shall be made in the manner set out in paragraphs III and IV; provided, however, that if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission

determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by T&N from among those approved by the Commission.

(6) The trustee shall serve, without bond or other security, at the cost and expense of T&N on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of T&N, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission or the court of the account of the trustee, including fees for his or her services, all remaining monies shall be paid to T&N 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's divesting the assets covered by this Order.

(7) T&N 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 duties under this Order, unless the Commission or a court of competent jurisdiction determines that such losses, claims, damages, or liabilities arose out of the misfeasance, gross negligence, or willful or wanton acts or bad faith of the trustee.

(8) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in paragraphs V and VI.

(9) The Commission and, in the case of a court-appointed trustee, the court may, on its own initiative or at the request of the trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this Order.

(10) The trustee shall report in writing to T&N and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

VIII

It is further ordered that:

A. If divestiture of the thinwall engine bearing assets has not been accomplished by T&N within the twelve (12) months provided in paragraph III (including any extension of that divestiture period pursuant to subparagraph III.A) or the divestiture of the tri-metal heavywall engine bearing assets has not been accomplished by T&N within the twelve (12) months provided in paragraph IV (including any extension of that divestiture period pursuant to subparagraph IV.A), and the divestiture of either the thinwall engine bearing assets or the heavywall engine bearing assets has not been accomplished by the trustee within the additional twelve (12) months provided in paragraph VII (including any extension of that divestiture period by the Commission or the court pursuant to subparagraphs VII.B.3 and VII.B.4), then the McConnelsville facility and the thinwall engine bearing assets shall be divested.

B. T&N shall have nine (9) months after expiration of the divestiture period provided in paragraph VII in which to accomplish divestiture of the McConnelsville facility and the thinwall engine bearing assets; provided, however, that if the Commission has not approved or disapproved of a proposed divestiture within sixty (60) days of the date the application for such divestiture has been put on the public record, the running of the divestiture period shall be tolled until the Commission approves or disapproves of the divestiture. The divestiture shall be only to an acquirer (or acquirers) that receive the prior approval of the Commission and only in a manner that receives the prior aprpproval of the Commission.

C. If T&N has not divested the McConnelsville facility and the thinwall engine bearing assets within nine (9) months after expiration of the divestiture period provided in paragraph VII (including any extension of that divestiture period pursuant to subparagraph VIII.B), T&N shall consent to the appointment by the Commission of a secondary trustee who shall have the power and authority to divest the McConnelsville facility and the thinwall engine bearing assets.

D. If a secondary trustee is appointed by the Commission pursuant to subparagraph VIII.C of this Order, T&N shall consent to the following terms and conditions regarding the secondary trustee's powers, authorities, duties and responsibilities:

(1) The Commission shall select the secondary trustee, who shall be the original trustee appointed pursuant to paragraph VII of this Order, unless the original trustee failed to act diligently in the sale of the thinwall engine bearing assets or the tri-metal heavywall engine bearing assets. If a new trustee is selected, such trustee shall be subject to the consent of T&N, which consent shall not be unreasonably withheld, and the new trustee shall be a person with experience and expertise in acqusitions and divestitures.

(2) Within thirty (30) days after appointment of the secondary trustee and subject to the approval of the Commission, T&N shall execute a trust agreement that transfers to the secondary trustee all rights and powers necessary to permit the secondary trustee to effect the divestiture of the McConnelsville facility and the thinwall engine bearing assets.

(3) Subject to the prior approval of the Commission, the secondary trustee shall have the exclusive power and authority to divest the McConnelsville facility and the thinwall engine bearing assets. The secondary trustee shall have fifteen (15) months from the date of appointment to accomplish the divestiture. If, however, at the end of the fifteen-month period the secondary trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission; provided, however, that the Commission may only extend the divestiture period for an additional period not to exceed one (1) year.

(4) The secondary trustee shall have full and complete access to the personnel, books, records and facilities of T&N. T&N shall develop such financial or other information as such secondary trustee may reasonably request and shall cooperate with the secondary trustee. T&N shall take no action to interfere with or impede the secondary trustee's accomplishment of the divestiture. Any delays in divestiture caused by T&N shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission.

(5) Subject to T&N's absolute and unconditional obligation to divest the McConnelsville facility and the thinwall engine bearing assets at no minimum price, the secondary trustee shall use his or her best efforts to negotiate the most favorable price and terms available with the acquiring entity for the divestiture of the McConnelsville facility and the thinwall engine bearing assets. If the secondary trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the secondary trustee shall divest to the acquiring entity or entities selected by T&N from among those approved by the Commission.

(6) The secondary trustee shall serve, without bond or other security, at the cost and expense of T&N on such reasonable and customary terms and

conditions as the Commission may set. The secondary trustee shall have authority to employ, at the cost and expense of T&N, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the secondary trustee's duties and responsibilities. The secondary trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission of the account of the secondary trustee, including fees for his or her services, all remaining monies shall be paid to T&N and the secondary trustee's power shall be terminated. The secondary trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the secondary trustee's divesting the McConnelsville facility and the thinwall engine bearing assets.

(7) T&N shall indemnify the secondary trustee and hold the secondary trustee harmless against any losses, claims, damages, or liabilities to which the secondary trustee may become subject, arising in any manner out of, or in connection with, the secondary trustee's duties under this order, unless the Commission or a court of competent jurisdiction determines that such losses, claims, damages, or liabilities arose out of the misfeasance, gross negligence, or willful or wanton acts or bad faith of the secondary trustee.

(8) If the secondary trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in subparagraphs VIII.C and VIII.D.

(9) The Commission may, on its own initiative or at the request of the secondary trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture of the McConnelsville facility and the thinwall engine bearing assets.

(10) The secondary trustee shall report in writing to T&N and the Commission every sixty (60) days concerning the secondary trustee's efforts to accomplish divestiture of the McConnelsville facility and the thinwall engine bearing assets.

IX

It is further ordered that, pending divestiture of the thinwall engine bearing assets, the tri-metal heavywall engine bearing assets and the McConnelsville facility, T&N shall take such action as is necessary to maintain the viability and marketability of the assets covered in Paragraphs III, IV and VIII of this Order and shall not cause or permit the destruction, removal, or impairment of any such asset it may be required to divest except in the ordinary course of business and except for ordinary wear and tear.

X

It is further ordered that T&N shall, within sixty (60) days from the date this Order becomes final and every sixty days thereafter until the divestitures required by this Order are accomplished, submit in writing to the Commission a verified written report setting forth in detail the manner and form in which T&N 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 divestiture of the thinwall engine bearing assets, the tri-metal heavywall engine bearing assets and, if required by this Order, the McConnelsville facility, including the names and addresses of all parties contacted, copies of all written communications to and from such parties, and all internal memoranda, reports and recommendations concerning the divestitures pursuant to the provisions of this Order.

XI

It is further ordered that, for a period of ten (10) years from the date on which this Order becomes final, T&N shall not, directly or indirectly, acquire any stock, share capital, assets or equity interest in any concern, corporate or non-corporate, engaged in the design, manufacture or sale in or to the United States of any engine bearings 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 the United States or has its principal offices within the United States; or

B. at the time of the acquisition designs or manufactures plain engine bearings in the United States; or

C. had net sales of thinwall plain engine bearings in or to the United States of one and one-half (1.5) million dollars or more in any of the three (3) calendar years preceding the date of the acquisition, or had net sales of tri-metal heavywall engine bearings in or to the United States of three hundred thousand (300,000) dollars or more in any of the three (3) calendar years preceding the date of the acquisition. *Provided, however,* that nothing in this paragraph shall prohibit T&N from acquiring used machinery or equipment associated with or related to the manufacture of plain engine bearings from an entity that continues, to substantially the same extent as before the acquisition, in the business of manufacturing such bearings and selling them in or to the United States; and *provided, further,* that nothing in this paragraph shall prohibit T&N from purchasing from any such entity any plain engine bearings for resale in the United States in the ordinary course of business.

On the anniversary of the date on which this order becomes final, and on every anniversary thereafter for the following nine (9) years, T&N shall file with the Commission a verified report of its compliance with this paragraph.

XII

It is further ordered that for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to T&N made to its principal office, T&N shall permit access for any duly authorized representatives of the Commission:

A. During office hours and in the presence of T&N's counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of T&N relating to any matter contained in this Order.

B. Upon five (5) days' notice to T&N and without restraint or interference from T&N, to interview officers or employees of T&N, who may have counsel present regarding such matters.

XIII

It is further ordered that T&N shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of this Order.

Appendices A and B (not published as part of this document). Copies are available from the Commission's Public Reference Branch, room H-130, 6th and Pennsylvania Avenue, NW., Washington, DC 20580. Phone (202) 326-2222.

Appendix C

Asset Maintenance and Improvement Agreement

This Asset Maintenance and Improvement Agreement (the

"Agreement") is by and between T&N plc ("T&N") and the Federal Trade Commission (the "Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.* (collectively, "the Parties").

Premises

Whereas, T&N commenced a tender offer for all of the outstanding stock of J.P. Industries, Inc. ("JPI") on March 30, 1990, with the intent of effecting a merger of T&N Automotive Components Inc., an indirect, wholly-owned subsidiary of T&N, into JPI (the "Acquisition"); and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the attached Agreement Containing Consent Order ("Consent Order"), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of § 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the thinwall engine bearing assets and the McConnelsville facility pending divestiture of the thinwall engine bearing assets, the trimetal heavywall engine bearing assets, and, if required by the Consent Order, the McConnelsville facility, divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible or might be a less than effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's right to seek and restore viable competitors in the design, manufacture and sale of engine bearings and to preserve the Commission's ability to require the divestiture of the thinwall engine bearing assets, as defined in Paragraph I.10 of the Consent Order; the tri-metal heavywall engine bearing assets, as defined in Paragraph I.12 of the Consent Order; and the McConnelsville facility, as defined in I.15 of the Consent Order; and

Whereas, the purpose of this Agreement is to:

(1) Preserve the thinwall engine bearing assets, including preservation of T&N's Vandervell America ("VanAm") subsidiary as a viable independent business, and continue the state of competition between T&N and JPI in the sale of thinwall engine bearings in the United States aftermarket pending divestiture of the thinwall engine bearing assets;

(2) Maintain and make necessary improvements to the McConnelsville facility to preserve it as a viable independent business and continue the state of competition between T&N and JPI in the sale of tri-metal heavywall engine bearings in the United States pending divestiture of the tri-metal heavywall engine bearing assets or, if required by the Consent Order, the divestiture of the McConnelsville facility;

(3) Remedy any anticompetitive effects of the Acquisition; and

(4) Preserve VanAm and the McConnelsville facility as ongoing concerns engaged in the same business in which they are presently engaged in the event that divestiture of the thinwall engine bearing assets and the tri-metal heavywall engine bearing assets is not achieved as required in the Consent Order; and

Whereas, T&N's entering into this Agreement shall in no way be construed as an admission by T&N that the Acquisition is illegal or anticompetitive; and

Whereas, T&N understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, upon an understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Order, it will not seek further relief from T&N with respect to the Acquisition (except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof and, in the event the divestitures required in paragraphs III and IV of the Consent Order are not accomplished, to seek divestiture of the thinwall engine bearing assets and the McConnelsville facility), the Parties agree as follows:

1. T&N agrees to execute and be bound by the attached Consent Order. T&N and the Commission further agree that each word defined in the Consent Order shall have the same definition in this Agreement.

2. T&N agrees that from the date this Agreement is accepted until the earlier of the dates listed in Subparagraphs 2.(a) and 2.(b), it will comply with the provisions of pParagraphs 3 through 7 of this Agreement:

(a) Three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of § 2.34 of the Commission's Rules; or

(b) The day after all of the divestitures required by the Consent Order have been completed.

3. T&N shall hold VanAm separate and apart on the following terms and conditions:

(a) T&N shall take all reasonable measures to preserve the viability and marketability of VanAm and shall continue to operate VanAm's business as it is presently operated. In addition, T&N shall maintain and preserve all of the intangible rights and other assets of VanAm. Without limiting any of T&N's obligations under the Consent Order or this Agreement, T&N agrees to observe the limitations and restrictions set forth in the remaining subparagraphs of this Paragraph 3.

(b) T&N shall refrain from taking any actions that may cause any material adverse change in the financial condition of VanAm.

(c) T&N shall maintain separate records as to the sales and cost of goods sold of each of the products of VanAm and on an aggregate basis for VanAm as a whole.

(d) T&N shall refrain from, directly or indirectly, selling, disposing of, or causing to be transferred any assets, property or business of VanAm, except that T&N 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 of VanAm pursuant to paragraphs III, VII and VIII of the Consent Order.

(e) T&N shall refrain from mortgaging or pledging the assets of VanAm pursuant to any loan transaction, except in connection with divestiture of the thinwall engine bearing assets pursuant to the Consent Order.

(f) T&N shall refrain from causing VanAm to guarantee any debts or obligations pursuant to any loan transaction, except in connection with divestiture of the thinwall engine bearing assets pursuant to the Consent Order.

4. T&N shall hold the McConnelsville facility separate and apart on the following terms and conditions:

(a) T&N shall take all reasonable measures to preserve the viability of the McConnelsville facility as an independent competitor, shall maintain all of the intangible rights and other

assets of the McConnelsville facility and may make such improvements in the McConnelsville facility as T&N deems appropriate. Without limiting any of T&N's obligations under the Consent Order or this Agreement, T&N agrees to observe the limitations and restrictions set forth in the remaining subparagraphs of this Paragraph 4.

(b) Except as otherwise provided in this Agreement, T&N (other than the T&N members of the Management Committee and the technical experts appointed to assist them in improving the McConnelsville facility) shall not receive or have access to, or the use of, any of the material confidential information of the McConnelsville facility that is not in the public domain, except (i) As required by law; (ii) to the extent that such information is necessarily exchanged in the course of evaluating the Acquisition, defending investigations or litigation, or negotiating an agreement to divest the tri-metal heavywall engine bearing assets or the McConnelsville facility pursuant to the Consent Order; and (iii) to the extent that such information would be available to T&N in the normal course of business absent the Acquisition. ("Material confidential information," as used throughout this Agreement, means competitively sensitive or proprietary information not independently known to T&N from sources other than the McConnelsville facility, and includes, but is not limited to, customer lists, unpublished price lists, marketing methods, patents, technologies, processes, other trade secrets and non-public financial and accounting books and records.) Provided, however, that T&N may obtain such financial information from the McConnelsville facility as is necessary for T&N to prepare and file financial reports, including balance sheets, and tax reports to relevant government entities, shareholders of T&N and T&N's Chairman and Board of Directors; provided further, however, that (i) For purposes of financial reports to T&N's Chairman and Board of directors, T&N shall seek and obtain only the following items on an aggregated basis: revenues; cost of goods sold; general and administrative expenses; income before interest; interest expense; income before taxes; tax expense; and net income; (ii) information required for the preparation of such financial reports or tax reports shall be provided or disclosed only to designated individuals within T&N's controller and tax departments responsible for the preparation of such reports; and (iii) T&N shall use such information only for the preparation and filing of such financial reports and tax reports and not for any other purpose whatesoever.

(c) Designated individuals within T&N's controller department shall have access to such information as may be necessary to make or comply with covenants, representations or warranties in connection with existing agreements with any financial institution or with any third party in an existing arm's-length transaction.

(d) T&N shall prevent any communication between employees of the McConnelsville facility and T&N concerning material confidential information of the McConnelsville facility (as such information is defined and subject to the exceptions listed in subparagraph 4.(b)) and concerning T&N's competitively sensitive information not independently known to employees of the McConnelsville facility from sources other than T&N, including, but not limited to, customer lists, unpublished price lists, marketing methods and non-public financial and accounting books and records. This Agreement shall be published to the employees of the McConnelsville facility and to those employees of T&N involved in the design, manufacture or sale of tri-meal heavywall engine bearings.

(e) T&N shall refrain from taking any actions that may cause any material adverse change in the business or financial condition of the McConnelsville facility.

(f) T&N shall refrain from, directly or indirectly, selling, disposing of, or causing to be transferred any assets, property or business of the McConnelsville facility, except that T&N may sell or otherwise dispose of assets in the ordinary course of business, and may sell or otherwise dispose of assets, property or business pursuant to paragraphs IV, VII, and VIII of the Consent Order.

(g) T&N shall refrain from mortgaging or pledging the assets of the McConnelsville facility pursuant to any loan transaction, except in connection with the divestiture of the tri-metal heavywall engine bearing assets or the McConnelsville facility pursuant to the Consent Order.

(h) T&N shall refrain from causing the McConnelsville facility to guarantee any debts or obligations pursuant to any loan transaction, except in connection with the divestiture of the tri-metal heavywall engine bearing assets or the McConnelsville facility pursuant to the Consent order.

(i) Consistent with the provisions of this Paragraph 4, T&N shall exercise such direction and control over the McConnelsville facility as is necessary to assure compliance with this Agreement, including such steps as may be necessary or appropriate to preserve the value of the business of the McConnelsville facility.

(j) Except for the T&N members of the Management Committee and the technical experts appointed to assist them in improving the McConnelsville facility, T&N shall not permit any director, officer, employee, agent or representative of T&N, other than present employees of JPI, to be a member of the Management Committee or an employee of the McConnelsville facility.

(k) T&N shall not cause any change in the composition of the management of the McConnelsville facility, except that members of the Management Committee may fill vacancies as they occur, remove employees for poor performance or for cause, and make additions or changes in the managagement necessary to improve the McConnelsville facility.

(1) Except in connection with divestiture of the trimetal heavywall bearing assets or the McConnelsville facility to be made in conformity with the Consent Order, all material transactions out of the ordinary course of business and not otherwise precluded by this paragraph 4 shall be subject to a majority vote of the Management Committee.

(m) T&N shall create a five-person Management Committee once it has acquired JPI. T&N shall select the members of the Management Committee; provided, however, that such Management Committee shall consist of no more than two current directors, officers, employees, or agents of T&N not having operating responsibilities with respect to T&N's Vandervell Limited or The Glacier Metal Co. Ltd. subsidiaries, and no fewer than two current directors, officers, employees or agents of JPI, of which one shall be the general manager of the McConnelsville facility who is not now an employee of T&N. T&N may appoint up to two technical experts to assist the T&N members of the Management Committee in improving the McConnelsville facility. Subject to the exceptions in Subparagraph 4.(b), the T&N members of the Management Committee and the technical experts appointed to assist them shall not disclose any material confidential information received under this Agreement to T&N or use it to obtain any advantage for T&N in its other businesses. All members of the Management Committee and the

technical experts appointed to assist the T&N members shall enter into a confidentiality agreement prohibiting disclosure of confidential information to T&N or the use of such information to obtain any advantage for T&N in its other businesses. The T&N members of the Management Committee shall participate in matters which come before the Management Committee for the limited purposes of making improvements in the McConnelsville facility and carrying out T&N's responsibility to assure that the McConnelsville facility is maintained in such a manner as will permit its divestitute as an ongoing, viable asset. Except as permitted by this Agreement, the T&N members of the Management Committee shall not participate in, or attempt to influence the votes of the other members of the Management Committee with respect to, any matter that would involve a conflict of interest if T&N and the McConnelsville facility were separate and independent entities.

(n) Nothing herein shall prevent the Management Committee or T&N from negotiating or entering into agreements to dispose of assets located at the McConnelsville facility pursuant to the terms of the Consent Order, provided that any disposition of assets in connection with the divestitute of the tri-metal heavywall engine bearing assets or the McConnelsville facility shall be made only in accordance with the terms of the Consent Order.

(o) T&N and the McConnelsville facility shall not transfer physical assets between them (except for the purchase and sale of commerical products at arm's length in the ordinary course of business), nor engage in any joint activity, except as such physical asset transfer or joint activity is necessary to ensure compliance with this Agreement. The McConnelville facility shall continue to prepare separate periodic statements of revenue, expenses and profitability, and shall provide the Commission's Bureau of Competition with quarterly and annual operating statements.

(p) Earnings and profits of the McConnelsville facility shall be retained separately in the McConnelsville facility to the extent necessary to provide the McConnelsville facility with sufficient working capital to operate at its current rate, or if that rate of operation is increased, at such increased rate. T&N shall provide the McConnelsville facility with working capital in addition to the retained earnings and profits if necessary to operate the McConnelsville facility at its current rate, or if that rate of operation is increased, at such increased rate.

5. Should the Federal Trade Commission seek in any proceeding to compel T&N to divest the thinwall engine bearing assets or the McConnelsville facility, or to seek any other injunctive or equitable relief, T&N shall not raise any objection based upon the expiration of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 or the fact that the Commission has permitted the Acquisition. T&N also waives all rights to contest the validity of this Agreement.

6. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to T&N made to its principal office, T&N shall permit any duly authorized representative or representatives of the Commission:

(a) During the office hours of T&N and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of T&N relating to compliance with this Agreement.

(b) Upon five (5) days' notice to T&N and without restraint or interference from it, to interview officers or employees of T&N, who may have counsel present, regarding any such matters.

7. In the event the Commission has not finally issued the Consent Order within one hundred twenty (120) days of its publication in the **Federal Register**, T&N may, at its option, terminate this Agreement by delivering written notice of termination to the Commission, which termination shall be effective ten (10) days after the Commission's receipt of such notice, and this Agreement shall thereafter be of no further force and effect. If this Agreement is so terminated, the Commission may take such action as it deems appropriate, including, but not limited to, an action pursuant to section 13(b) of the Federal Trade Commission Act, 15 U.S.C. 53(b). Termination of this Agreement shall in no way operate to terminate the Consent Order that T&N has entered into in this matter.

8. This Agreement shall not be binding until it has been approved by the Commission.

Analysis To Aid Public Comment on Consent Agreement

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order from T&N plc ("T&N"). The Commission is placing the agreement on the public record for (60) days for reception of comments from 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 Commission's investigation of this matter concerned T&N's proposed acquisition of a majority of the outstanding common stock of J.P. Industries, Inc. ("JPI"). Both T&N and JPI make and sell thinwall and tri-metal heavywall engine bearings.

The Commission has reason to believe that T&N's acquisition of JPI would substantially lessen competition in the manufacture and sale of both thinwall and tri-metal heavywall engine bearings in the United States, in violation of section 7 of the Clayton Act and section 5 of the Federal Trade Commission Act.

The proposed Consent Order ("Order"), if issued by the Commission, would settle the Complaint that alleges anticompetitive effects in the manufacture and sale of thinwall engine bearings and the design, manufacture, and sale of tri-metal heavywall engine bearings in the United States.

Under the terms of the proposed Order, T&N must divest certain thinwall engine bearing assets. These assets include T&N's Vandervell America business ("VanAm")—T&N's U.S. aftermarket selling and marketing operation for thinwall engine bearings—and all tooling that is (or has been) located at Vandervell's factory in Maidenhead, England that is (or has been) used for the manufacture of bearings for U.S. gasoline applications. The thinwall engine bearing assets also include specifications for tooling used at T&N's facility in Kilmarnock, Scotland to manufacture bearings for U.S. diesel applications that are sold or offered for sale in the U.S. aftermarket. T&N also must provide know-how with respect to tooling, machining, electroplating and quality control necessary to make commercially saleable engine bearings. If required by the acquirer, T&N must also agree to supply input material (cast copper lead, sintered copper lead, aluminum strip, or any new engine bearing material that T&N may develop) for five years. If the acquirer desires to purchase such material from T&N, T&N may charge (1) The average price prevailing in other arm's-length sales of strip to third parties in the previous year, plus an increase equal to any

increase in the U.S. or United Kingdom Index of Producer Prices since the end of that year, or (2 a negotiated price not to exceed T&N's fully allocated manufacturing cost plus 10%, whichever of the two is lower, plus freight and duty.

The proposed Order also requires that T&N divest certain tri-metal heavywall assets. These assets consist of centrifugal casting equipment used to cast tri-metal heavywall engine bearings (or centrifugal casting equipment that T&N may purchase and resell to the acquirer at T&N's cost), specifications for appropriate machining and overlay electroplating equipment, and—for four years—the provision of manufacturing know-how and T&N's proprietary design information, customer details and tooling (and/or, at the acquirer's option, specifications for tooling) for any tri-metal heavywall engine bearings that have been purchased or ordered by U.S. customers within the past five years from both T&N and JPI. Also, these assets include an agreement from T&N to supply—again, at the acquirer's option—sintered copper lead slab for the manufacture of tri-metal heavywall engine bearings for five years. T&N would be required to supply such slab at (1) The average price prevailing in other arm's-length sales of slab to third parties in the previous year, plus an increase equal to any increase in the United Kingdom Index of Producer Prices since the end of the year, or (2) a negotiated price not to exceed T&N's fully allocated cost of manufacturing slab plus 10%, whichever of the two is lower, plus freight and duty.

The Order gives T&N twelve months to divest these assets. The divestiture shall be made only to an acquirer or acquirers that receive the prior approval of the Commission. If T&N is unable to divest the assets to an approved acquirer within the required time period, a trustee will be appointed and be given an additional twelve months to divest the assets to an acquirer or acquirers that receive the prior approval of the Commission. In the event that neither T&N nor the trustee successfully divests the assets, the Order requires the divestiture of JPI's McConnelsville, Ohio facility in addition to the thinwall engine bearing assets described above. Pending completion of all divestitures required under the Order, T&N is required to maintain in McConnelsville, Ohio facility and VanAm under an Asset Maintenance and Improvement Agreement.

It is anticipated that the Order would resolve the competitive problems alleged in the Complaint. The purpose of this analysis is to invite public comment concerning the proposed Order, in order to aid the Commission in its determination of whether it should make the Order final.

This analysis is not intended to constitute an official interpretation of the agreement and Order in any way.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 90–19969 Filed 8–23–90; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. HHS Acquisition Regulations—HHSAR Part 342—Contract Administration—0990-0131—Extension of Approval with No Change—HHSAR 342 establishes requirements for notification by contractors of anticipated cost overruns or contract delays. These requirements are necessary for the proper Departmental administration of contracts. *Respondents:* State and local governments, businesses or other for-profit, non-profit institutions, small businesses; Burden information for the Notification of Cost Overrun—*Annual Number of Respondents:* 85; *Annual Frequency of Response:* one time; *Average Burden per Response:* 20 hours; *Total Annual Burden:* 900 hours. *Burden information for Notice of Delays—Annual Number of Respondents:* 98; *Annual Frequency of Response:* one time; *Average Burden per Response:* one half hour; *Total Annual Burden:* 49 hours. Total Burden 949 hours.

2. HHS Acquisition Regulations—HHSAR Part 333—Disputes and Appeals—0990—0133—Extension of Approval with No Change—Contractors are required to provide written notification to the HHS contracting officer of actions filed against the contract. The information is used by HHS to assess potential liability. *Respondents:* State and local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Respondents:* 80; *Annual Frequency of Response:* one time; *Average Burden per Response:* one half hour; *Total Annual Burden:* 40 hours.

3. HHS Acquisition Regulations—HHSAR Part 332—Contract Financing—0990-0134—Extension of Approval with No Change—The Cost Sharing clause and Letter of Credit clause contain reporting/recordkeeping requirements for affected contractors. The requirements for affected contractors. The requirements are necessary to assure proper monitoring of costs charged to the Department. *Respondents:* State and local governments, non-profit institutions, small businesses; Burden information for Cost Sharing—*Annual Number of Respondents:*12; *Annual Frequency of Response:* ten times; *Average Burden per Response:* one hour; *Total Annual Burden:* 120 hours. Burden information for Letter of Credit—*Annual Number of Respondents:* 431; *Annual Frequency of Response:* four time; *Average Burden per Response:* one hour; *Total Annual Burden:* 1724 hours. *Total burden:* 1844 hours.

4. HHS Acquisition Regulations—HHSAR Part 328—Bonds and Insurance—0990-0135—Extension of Approval with No Change—Contractors are required to provide insurance information, which is used by HHS to assure that adequate protection is provided on HHS contracts. *Respondents:* State and local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Respondents:*1422; *Annual Frequency of Response:* one time; *Average Burden per Response:* one hour; *Total Annual Burden:* 1422 hours.

5. HHS Acquisition Regulations—HHSAR Part 324—Protection of Privacy and Freedom of Information—0990-0136—Extension of Approval with No Change—To prevent the improper disclosure of confidential information, contractors are required to provide written notification to the HHS contracting officer, prior to the release of such information. Respondents: State and local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Respondents:*379; *Annual Frequency of Response:* one time; *Average Burden per Response:* eight hours; *Total Annual Burden:* 3032 hours.

6. HHS Acquisition Regulations—HHSAR Part 316—Types of Contracts—0990-0138—Extension of Approval with No Change—The Negotiated Overhead

Rate-Fixed clause is needed since fixed rates are authorized by OMB Circular and a clause is not provided in the FAR. *Respondents:* non-profit institutions; *Annual Number of Respondents:*321; *Annual Frequency of Response:* one time; *Average Burden per Response:* ten hours; *Total Annual Burden:* 3210 hours.

OMB Desk Officer: Allison Herron.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-0511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: August 13, 1990.

Terrence J. Tychan,

Acting Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 90–19508 Filed 8–23–90; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control

[Announcement No. 101]

Project Grants for Preventive Health Services—Immunization

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1991 for project grants for Preventive Health Services-Immunization.

Authority

This program is authorized under section 317 of the Public Health Service Act (42 U.S.C. 247b), as amended. Regulations governing the implementation of this legislation are covered under 42 CFR part 51b, subparts A and B.

Eligibility

Eligible applicants for this program are the official public health agencies who are current recipients of project grants for Preventive Health Services-Immunization.

National Program Goals

The National Program Goals are:

A. Reduce morbidity of measles and interrupt measles transmission.

B. Eliminate rubella and polio (wild virus) transmission.

C. Reduce morbidity and mortality due to mumps, pertussis, tetanus, diphtheria, hepatitis B, and *Haemophilus influenzae* b (Hib).

D. Develop, test, and implement systems to ensure that 90 percent or more of children complete basic immunizations by 24 months of age.

E. Maintain 90 percent immunization levels for children enrolled in licensed child care facilities against measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, and Hib.

F. Maintain 95 percent immunization levels for schoolchildren against measles, mumps, rubella, polio, diphtheria, pertussis, and tetanus.

G. Promote immunization of adults against influenza, hepatitis B, pneumoccal disease, measles, mumps, rubella, diphtheria, and tetanus.

Availability of Funds

Based on the President's budget, approximately $130,000,000 is expected to be available in Fiscal Year 1991 to award 63 competing continuation grants. The average award is expected to be $2,000,000, ranging from $40,000 to $12,000,000. Awards are usually funded for 12-month budget periods within a 5-year project period. No new grants are expected since current recipients are conducting activities in all political jurisdictions in the United States. Funding estimates outlined above may vary.

Although there are no specific matching fund requirements, the narrative portion of the application must include (1) information about expenditures for immunization programs made from Federal, State, and other funds obligated by the applicant during its most recent accounting period; (2) a description of the services provided by the applicant for this accounting period; and (3) estimates of support for future accounting periods, including, at a minimum funds to be available during the new budget period for which grant support is requested.

In addition, information which justifies budget items must also be included in the narrative part of the application. Information on commitment of the applicant's financial support for specific items (such as vaccine) during the new budget period is required.

The applicant must include project-wide projections of the vaccine inventories expected for the beginning of the new budget period and projections of the number of doses of each vaccine (including Hib and hepatitis B vaccines) to be used during the new budget period. In addition, the proportion of vaccines to be purchased with grant funds must be specified. Applicant contributions to the program must be provided on the budget pages of the application.

Purpose

The purpose of the Immunization Program is to prevent the occurrence and transmission of diseases preventable through immunizations. Immunization grants are awarded to States and local governments to assist in establishing and maintaining integrated systems. These systems must be capable of making immunizations for vaccine-preventable diseases available to every person in the United States, American Samoa, Federated States of Micronesia, Guam, Republic of the Marshall Islands, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Republic of Palau, and the Virgin Islands. Special attention will be focused on the economically disadvantaged and medically underserved in areas of excessive morbidity.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities set forth below.

A. *Assessment of Program Need:* The applicant must include estimates of the target population and the projected portion of the population to be served by public health. Age groups used in the estimates of the target population should be consistent with those used in the quarterly "Vaccine Doses Administered" report.

B. *Objective Setting:*

1. Objectives must be specific, realistic, time-limited, measurable, and outcome oriented.

2. Objectives must be related to the National Program Goals and Objectives for the Nation for the Year 2000. Short-term objectives will vary according to the levels of immunization currently being achieved in each project.

3. Both short-term objectives, to be reached during the new budget period and long-term objectives (3–5 years) must be developed.

C. *Methods of Operation:*

1. Service Delivery/Maintenance/Assessment: There must be a plan to assure that individuals identified in the target population for the immunization program are started and complete their immunizations. At a minimum, the plan must address all of the following "required" methods of operation.

a. Infants/Preschoolers

Required:

(1) Identification of specific areas and populations within the project with low levels of immunization coverage.

(2) A detailed long range plan to assure immunization coverage improves,

especially among populations with the lowest levels of coverage. Coverage objectives should be measurable, realistic, and incremental from year to year with the eventual goal of achieving 90% coverage by age 24 months by the year 2000 (4 doses of DTP [diphtheria, tetanus, and pertussis], 3 doses of polio, and 1 dose each of measles, rubella, mumps, and Hib vaccines). Objectives should be stated for both the project as a whole and the identified high risk/low coverage populations. The plan should include activities as well as objectives in the areas of service delivery, assessment, and information/education. Applicants are encouraged to develop innovative methods to better identify populations in need and to design and implement creative interventions to raise coverage.

(3) Provider-based tracking and recall systems in the public sector to insure the return of children for needed immunizations.

(4) An official Statewide immunization record which includes space for the date of each dose of vaccine adminstered. The official record card should be distributed to and used by all health care providers who administered project-supplied vaccines. Use of this record card is also recommended for all other providers.

(5) Plans to assure opportunities are not lost by taking advantage of visits to provide vaccines simultaneously, and assure that children are not sent home without vaccination because of false contraindications.

(6) Identification of barriers to immunizations, particularly in high-risk populations, and steps being taken to reduce the barriers.

(7) An analysis of the applicant's ability to provide immunization services in public clinics to all who request them.

Required: Closed liaison with other State, local, and Federal programs so that children enrolled in Headstart, Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), Aid to Families with Dependent Children (AFDC), Well Child Clinics, Community Based Organizations, Neighborhood Health Centers, Health Maintenance Organizations, and other settings, such as Women, Infant, and Children (WIC) clinics, receive needed immunizations.

Required: Quality assurance reviews of local public health department and public clinic operations to determine if recommended policies and procedures are followed. Such reviews are recommended for any provider that receives project-supplied vaccine.

Required: By December 31 of each year, an assessment of the immunization levels of children attending licensed child care facilities, using procedures outlined in the most recent CDC guidelines for assessing immunization levels.

Required: Procedures to assess the reliability and validity of child care facility assessment data, using the most recent CDC guidelines for validating assessment data.

Required: Specific plans to bring delinquents identified through record assessments, validation efforts, tracking/recall and/or broken appointment systems back on schedule.

Required: Using the most recent CDC guidelines, annual retrospective surveys to determine the immunization status of children as part of the validation or primary assessment of school entrants. *Four doses of DTP, 3 doses of Oral Polio Vaccine (OPV), and 1 dose each of measles, mumps, and rubella by 24 months of age* is considered the standard assessment criterion. Data should be reported by individual vaccine and all vaccines combined.

Recommended: Review the immunization status of other specific preschool population groups such as those in unlicensed child care facilities, registered homes, family day care centers, and WIC clinics.

Recommended: Promote public and private sector tracking and recall systems for those providers who do not receive project-supplied vaccine.

Recommended: Schedule special immunization clinics in areas (such as inner-cities) with population groups having particularly low levels of immunization or high rates of susceptibility or disease transmission.

Recommended: Hospital-based immunization/education programs for new mothers.

Required: A plan for the prevention of hepatitis B which includes:

(1) Screening of all pregnant women not served by the private sector for hepatitis B, including hospital screening of women for HBsAg whose status is unknown.

(2) Administering HBIG and hepatitis B vaccine to all infants born to HBsAg-positive women not served by the private sector.

(3) Coordinating with hospitals, clinics, health-care providers and other agencies to ensure timely completion of the 3-dose hepatitis B vaccine series.

(4) Identifying and immunizing susceptible household contacts to HBsAg-positive women.

Recommended: Serologic testing at 12–15 months of age for HBsAg and anti-HBs for infants immunized with hepatitis B vaccine.

b. School Children

Required: Systematic immunization of susceptible children to ensure at least 95 percent immunization levels of new school entrants against measles, mumps, rubella, polio, diphtheria, pertussis and tetanus.

Required: An assessment of the immunization levels of children entering school by December 31 of each year, using procedures outlined in the most recent CDC guidelines for assessing immunization levels.

Required: Procedures to assess the reliability and validity of school assessment data, using the most recent CDC guidelines for validating assessment data.

Recommended: Review the immunization status of all incoming transfer students as they are enrolled in all grade levels.

c. Adults

Recommended: Annual determinations of specific vaccine coverage levels and/or policies affecting health care providers, college/university students, family planning patients, nursing home patients, persons 65 years of age and older, and/or other targeted adult populations.

Recommended: Procedures to assess the reliability and validity of assessment data for adult populations, using the most recent CDC guidelines for validating assessment data.

Recommended: Promote collaboration with public agencies and private-sector organizations in the project area for the purpose of raising immunization coverage in adults.w

2. Enforcement of Immunization Laws and Regulations

Required: Enforce existing child care facility regulations, school immunization laws, and immunization regulations that apply to adults.

Required: Make standard immunization record forms available to facilitate record-keeping for children in child care facilities and schools.

Recommended: Make standard immunization record forms available to facilitate record-keeping for adults in college, nursing homes, health care facilities, etc.

Recommended: Extend day care regulations to include appropriate immunizations (measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, and Hib).

3. Surveillance and Outbreak Control

Required: Surveillance of vaccine-preventable diseases that includes morbidity and mortality reporting, as

well as field and laboratory investigations.

Required: Prompt review of the data collected from the morbidity surveillance system to allow for immediate response to suspected outbreaks of measles, mumps, rubella, pertussis, diphtheria, polio, Hib, and hepatitis B.

Required: A procedure for controlling measles outbreaks which covers the following:

a. Immediate response to suspected measles to determine compatibility with clinical measles;

b. Confirmation of the diagnosis, using standard clinical classification and laboratory testing when possible;

c. Determination of the extent of the outbreak;

d. Identification of a zone of risk which includes all susceptible persons who might have had contact with suspected cases;

e. Immunization of all persons at risk and reduction of contact between persons with infectious cases and persons who are susceptible;

f. Reporting of supplemental measles information via computer telecommunications to the Division of Immunization; and

g. A written evaluation of each measles outbreak in the quarterly progress report following the conclusion of the outbreak.

Recommended: Appropriate disease case investigation forms.

Recommended: Improvement of pertussis surveillance so that form CDC 71.14A (Pertussis Cases Report Form) is completed and forwarded to CDC for at least 90 percent of the cases.

Required: Transition from the Monitoring System for Adverse Events Following Immunizations (MSAEFI) to the Vaccine Adverse Events Reporting System (VAERS) effective July, 1990. Support of VAERS must include:

a. Implementation of recording requirements of the National Childhood Vaccine Injury Act (NCVIA) of 1986. This Act requires physicians and other health care providers who administer vaccines to maintain permanent immunization records and to report occurrences of certain adverse events specified in the Act. The vaccines and toxoids to which these requirements apply are: Measles, mumps, and rubella single-antigen vaccines and combination vaccines (MMR, MR); diphtheria and tetanus toxoids (DT); tetanus and diphtheria toxoids (Td); tetanus toxoid (T); diphtheria and tetanus toxoids and pertussis vaccine (DTP); pertussis vaccine (P); inactivated poliovirus vaccine (IPV); and oral poliovirus vaccine, live (OPV).

b. Notification of all health-care providers who administer one or more of these vaccines or toxoids is required to ensure that the vaccine recipient's permanent medical record (in a permanent office log or file) contains the date the vaccine was administered, the manufacturer and lot number, and the name, address, and title of the person administering the vaccine. Health-care provider is defined as any licensed health-care professional, organization, or institution, whether private or public (including Federal, State, and local departments and agencies), under whose authority a specified vaccine is administered.

c. All reports from the public sector must be made through the State Health Department to ERC Bioservices Corporation, Suite 130, 1055 First Street, Rockville, MD 20850, hereafter called the "Contractor".

d. All forms ("Vaccine Adverse Events Reporting System" (VAERS)) must be reviewed for completeness and accuracy before forwarding to the Contractor.

e. Reports that fulfill the "Requirements for Permanent Vaccination Records and Reporting of Adverse Events" must be forwarded to the contractor. Reports of serious or unusual adverse events following administration not meeting the reporting requirements should also be forwarded to the contractor. Health-care providers are required to report to the VAERS selected events occurring after vaccination. Reportable events applicable to the previously mentioned vaccines and toxoids include events described in the vaccine manufacturer's package insert as contraindications to receiving additional doses of vaccine.

VAERS forms and instructions are available in the FDA Drug Bulletin, the Physician's Desk Reference, or by calling VAERS at 1–800–822–7967.

4. Information/Education

Required; A plan to inform health professionals of the most recent immunization recommendations, policies, and procedures.

Recommended: A plan to promote immunization of other special population groups such as clinic attendees, college students, health professionals, residents of nursing homes, and other targeted adult populations.

5. Vaccine Management

Required: A plan to monitor vaccine distribution and usage among health departments, physicians, schools, and other health-care providers, such that annual project-wide wastage does not exceed 5 percent. Vaccine wastage includes any vaccine which cannot be counted as administered or in inventory.

Required: A temperature-sensitive alarm connected to a 24-hour security system for all central vaccine storage sites. Alternate storage sites must be identified to which vaccine can be relocated if main storage fails.

Recommended: Temperature recording charts for distribution to all providers using project-supplied vaccine.

D. *Evaluation:* Measures to evaluate the progress toward achievement of each short-term objective must be established.

Any required data collection from 10 or more respondents that is not conducted under the Vaccine Compensation Act will be reviewed by OMB under the Paperwork Reduction Act.

Other Requirements

A. To assure appropriate provision of information relating to risks and benefits of immunization, the grantee must:

1. Establish procedures to provide copies of the current appropriate "Important Information Statements" and "Vaccine Information Pamphlets" to all vaccine recipients or their parents or guardians receiving immunizations in public clinic settings and to private physicians for use in accordance with the conditions specified in the most recent "Private Physician Certification Form." A copy of the "Private Physician Certification Form" is available from CDC. Grantees may include appropriate health department identification on the "Private Physician Certification Form," and the "Important Information Statements" and "Vaccine Information Pamphlets." Any other addition to the documents or variations from the language or format of them must have the prior written approval of the Director, Center for Prevention Services, CDC.

2. Provide for documentation of the receipt by vaccine recipients or their parents or guardians of the "Important Information Statements" or "Vaccine Information Pamphlets" relating to the disease or diseases for which vaccines are furnished as specified above. The documentation shall consist of the signed lower portion of the "Important Information Statements," the tear-out portion of the "Vaccine Information Pamphlets," or a separate signature card or log sheet which contains the following:

I have read or have had explained to me the information contained in the Important Information Statement(s) or Vaccine

Information Pamphlet(s) about the disease(s) and the vaccine(s). I have had a chance to ask questions which were answered to my satisfaction. I believe I understand the benefits and risks of the vaccine(s) and request that the vaccine(s) indicated below be given to me or to the person named below for whom I am authorized to make this request.

This statement must appear at the top of the signature card or log sheet and the form must include, at a minimum, the following entries: Name, address, date of birth, and current age of the person being immunized; type of vaccine(s), clinic/office address, date of immunization, site of immunization, vaccine manufacturer and lot number, signature of person to receive vaccine or person authorized to make the request, date of signature, signature and title of person administering vaccine, and date printed on the appropriate "Important Information Statement" or "Vaccine Information Pamphlet."

3. Annually obtain a signed copy of the "Private Physician Certification Form" from all physicians receiving project-supplied vaccine which is to be used in private practice.

4. Establish procedures for the retention of the signed portion of the "Important Information Statements," "Vaccine Information Pamphlets," "Private Physician Certification Form," and other types of approved documentation. For Federal grant purposes, the "Important Information Statements," "Vaccine Information Pamphlets," "Private Physician Certification Form," and other types of approved documentation must be retained for a period of 10 years following the end of the calendar year in which these documents were signed. In addition, if a notice of a claim or lawsuit has been made, the "Important Information Statement," "Vaccine Information Pamphlet," "Private Physician Certification Form," and other types of approved documentation must be retained until a final disposition of the claim or litigation (including appeals) has been made. All documentation must be available to the Director, Center for Prevention Services, CDC, upon written request. Each grantee should check with the appropriate State agency or attorney general's office to ensure there is no State rule requiring a longer retention period.

5. Establish procedures for responding to questions by telephone or mail in the case of a school-based program, or other programs where the "Important Information Statements" or "Vaccine Information Pamphlets" are read and signed by the parent, guardian, or other authorized person, who will not be present at the immunization site when the immunization is given.

B. The grantee must use the most current "Important Information Statements" or "Vaccine Information Pamphlets" for measles, mumps, rubella, and combinations thereof; inactivated polio (IPV); oral polio (OPV); diphtheria, tetanus, pertussis and combinations thereof; *Haemophilus influenzae* b (Hib), hepatitis B, and other vaccines, toxoids, or globulins purchased through the Federal contract mechanism.

C. The grantee must provide printed or camera-ready copies of the "Important Information Statements" and "Vaccine Information Pamphlets" to private physicians who receive vaccine purchased with grant funds. Such physicians must provide the most recent copies of appropriate "Important Information Statements" or "Vaccine Information Pamphlets" to vaccine recipients or their parents or guardians.

D. At each immunization clinic, at least one person must insure that prospective vaccine recipients or their parents or guardians can read or have had read to them the information provided. This person must be able to answer questions abvout the vaccine, its expected benefits, its normal risks, its contraindications (e.g., special warnings to vaccine recipients with low resistance to infections), alternatives to immunization, and to provide advice regarding medical assistance in the event of suspected vaccine reactions. If an immunization clinic serves significant numbers of people for whom English is not a first language, the written Information shall be available in the native language. CDC will provide prototype "Important information Statements" or "Vaccine Information Pamphlets" in Spanish, French, Vietnamese, and Chinese. At each immunization clinic, the person administering the "Important Information Statements" and "Vaccine Information Pamphlets" must routinely ask all vaccine recipients or their parents or guardians if they understand the information provided to them and if they have any questions.

E. These required steps may be supplemented as appropriate with:

1. The provision and display of posters at clinic sites and physicians' offices about risks and benefits of immunization.

2. The use of audio or audiovisual techniques.

3. Publicity through the mass media and through other information channels to advertise the availability of immunization clinics.

F. In addition to the steps listed above, the grantee must print and supply camera-ready copies of the "Vaccine Information Pamphlets" to all physicians in the project area who administer privately purchased vaccines covered by the National Vaccine Injury Compensation Program. This requirement currently applies to: DTP; pertussis vaccine (P); diphtheria and tetanus toxoids (DT); tetanus and diphtheria toxoids (Td); tetanus toxoid (T); measles, mumps, and rubella single-antigen vaccines and combination vaccines (MMR, MR); OPV; and IPV. Camera-ready copies of translations of the "Vaccine Information Pamphlets" which apply to these toxoids and vaccines also shall be provided to these physicians "as necessary" or "upon request from the physicians."

Evaluation Criteria

A. *Competing Applications:* For Fiscal Year 1991, all applications are competing and will be reviewed and evaluated according to the following criteria:

1. The extent to which background information and other data demonstrate a need for the kind of assistance provided through the grant.

2. The extent to which objectives are specific, realistic, time-limited, quantifiable, outcome oriented, and related to and consistent with the National Program Goals and Year 2000 Objectives.

3. The quality of the applicant's plan for addressing each required program element and the extent to which proposed activities will result in a balanced program of service delivery, maintenance, assessment, enforcement, surveillance/outbreak control, information/education, and vaccine management.

4. The quality of the plan offered to evaluate each short-term objective.

5. The evidence that information which relates to risks and benefits of vaccination is provided as described above under "Other Requirements."

In addition, consideration will also be given to the extent to which the budget request and proposed use of project funds is consistent with National Program Goals and Year 2000 Objectives.

B. *Noncompeting Continuation Applications:* In subsequent years, noncompeting continuation applications within an approved project period will be evaluated on the basis of satisfactory progress in meeting project objectives; the extent to which objectives for the new budget period are specific, quantifiable, time-phased, realistic, and consistent with National Program Goals and Year 2000 Objectives; the extent to

which proposed changes in methods of operation and evaluation plans are likely to enhance the success of the project; and the availability of funds.

Executive Order 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.268, Preventive Health Services-Immunizations.

Application Submission and Deadline

The original and two copies of the application (form PHS 5161–1) must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 300, Atlanta, GA 30305, on or before September 1, 1990.

A. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

B. *Late Applications:* Applications which do not meet the criteria in A.1. or 2. are considered late applications. Late applications will not be considered in the current funding cycle and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Eddie Wilder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 300, Atlanta, GA 30305, (404) 842–6640 or FTS 236–6640.

Announcement Number 101, "Project Grants for Preventive Health Services-Immunization," must be referenced in all requests for information pertaining to these projects.

Technical assistance may be obtained from Ron Teske, Division of Immunization, Center for Prevention Services, Centers for Disease Control, Atlanta, Ga 30333, (404) 639–1886 or FTS 236–1886. Technical assistance may also be obtained from the Director, Division of Preventive Health Services, in the appropriate HHS Regional Office.

Dated: August 17, 1990.

Jim Dowdy,

Acting Director, Office of program Support, Centers for Disease Control.

[FR Doc. 90–19980 Filed 8–23–90; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 90–M–0234]

Ideal Optics, Inc.; Premarket Approval of 0–>Perm F60® (Oxyflufocon A) Rigid Gas Permeable Contact Lens (Clear and Tinted)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Ideal Optics, Inc., Atlanta, GA, for premarket approval, under the Medical Device Amendments of 1976, of the sphereical 0–>Perm F60® (oxyflufocon A) Rigid Gas Permeable Contact Lens (clear and tinted). After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of July 6, 1990, of the approval of the application.

DATES: Petitions for administrative review by September 24, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1080.

SUPPLEMENTARY INFORMATION: On August 22, 1989, Ideal Optics, Inc., Atlanta, GA 30339, submitted to CDRH an application for premarket approval of the 0–>Perm F60® (oxyflufocon A) Rigid Gas Permeable Contact Lens (clear and tinted). The spherical lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are nearsighted (myopic) or farsighted (hyperopic). The lens may be worn by persons who exhibit astigmatism of 4.00 diopters (D) or less that does not interfere with visual acuity. The lens ranges in powers from −20.00 D to +12.00 D and is to be disinfected using a chemical lens care system. The blue tinted lens contains the color additive D&C Green No. 6 in accordance with the color additive listing provisions of 21 CFR 74.3206.

On January 26, 1990, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 6, 1990, ADRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above. The labeling of the 0–>Perm F60® (oxyflufocon A) Rigid Gas Permeable Contact Lens (clear and tinted) states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be

used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 24, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10)and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 16, 1990.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 90-19963 Filed 8-23-90; 8:45 am]

BILLING CODE 4160-01-M

Office of Child Support Enforcement

Privacy Act of 1974; Amendment to Existing System of Records

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of Amendment of Privacy Act System of Records.

SUMMARY: Notice is hereby given that OCSE is amending one of its systems of records, the Federal Parent Locator Service (FPLS), DHHS/OCSE No. 09-90-0074. This system was last published at 53 FR 50111, December 13, 1988. This notice is being changed to inform the public that the FPLS has obtained access to wage and unemployment compensation claims information maintained for or by the Department of Labor (DOL) or the State Employment Security Agencies (SESA's).

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy Bienia, Location and Collection Services Branch, Office of Child Support Enforcement, 370 L'Enfant Promenade SW., 4th floor, Washington, DC 20447.

The categories of records in the system is amended by adding the following text to read as follows:

09-90-0074

* * * * *

Categories of records in the system:

* * * * *

Pursuant to section 124(a) of the Family Support Act of 1988 (Pub. L. 100-485), the FPLS has obtained access to wage and unemployment compensation claims information maintained for or by the DOL or the SESA's. Beginning in January 1990, the FPLS will conduct periodic crossmatches in which the names and SSN's of child support obligors are run against SESA wage and unemployment files. When there is a match on the wage file, the SESA returns the name and address of the absent parent's employer and his or her quarterly wages to the FPLS. If the obligor is receiving unemployment compensation, the SESA provides the claimant's name and address.

* * * * *

Approval:

Jo Anne B. Barnhart,

Director, Office of Child Support Enforcement.

[FR Doc. 90-19873 Filed 8-23-90; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

Indian Health Service; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, (52 FR 47053-67, December 11, 1987 as most recently amended at 55 FR 27900-01, July 6, 1990), is amended to reflect the establishment of an organizational substructure for the Alaska Native Health Area Office to reflect more accurately the current activities in the Area Office.

Under *Chapter HG, Section HG-20, Functions,* after the statement for the *Indian Health Service (IHS) Area Offices (HGF), Information Resources Management Programs,* insert the following:

Alaska Native Health Area Office (HGFC)

Office of the Area Director (HGFC1). (1) Plans, develops and directs the Area Program within the framework of the IHS policy in pursuit of the mission; (2) delivers and ensures the delivery of high quality comprehensive health services; (3) coordinates the IHS activities and resources internally and externally with those of other government and non-governmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) ensures the full application of the principles of Indian Preference and Equal Employment Opportunity (EEO); and (6) participates with Indian tribes and other Native community groups in developing optimal goals and objectives for health care delivery for the Alaska Native Health Area IHS.

Office of General Services (HGFCK). (1) Provides overall planning and direction in the management of personal and real property, insuring proper documentation and reporting of all relative transactions; (2) administers procurement contracts, transportation and special services programs in accordance with applicable laws, regulations and policies; (3) serves as advisor and consultant to Area and field staff on support services provided by the health program; (4) participates with Area executive staff and program officials on Area program planning and plans of action; (5) operates a resupply program for service units and directs the overall lease program of the village built clinics and satellite communications programs; (6) interprets regulations and laws and serves as technical advisor to the Area Director, Executive Offices, service units, regional health corporations and the Alaska Native Health Board; (7) manages the Area's voice communications system; and (8) manages, plans, develops, monitors, and evaluates word processing activities for the Office of General Services.

Office of Financial Management (HGFCL). (1) Organizes, coordinates, and executes all budget and financial operations of the Area; (2) provides technical supervision, advice, and guidance to service unit administrative staffs and serves as staff consultant to the Area executive staff, program officers and service unit directors; (3) provides technical assistance and guidance to Native Health Corporations by monitoring fund control operations of service units, program offices and Native Health Corporations; and (4) advises the executive staff of the status of funds and recommends actions to maintain maximum utilization of resources and health care services.

Office of Personnel and Training (HGFCM). (1) Plans, coordinates, implements, administers, directs and evaluates the Area Civil Service and Commissioned Corps personnel management program; (2) provides personnel management support to Area Office and service unit managers including recruitment, placement, position management, position classification, training, labor relations and employee relations, employee services, and public relations; (3)

assures the full application of the Indian Preference policy in all personnel practices; and (4) provides technical assistance in personnel management to Native organizations.

Office of Community Health Services (HGFCP). (1) Provides community health service support to service units and other health care activities throughout the State; (2) directs a comprehensive human services program including alcohol and drug abuse, mental health and social services; (3) coordinates the direct, contract and community dental programs; (4) determines nutrition needs and establishes Area nutrition goals and objectives; (5) provides Area-wide health education and orientation services; (6) provides Community Health Aide Programs and maintains State-wide operations by maintaining the development and implementation of program goals; (7) plans, monitors and evaluates programs that deliver health services for maternal and child health care; (8) provides contract negotiations with State public health nursing programs; (9) coordinates the Area-wide diabetes program; (10) manages, analyzes and interprets epidemiological data related to various health problems; and (11) coordinates a program of health promotion and disease prevention.

Office of Patient Care Standards (HGFCQ). (1) Develops, implements, evaluates and coordinates professional standards for patient care in the direct and contract health care programs including pharmacy, nursing services, health records information program management, and dietetics services; (2) provides technical assistance and consultation to service units and tribal governments concerning the interpretation and application of health and safety standards; (3) collaborates with Departmental entities, non-Federal governmental agencies and voluntary professional health organizations to identify, develop, and apply new approaches for the enforcement of health and safety standards under the IHS health delivery system and other Federal reimbursement program; (4) coordinates activities with the State of Alaska for the Emergency Medical Services (EMS) program, the Alaska Native regional health corporations' EMS programs and the Alaska Area Native Health hospitals' EMS programs; (5) provides planning, evaluation, and statistical functions for the Area; (6) identifies and measures the health care needs of the Area; and (7) manages the Area's information systems.

Office of Regional and Contract Health Care (HGFCR). (1) Plans, develops, and evaluates within the Area a comprehensive program of medical care and related health services provided through contractual arrangements with various providers such as physicians, hospitals, dentists, boarding homes, pharmacies and regional health corporations; (2) provides direction of policies involving health care furnished by grants, contracts or agreements including all Public Law 93–638 activities; (3) provides expertise in hospital and health care management and liaison with the Area medical quality assurance program and the executive staff of the Area; (4) reviews program proposals developed by tribes for contract health care services under Public Law 93–638; (5) serves as principal program consultant to Area and service unit staff; (6) serves as focal point for the Alaska Area contract health service programs; (7) promotes, maintains, and coordinates regional health development with Alaska Native organizations; and (8) provides technical assistance and consultation to Native organizations in the implementation and management of Public Law 93–638 programs and tribal affairs activities.

Office of Environmental Health and Engineering (HGFCU). (1) Provides environmental health services for the prevention and reduction of disease in the Alaska Area; (2) plans the elimination and reduction of health hazards through surveillance, inspections, evaluation, education, vector control planning and coordination with communities, individuals and other agencies; (3) plans, designs and constructs water, sewer and solid waste systems for American Indian and Alaska Native communities and provides training and technical assistance to achieve maximum operation; (4) develops long range construction plans for health facilities; (5) provides engineering and facilities management consultant services; (6) prepares the annual construction, maintenance, and repair budget; (7) coordinates training for facilities managers and craftsmen at Area facilities; (8) maintains liaison with the Region X (Seattle) Office of Engineering Services (OES) architect; (9) provides biomedical engineering support to service units; (10) develops and implements fire protection, prevention and safety programs; (11) provides engineering drafting services to Area staff; and (12) provides contract construction inspection services.

Alaska Native Health Area Service Units (HGFCA, HGFCB, and HGFCC): Anchorage Service Unit (HGFCA); Barrow Service Unit (HGFCB); and Yukon-Kuskokwim Delta Service Unit (HGFCC). (1) Plans, develops and directs health programs within the framework of IHS policy and mission; (2) promotes activities to improve and maintain the health and welfare of the service population; (3) delivers quality health services within available resources; (4) coordinates service unit activities and resources with those of other governmental and non-governmental programs; (5) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; (6) provides American Indian and Alaska Native tribes and other Native community groups with optimal means of participating in service unit programs; and (7) encourages and supports the development of individual and tribal entities in the management of the service unit.

The Bristol Bay Service Unit; Kotzebue Service Unit; Interior Alaska Service Unit; Mt. Edgecumbe Service Unit; Annette Island Service Unit; and Norton Sound Service Unit are contracted out to health corporations under Public Law 93–638 (Indian Self-Determination and Education Assistance Act).

Ketchikan Indian Health Center (HGFC1K). (1) Delivers quality ambulatory health services within available resources including, but not limited to, diagnostic and therapeutic services as well as preventive, clinical, and rehabilitative services; (2) coordinates Health Center activities and resources with those of other governmental and non-governmental programs; (3) promotes optimum utilization of all available resources; (4) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; and (5) provides American Indian and Alaska Native tribes and other Native community groups with optimal means of participating in Health Center programs.

Under *Section HG–30, Order of Succession,* following item number (4) insert:

Alaska Native Health Area Office

During the absence or disability of the Area Director of the Alaska Native

Health Area Office, or in the event of a vacancy in that office, the first official listed below who is available shall act as the Area Director, except that during a planned period of absence, the Area Director may specify a different order of succession. The order of succession will be:

(1) Area Deputy Director;
(2) Executive Officer;
(3) Associate Director, Office of Patient Care Standards; and
(4) Associate Director, Office of General Services.

Section HG–40, Delegations of Authority. Add the following new paragraph:

All delegations and redelegations of authority made to IHS Area Offices which were in effect immediately prior to this reorganization, and which are consistent with the reorganization of January 18, 1989, shall continue in effect pending further redelegation.

Dated: August 16, 1990.

Everett R. Rhoades,

Assistant Surgeon General, Director, IHS.

[FR Doc. 90–20034 Filed 8–23–90; 8:45 am]

BILLING CODE 4160–16–M

Health Care Financing Administration

Medicare and Medicaid Programs; Meeting of the Advisory Council on Social Security

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Advisory Council on Social Security.

DATES: The meeting will be open to the public on September 10, 1990 from 9 to 8:30 p.m.; and, on September 11, 9:00 a.m. to 5 p.m.

ADDRESSES: The Salon, The Ramada Hotel—Tysons Corner, 7801 Leesburg Pike, Falls Church, VA 22043, Telephone (703) 893-1340.

FOR FURTHER INFORMATION CONTACT: Olga Nelson, Administrative Officer, Advisory Council on Social Security, Room 638 G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, 202–245–0217.

SUPPLEMENTARY INFORMATION: .

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every four years. The Council examines issues affecting the Social Security retirement, disability, and survivors insurance programs, as well as the Medicare and Medicaid programs, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- The adequacy of the Medicare program to meet the health and long-term care needs of our aged and disabled populations, the impact on Medicaid of the current financing structure for long-term care, and the need for more stable health care financing for the aged, the disabled, the poor, and the uninsured;
- Major old-Age, Survivors, and Disability Insurance (OASDI) financing issues, including the long-range financial status of the program, relationship of OASDI income and outgo to budget-deficit reduction efforts under the Balanced Budget and Emergency Deficit Control Act of 1985, and projected buildups in the OASDI trust funds; and
- Broad policy issues in Social Security, such as the role of Social Security in overall U.S. retirement income policy.

The Council is composed of 12 members: G. Lawrence Atkins, Robert M. Ball, Philip Briggs, Lonnie R. Bristow, Theodore Cooper, John T. Dunlop, Karen Ignagni, James R. Jones, Paul O'Neill, A. L. "Pete" Singleton, John J. Sweeney, and Don C. Wegmiller. The chairperson is Deborah Steelman.

The Council is to report to the Secretary and Congress by January 1991.

II. Agenda

The Council will discuss the issues related to Social Security and pension policy; and issues and options related to health care financing reform: Medicaid reform, cost containment; managed care, and long-term care.

The agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Programs Nos. 13.714 Medical Assistance Program; 13.733 Medicare-Hospital Insurance; 13.774 Medicare-Supplementary Medical Insurance; 13.802, Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.805 Social Security-Survivor's Insurance)

Dated: August 21, 1990.

Ann D. LaBelle,

Executive Director, Advisory Council on Social Security.

[FR Doc. 90–20110 Filed 8–23–90; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–1917; FR–2606–N–86]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATES: August 24, 1990.

ADDRESSES: For further information, contact James Forsberg, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; Telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565. (These telephone numbers are not toll-free.

SUPPLEMENTARY INFORMATION: .In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memoradum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, Room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: HQ–DA, Attn: DAEN–ZCI–P–Robert Conte; Room 1E671 Pentagon, Washington, DC 20360–2600; (202) 693–4583; Corps of Engineers: Bob Swieconek, HQ–US Army Corps of Engineers, Attn: CERE–MN, 20 Massachusetts Avenue NW, Washington, DC 20415–1000; (202) 272–1750; U.S. Navy: John Carr, Code 2041C, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, Va 22332; (202) 325–0474; U.S. Air Force: H. L. Lovejoy, Bolling AFB, HQ–USAF/LEER, Washington, DC 20332–5000; (202) 767–4191; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–0067. (These are not toll-free numbers.)

Dated: August 17, 1990

Paul Bardack,

Deputy Assistant Secretary for Economic Development

Suitable Land (by State)

Indiana

Tracts 903, 905, 905–C
Patoka Lake Project
Taswell, IN, Co: Crawford
Location: From French Lick, IN, take SR 145 S. for 10 miles to intersection with SR 164, property lies east and adjacent to highway 145.
Landholding Agency: COE
Property Number: 319030003
Status: Unutilized
Comment: 22.35 acres; limited utilities.

Tracts 142–A, 143
Patoka Lake Project
Dubois, IN, Co: Dubois
Location: From French Lick, IN take SR 145 S. for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ mile to property.
Landholding Agency: COE
Property Number: 319030004
Status: Unutilized
Comment: 21.30 acres; limited utilities; subject to periodic flooding.

Tracts 142–B
Patoka Lake Project
Dubois, IN, Co: Dubois
Location: From French Lick, IN take SR 145 S for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ mile to property.
Landholding Agency: COE
Property Number: 319030005
Status: Unutilized
Comment: 4.74 acres; limited utilities; subject to periodic flooding.

Tracts 601
Patoka Lake Project
French Lick, IN, Co: Orange
Location: IN. State Highway 145 south to Jordan Branch Road, Property abuts east right-of-way for Jordan Road.
Landholding Agency: COE
Property Number: 319030006
Status: Unutilized
Comment: 0.41 acre; limited utilities.

Texas

Peary Point #2
Naval Air Station
Corpus Christi, TX, Co: Nueces
Landholding Agency: Navy
Property Number: 779030001
Status: Excess
Comment: 43.48 acres; 60% of land under lease until 8/93.

Suitable Building (by State)

Alaska

Anchorage Duplex
924–926 Brown Street
Anchorage, AK
Landholding Agency: GSA
Property Number: 549030005
Status: Excess
Comment: 930 sq. ft.; 2 story residence; wooden frame; presence of asbestos.
GSA NO. 9–U–AK–496

Anchorage Duplex
944–946 Brown Street
Anchorage, AK
Landholding Agency: GSA
Property Number: 549030006
Status: Excess
Comment: 930 sq. ft.; 2 story residence; wooden frame; presence of asbestos.
GSA NO. 9–U–AK–496

New York

Bldg. 627
U.S. Military Academy—West Point
Pitcher Road, North Dock
Highland, NY, Co: Orange
Landholding Agency: Army
Property Number: 219030185
Status: Unutilized
Comment: 23185 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse; scheduled to be vacant 9/1/90.

Bldg. 627
U.S. Military Academy—West Point
Pitcher Road, North Dock
Highland, NY, Co: Orange
Landholding Agency: Army
Property Number: 219030185
Status: Unutilized
Comment: 23185 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse; scheduled to be vacant 9/1/90.

Ohio

Bldg. 1
Ohio River Division Laboratories
5851 Mariemont Avenue
Mariemont, OH, Co: Hamilton
Landholding Agency: COE
Property Number: 319030009
Status: Underutilized
Comment: 39544 sq. ft.; 1 story brick frame; possible asbestos; most recent use—office.

Bldg. 2
Ohio River Division Laboratories
5851 Mariemont Avenue
Mariemont, OH, Co: Hamilton
Landholding Agency: COE
Property Number: 319030010
Status: Underutilized
Comment: 1898 sq. ft.; 1 story wood frame; possible asbestos; most recent use—carpentry shop and test labroatory.

Bldg. 3
Ohio River Division Laboratories
5851 Mariemont Avenue
Mariemont, OH, Co: Hamilton
Landholding Agency: COE
Property Number: 319030011
Status: Underutilized
Comment: 1248 sq. ft.; 1 story metal frame; possible asbestos; most recent use—storage.

Pennsylvania

Curwensville Lake
Curwensville, PA, Co: Clearfield
Location: Curwensville Lake Administration Area off Route 453.
Landholding Agency: COE
Property Number: 319030001
Status: Excess
Comment: 1500 sq. ft.; 1 story wood frame; most recent use—residential; off-site use only.

Foster Joseph Sayres Dam
Damtenders Residence
Beach Creek, PA, Co: Centre
Location: Administrative Area of dam off Route 150
Landholding Agency: COE
Property Number: 319030002
Status: Excess
Comment: 1262 sq. ft.; 1 story brick/concrete frame; most recent use—residential; off-site use only.

Texas

Bldg. 720
Carswell Air Force Base
301 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030043
Status: Unutilized
Comment: 1612 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 723
Carswell Air Force Base
308 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030044
Status: Unutilized
Comment: 1612 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 716 A & B
Carswell Air Force Base
6113–6115 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030045
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 718 A & B
Carswell Air Force Base
6105–6107 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030046
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 770
Carswell Air Force Base
6221–6223 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030047
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 831
Carswell Air Force Base
6197–6199 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030048
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 861
Carswell Air Force Base
113–115 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030049
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 882
Carswell Air Force Base
6109–6111 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030050
Status: Unutilized
Comment: 1684 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 804
Carswell Air Force Base
209 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030051
Status: Unutilized
Comment: 1435 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 887
Carswell Air Force Base
109 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030052
Status: Unutilized
Comment: 1435 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 884
Carswell Air Force Base
100 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030053
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 888
Carswell Air Force Base
105 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030054
Status: Unutilized
Comment: 1407 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 735
Carswell Air Force Base
216 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030055
Status: Unutilized
Comment: 1717 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 742 A & B
Carswell Air Force Base
6120–6122 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030056
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 761 A & B
Carswell Air Force Base
233–235 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030057
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 741 A & B
Carswell Air Force Base
6116–6118 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030058
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 746 A & B
Carswell Air Force Base
6136–6138 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030059
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 811
Carswell Air Force Base
6117–6119 Straley
Fort Worth, TX, Co: Tarrant

Landholding Agency: Air Force
Property Number: 189030060
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 812
Carswell Air Force Base
6121–6123 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030061
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 843
Carswell Air Force Base
6124–6126 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030062
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 757
Carswell Air Force Base
249–251 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030063
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 762
Carswell Air Force Base
229–231 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030064
Status: Unutilized
Comment: 1640 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 764
Carswell Air Force Base
221–223 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030065
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 766
Carswell Air Force Base
213–215 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030066
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 782
Carswell Air Force Base
124–126 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030067
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 784
Carswell Air Force Base
116–118 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030068
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 839
Carswell Air Force Base
6108–6110 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030069
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 846
Carswell Air Force Base
6136–6138 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030070
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 856
Carswell Air Force Base
6176–6178 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030071
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 859
Carswell Air Force Base
121–123 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030072
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 870
Carswell Air Force Base
6157–6159 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030073
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 709 A & B
Carswell Air Force Base
321–323 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030074
Status: Unutilized
Comment: 1870 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 705
Carswell Air Force Base
337–339 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030075
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 713
Carswell Air Force Base
305–307 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030076
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 714
Carswell Air Force Base
301–303 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030077
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 739
Carswell Air Force Base
6108–6110 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030078
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 740
Carswell Air Force Base
6112–6114 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030079
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 750
Carswell Air Force Base
6152–6154 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030080
Status: Unutilized

Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 754
Carswell Air Force Base
261–263 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030081
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 758
Carswell Air Force Base
245–247 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030082
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 774
Carswell Air Force Base
6205–6207 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030083
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 775
Carswell Air Force Base
6224–6226 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030084
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 809
Carswell Air Force Base
6109–6111 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030085
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 810
Carswell Air Force Base
6113–6115 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030086
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 830
Carswell Air Force Base
6193–6195 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030087
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 842
Carswell Air Force Base
6120–6122 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030088
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 845
Carswell Air Force Base
6132–6134 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030089
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 851
Carswell Air Force Base
6156–6158 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030090
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 860
Carswell Air Force Base
117–119 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030091
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 869
Carswell Air Force Base
6161–6163 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030092
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 871
Carswell Air Force Base
6153–6155 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030093
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 872
Carswell Air Force Base
6149–6151 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030094
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 875
Carswell Air Force Base
6137–6139 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030095
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 876
Carswell Air Force Base
6133–6135 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030096
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 700
Carswell Air Force Base
417 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030097
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 701
Carswell Air Force Base
413 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030098
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 702
Carswell Air Force Base
409 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030099
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 703
Carswell Air Force Base
405 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030100
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 719
Carswell Air Force Base
300 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030101
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 722
Carswell Air Force Base
305 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030102
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 725
Carswell Air Force Base
312 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030103
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 726
Carswell Air Force Base
313 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030104
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 728
Carswell Air Force Base
6101 Coleman
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030105
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 729
Carswell Air Force Base
6099 Pollard
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030106
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 733
Carswell Air Force Base
217 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030107
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 736
Carswell Air Force Base
220 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030108
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 800
Carswell Air Force Base
6098 Lyles
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030109
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 802
Carswell Air Force Base
201 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030110
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 803
Carswell Air Force Base
205 Seymour
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030111
Status: Unutilized
Comment: 1387 sq. ft., 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 805
Carswell Air Force Base
208 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030112
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 806
Carswell Air Force Base
204 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030113
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 833
Carswell Air Force Base
121 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030114
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 863
Carswell Air Force Base
6185 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030115
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 867
Carswell Air Force Base
6169 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030116
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 873
Carswell Air Force Base
6145 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030117
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 878
Carswell Air Force Base
6125 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030118
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 886
Carswell Air Force Base
108 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030119
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 889
Carswell Air Force Base
101 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030120
Status: Unutilized
Comment: 1387 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbesto and termite infestation; inadequate sewag disposal system.

Bldg. 704
Carswell Air Force Base
6105 Coleman
Fort Worth, TX, Co: Tarrant

Landholding Agency: Air Force
Property Number: 189030121
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 715
Carswell Air Force Base
6121 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030122
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 717
Carswell Air Force Base
6109 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 1890301123
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 769
Carswell Air Force Base
6225 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030124
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 772
Carswell Air Force Base
6213 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030125
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 808
Carswell Air Force Base
6105 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030126
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 816
Carswell Air Force Base
6137 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030127
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 820
Carswell Air Force Base
6153 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030128
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 823
Carswell Air Force Base
6165 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030129
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 826
Carswell Air Force Base
6177 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030130
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 827
Carswell Air Force Base
6181 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030131
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 829
Carswell Air Force Base
6189 Straley
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030132
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 865
Carswell Air Force Base
6177 Holloway
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030133
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 881
Carswell Air Force Base
6113 Holloway
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030134
Status: Unutilized
Comment: 1668 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 721
Carswell Air Force Base
304 Seymour
Fort Worth TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030135
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 724
Carswell Air Force Base
309 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030136
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 730
Carswell Air Force Base
6098 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030137
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 737
Carswell Air Force Base
224 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030138
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 807
Carswell Air Force Base
200 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030139
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 835
Carswell Air Force Base
116 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030140
Status: Unutilized
Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 837
Carswell Air Force Base
124 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030141
Status: Unutilized

Comment: 1622 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 727A
Carswell Air Force Base
316 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030142
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 727B
Carswell Air Force Base
318 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030143
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 731
Carswell Air Force Base
225 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030144
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 734
Carswell Air Force Base
6099 Lyles
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030145
Status: Unutilized
Comment: 1612 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 732
Carswell Air Force Base
221 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030146
Status: Unutilized
Comment: 1612 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 745
Carswell Air Force Base
6132–6134 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030147
Status: Unutilized
Comment: 2138 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 768
Carswell Air Force Base
205–207 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030148
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 765
Carswell Air Force Base
217–219 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030149
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 763
Carswell Air Force Base
225–227 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030150
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 760
Carswell Air Force Base
237–239 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030151
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 751
Carswell Air Force Base
273–275 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030152
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 711
Carswell Air Force Base
313–315 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030153
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 710
Carswell Air Force Base
317–319 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030154
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 708
Carswell Air Force Base
325–327 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030155
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 707
Carswell Air Force Base
329–331 Dayless
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030156
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 743
Carswell Air Force Base
6124 Pollard
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030157
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 744
Carswell Air Force Base
6128–6130 Pollard
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030158
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 749
Carswell Air Force Base
6148–6150 Pollard
Forth Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030159
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 838
Carswell Air Force Base
6104–6106 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030160
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 840
Carswell Air Force Base
6112–6114 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030161
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 813
Carswell Air Force Base
6125–6127 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030162
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 848
Carswell Air Force Base
6144–6146 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030163
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 849
Carswell Air Force Base
6148–6150 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030164
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 819
Carswell Air Force Base
6149–6151 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030165
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 850
Carswell Air Force Base
6152–6154 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030166
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 852
Carswell Air Force Base
6160–6162 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030167
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 853
Carswell Air Force Base
6164–6166 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030168
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 854
Carswell Air Force Base
6168–6170 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030169
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 855
Carswell Air Force Base
6172–6174 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030170
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 825
Carswell Air Force Base
6173–6175 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030171
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 857
Carswell Air Force Base
6180–6182 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030172
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 858
Carswell Air Force Base
6184–6186 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030173
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 851
Carswell Air Force Base
6156–6158 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030174
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 879
Carswell Air Force Base
6121–6123 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030175
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 780
Carswell Air Force Base
6204–6206 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030176
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 779
Carswell Air Force Base
6208–6210 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030177
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 773
Carswell Air Force Base
6209–6211 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030178
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 778
Carswell Air Force Base
6212–6214 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030179
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 777
Carswell Air Force Base
6216–6218 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030180
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 776
Carswell Air Force Base
6220–6222 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030181
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 783
Carswell Air Force Base
120–122 Gerlich
Fort Worth, TX, Co: Tarrant

Landholding Agency: Air Force
Property Number: 189030182
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 781
Carswell Air Force Base
128–130 Gerlich
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030183
Status: Unutilized
Comment: 1624 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 801
Carswell Air Force Base
6099 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030184
Status: Unutilized
Comment: 1636 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 834
Carswell Air Force Base
117 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030185
Status: Unutilized
Comment: 1636 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 836
Carswell Air Force Base
120 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030186
Status: Unutilized
Comment: 1636 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 828
Carswell Air Force Base
6185–6187 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030187
Status: Unutilized
Comment: 2099 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 832
Carswell Air Force Base
125 Seymour
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030188
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 862
Carswell Air Force Base
6189 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030189
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 868
Carswell Air Force Base
6165 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030190
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 883
Carswell Air Force Base
6165 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030191
Status: Unutilized
Comment: 1434 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Peary Place #1
Naval Air Station
Corpus Christi, TX, Co: Nueces
Landholding Agency: Navy
Property Number: 779030002
Status: Excess
Comment: 9160 sq. ft.; 1 story; possible asbestos; most recent use—remote transmitter site.

Bldg. 706
Carswell Air Force Base
333–335 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030192
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 712
Carswell Air Force Base
309–311 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030193
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 738
Carswell Air Force Base
6104–6106 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030194
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 747
Carswell Air Force Base
6140–6142 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030195
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 748
Carswell Air Force Base
6144–6146 Pollard
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030196
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 752
Carswell Air Force Base
269–271 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030197
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 753
Carswell Air Force Base
265–267 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030198
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 755
Carswell Air Force Base
257–269 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030199
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 756
Carswell Air Force Base
253–255 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030200
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 759
Carswell Air Force Base
241–243 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030201
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos

and termite infestation; inadequate sewage disposal system.

Bldg. 767
Carswell Air Force Base
209–211 Dayless
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030202
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 771
Carswell Air Force Base
6217–6219 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030203
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 814
Carswell Air Force Base
6129–6131 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030204
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 815
Carswell Air Force Base
6133–6135 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030205
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 817
Carswell Air Force Base
6141–6143 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030206
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 818
Carswell Air Force Base
6145–6147 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 18030207
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 821
Carswell Air Force Base
6157–6159 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 18030208
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 822
Carswell Air Force Base
6161–6163 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 18030209
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 824
Carswell Air Force Base
6169–6171 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 18030210
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 841
Carswell Air Force Base
6116–6118 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030211
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 844
Carswell Air Force Base
6128–6130 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030212
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 847
Carswell Air Force Base
6140–6142 Straley
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030213
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 864
Carswell Air Force Base
6181–6183 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030214
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 866
Carswell Air Force Base
6173–6175 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030215
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 874
Carswell Air Force Base
6141–6143 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030216
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 877
Carswell Air Force Base
6129–6131 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030217
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 880
Carswell Air Force Base
6117–6119 Holloway
Fort Worth, TX, Co: Tarrant
Landholding Agency: Air Force
Property Number: 189030218
Status: Unutilized
Comment: 2148 sq. ft.; 1 story wood frame; structurally deteriorated; possible asbestos and termite infestation; inadequate sewage disposal system.

Bldg. 856
Fort Bliss
856 Lufberry Road
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030186
Status: Unutilized
Comment: 1770 net sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 1635
Fort Bliss
1635 Pleasonton Road
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030187
Status: Unutilized
Comment: 3540 net sq. ft.; 2 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 1689
Fort Bliss
1689 Haan Road
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030188
Status: Unutilized
Comment: 972 net sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 11344
Fort Bliss
11344 Chanute Street
El Paso, TX, Co: El Paso
Landholding Agency: Army

Property Number: 219030189
Status: Unutilized
Comment: 6033 net sq. ft.; 2 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 11345
Fort Bliss
11345 Chanute
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030190
Status: Unutilized
Comment: 6033 net sq. ft.; 2 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 11346
Fort Bliss
11346 Chanute Street
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030191
Status: Unutilized
Comment: 6033 net sq. ft.; 2 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 11160
Fort Bliss
11160 Simms and Randolph Street
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030192
Status: Unutilized
Comment: 6756.75 net sq. ft.; one story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 11253
Fort Bliss
11253 Luke and Markle Street
El Paso, TX, Co: El Paso
Landholding Agency: Army
Property Number: 219030193
Status: Unutilized
Comment: 14389.5 sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

[FR Doc. 90–19857 Filed 8–23–90; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

History Areas Committee of Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting of History Areas Committee of Advisory Board.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board will be held at 9 a.m. at the following location and date.

DATES: September 19, 1990.

LOCATION: 2nd Floor Conference Room 2410, 1100 L Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Benjamin Levy, Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Telephone (202) 343–8164, or FTS 343–8164.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board is to evaluate studies of historic properties in order to advise the full National Park System Advisory Board meeting on October 23, 1990 of the qualifications of properties being proposed for National Historic Landmark designation, and to recommend to the full Board those properties that the Committee finds meet the criteria of the National Historic Landmarks Program. The members of the History Areas Committee are:

Dr. Holly Anglin Robinson, Chairperson
Mr. Robert Burley
Dr. Alfonz Lengyel
Mrs. Anne Walker
Judge Robert Flynn Orr

The meeting will include presentations and discussions on the national historic significance and the integrity of a number of properties being nominated for National Historic Landmark designation. These nominations include 5 architectural properties located in California, New Jersey, New York, Pennsylvania, and Washington, DC; 8 maritime resources located in California, Massachusetts, Michigan, New York, Texas, and Washington, DC; 2 properties being considered for archeology located in Arizona and Mississippi; 10 sites relating to an ethnic theme study in California, Florida, Kansas, Mississippi, Missouri, and Wisconsin; and an education site in Illinois; a scientific/museum studies site in Pennsylvania; and a political and military affairs site in American Samoa.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Committee a written statement concerning matters to be discussed. Written statements may be submitted to the Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127.

Dated: August 20, 1990.

Rowland T. Bowers,

Deputy Associate Director, Cultural Resources, National Park Service, WASO.

[FR Doc. 90–19965 Filed 8–23–90; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub–No. 361)]

Intrastate Rail Rate Authority; Wisconsin

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Wisconsin to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective September 23, 1990 and will expire September 23, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 274–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: August 16, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–19983 Filed 8–23–90; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 31719]

Corrected Notice of Exemption [1]; SouthRail Corp.—Trackage Rights Exemption—Columbus and Greenville Railway Co.

Columbus and Greenville Railway Company (C&G) has agreed to grant overhead trackage rights to SouthRail Corporation (SR) over 2.23 miles of existing track, between a point 2,627 feet south of milepost 231.0 (valuation station 12179+38), connecting SR's Artesia District track with C&G's main track, and a point 1,279 feet west of C&G milepost W–19 (valuation station 1015+99).

The transaction also involves SR's construction of two segments of track

[1] This notice of exemption corrects the notice served and published August 14, 1990 (55 FR 33181), by indicating that the grant of trackage rights extends only to the existing track.

that would connect its Newton-Aberdeen line with C&G main track.[2] One connection would be located at valuation station 1015+99 and the other at a point 56 feet west of C&G milepost W-19 (valuation station 1003+76).

The trackage rights agreement was executed on June 27, 1990, and operations will commence soon after construction is completed.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Jill M. Hawken, Weiner, McCaffrey, Brodsky, Kaplan & Levin, suite 800, 1350 New York Avenue, NW., Washington, DC 20005, and R.D. Bell, Columbus and Greenville Railway Company, P.O. Box 6000, Columbus, MS 39703.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Dated: August 17, 1990.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-19982 Filed 8-23-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-51; Sub-No. 67X]

Atchison, Topeka and Santa Fe Railway Co.—Abandonment Exemption in Maricopa County, AZ

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 7.88-mile line of railroad between Beardsley Spur mileposts 4 + 1251.2, near Waddell, and 7 + 1338.9, north of Fennemore, and between Beardsley Spur mileposts 7 + 5138.9 feet, south of Fennemore, and 12 + 4420.9 feet, near McMicken, in Maricopa County, AZ.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 13, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by August 24, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by September 4, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Dennis W. Wilson, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by August 17, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 8, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-19675 Filed 8-23-90; 8:45 am]

BILLING CODE 7035-01-M

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[2] SR has not indicated that it has sought Commission approval for construction of the connecting lines. It is unclear whether this construction is subject to Commission jurisdiction. If the Commission does have jurisdiction, SR must either file an application under 49 U.S.C. 10901 or seek an exemption under 49 U.S.C. 10505.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

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 Office 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.

Revision

Employment and Training Administration.

Statement of Selected Workloads and Expenditures of Federal Funds for Unemployment Compensation for Federal Employees and Ex-servicemembers.

1205–0162; ETA 191.

Quarterly.

State or local governments.

53 respondents; 1,272 total hours; 6 hours per response; 1 form.

Federal and military agencies must reimburse the Federal Employees Compensation Account for the amount expended for benefits to former Federal (civilian) employees (UCFE) and ex-servicemembers (UCX). The report informs ETA of the amount to bill each such agency.

Extension

Employment and Training Administration.

State Job Training Plan.

1205–0204.

Biennially.

15 respondents; 150 total hours; 10 hours per response; no forms.

The State Job Training Plan, required by JTPA for those States with one Statewide JTPA program, will provide information on the Activities to be conducted and participants to be served by the State under JTPA.

Governor's Coordination and Special Services Plan (GCSSP).

1205–0203.

Biennially.

State or local governments.

59 respondents; 1,770 total hours; 30 hours per response; no forms.

The GCSSP, required by section 121(a)(2) of JTPA, will provide the Department a general description of each State's plan for the operation of the JTPA program and its utilization of its JTPA resources.

Signed at Washington, DC, this 21st day of August 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90–19994 Filed 8–23–90; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 13th day of August 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner union/workers/firm	Location	Date received	Date of petition	Petition no.	Articles produced
AT&T Nassau metals, (CWA)	Gaston, S.C.	8/13/90	7/31/90	24,705	Copper & Steel.
Avalon Corp., (Workers)	Denver, CO	8/13/90	7/25/90	24,706	Oil & Gas.
Barclay Furniture, (Workers)	Hickory Flat. MS	8/13/90	7/30/90	24,707	Furniture.
Beloit Corp., (Machinist Union)	Beloit, WI	8/13/90	7/27/90	24,708	Castings.
Beloit Corp., (Machinist Union)	S. Beloit, IL	8/13/90	7/27/90	24,709	Castings.
Cole Office Environments (Workers)	York, PA	8/13/90	7/30/90	24,710	Desks, Files & Storage Cabinets.
F.R. Knitting Mills, Inc. (Workers)	Fall River, MA	8/13/90	8/02/90	24,711	Womens' Sweaters.
Glenville Lingerie (Company)	Glenville, GA	8/13/90	7/24/90	24,712	Ladies' Night Gowns.
Goodyear Tire & Rubber Co. (URW)	Lincoln, NE	8/13/90	8/03/90	24,713	Belts & Hose.
Greenville Pants Mfg., Co. (Company)	Greenville, TX	8/13/90	7/27/90	24,714	Mens' Suit & Shorts.
Hazelhurst Lingerie (Company)	Hazelhurst, GA	8/13/90	7/24/90	24,715	Ladies' Night Gowns.
Hygrade Food Corp. (UFCW)	Tacoma, WA	8/13/90	7/31/90	24,716	Meats.
Joshi Technologies Intl. (Workers)	Tulsa, OK	8/13/90	7/25/90	24,717	Oil & Gas.
L & G Drilling Co. (Company)	Mt. Pleasant, MI	8/13/90	7/30/90	24,718	Oil & Gas.

APPENDIX—Continued

Petitioner union/workers/firm	Location	Date received	Date of petition	Petition no.	Articles produced
Mercury MFG. (Workers)	Hancock, MI	8/13/90	8/02/90	24,719	Machine Parts.
Nidec Corp. (UAW)	Torrington, CT	8/13/90	7/27/90	24,720	Cooling Fans.
QED Exploration, Inc. (Workers)	Denver, CO	8/13/90	7/28/90	24,721	Oil & Gas.
S. Kastenbaum & Co. (Workers)	New York, NY	8/13/90	7/22/90	24,722	Womens' Dresses.
Steffey Shoe Co. (Workers)	Lebanon, PA	8/13/90	8/03/90	24,723	Infant Shoes.
Tri-Con Industries, Ltd.	Cape Girardeau, MO	8/13/90	7/30/90	24,724	Car Seats.
Unisys Corp. (Workers)	Shawnee Mission, KS	8/13/90	7/30/90	24,725	Power Supplies.
Westinghouse Electric Corp. (Workers)	Buffalo, NY	8/13/90	7/31/90	24,726	Electric Power Equip.
Westinghouse Electric Corp. (Workers)	Syracuse, NY	8/13/90	7/31/90	24,727	Electric Power Equip.

[FR Doc. 90-19990 Filed 8-24-90; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-8-M]

Ash Grove Cement West, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Ash Grove Cement West, Inc., 330 Cement Plant Road, P.O. Box 5, Durkee, Oregon 97905 has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment in a raised position) to its Durkee Cement Plant (I.D. No. 35-02970) and its Durkee Quarry (I.D. No. 35-00052) located in Baker County, Oregon. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a person not work on top of, under, or from mobile equipment in a raised position until the equipment has been blocked or mechanically secured to prevent it from rolling or falling accidently.

2. As an alternate method, petitioner proposes to use the load line of a hydraulic crane to raise and lower a work platform.

3. A safety block would be provided that, in the event of failue of the load line, would lock and stop the descent of the work platform.

4. OSHA regulations pertaining to lifting personnel with cranes would be followed.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1990. Copies of the petition are available for inspection at that address.

Dated: August 17, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-19991 Filed 8-23-90; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-90-122-C]

Pigeon Branch Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Pigeon Branch Coal Co., Inc., 581 D. East Riverside Drive, North Tazewell, Virginia 24630, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 8 Mine (I.D. No. 46-05972) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that aircourses be examined in their entirety on a weekly basis.

2. Due to roof falls and adverse conditions certain areas of the mine cannot be safely traveled.

3. As an alternate method, petitioner proposes to establish checkpoints where the quantity and quality of the air entering and leaving the affected area would be monitored.

4. In support of this request, petitioner states that—

a) Examinations of air quality and quantity would be made by a certified person on a weekly basis and a record maintained in an approved record book; and

b) The area unsafe for travel would be secured.

5. Petitioner states that the proposed alternate method would provide no less than the same measure of protection as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1990. Copies of the petition are available for inspection at that address.

Dated: August 16, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-19992 Filed 8-23-90; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-90-116-]

Golden Oak Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Golden Oak Mining Company, HC 85, Box 77, Whitesburg, Kentucky 41858, has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies or cabs; electric face equipment) to its Black Oak No. 6 Mine (I.D. No. 15-15703) located in Knott County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that electric face equipment be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

2. Petitioner states that the use of cabs or canopies would result in a diminution of safety because the cabs or canopies would limit the equipment operator's

visibility, causing the operator to lean out while in motion, exposing himself and others to danger. The cabs or canopies would create cramped conditions causing unnecessary fatigue resulting in reduced alertness and safety. Limited operating space would hinder the operator's escape from the equipment in case of an emergency and the cabs or canopies would hit the roof bolt plates and create weak roof support.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 24, 1990. Copies of the petition are available for inspection at that address.

Dated: August 16, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–19993 Filed 8–23–90; 8:45 am]

BILLING CODE 4510–43–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modification to General Wage Determinations Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Jersey, NJ90–3(Jan. 5, 1990).	p. 685. p. 689
New York, NY90–7(Jan. 5, 1990).	p. 797. pp. 798–800. p. 802–807.
Pennsylvania:	
PA90–5(Jan. 5, 1990)..	p. 951. p. 953.
PA90–9(Jan. 5, 1990).	p. 997. pp. 998–999. p. 1002.
PA90–11(Jan. 5, 1990).	p. 1009. p. 1010.
PA90–12(Jan. 5, 1990).	p. 1013. p. 1014.
PA90–15(Jan. 5, 1990).	p. 1029. p. 1030.
PA90–16(Jan. 5, 1990).	p. 1033. p. 1034.
PA90–17(Jan. 5, 1990).	p. 1035. p. 1036.
PA90–19(Jan. 5, 1990).	p. 1049. p. 1050.
PA90–20(Jan. 5, 1990).	p. 1055. p. 1056.
PA90–21(Jan. 5, 1990).	p. 1063. pp. 1064–1065.
PA90–22(Jan. 5, 1990).	p. 1067. p. 1068.
Virginia VA90–23(Jan. 5, 1990).	p. 1271. p. 1272.

Volume II

Iowa, IA90–5(Jan. 5, 1990).	p. 37. pp. 40–41.
New Mexico, NM90–1(Jan. 5, 1990).	p. 747. pp. 748,753.
Ohio:	
OH90–2(Jan. 5, 1990).	p. 791. p. 798.
OH90–29(Jan. 5, 1990).	p. 873. p. 885.
OH90–34(Jan. 5, 1990).	p. 918a. p. 918b.

Volume III

California, CA90–2(Jan. 5, 1990).	p. 41. pp. 42–58.
Colorado:	
CO90–5(Jan. 5, 1990).	p. 132a. pp. 132b–132c.
CO90–6(Jan. 5, 1990).	p. 132e. pp. 132f–132h.
CO90–8(Jan. 5, 1990).	p. 132k. p. 132 1.
CO90–9(Jan. 5, 1990).	p. 132o. p. 132p.
Idaho, ID90–1(Jan. 5, 1990).	p. 147. p. 148.
Montana, MT90–1(Jan. 5, 1990).	p. 171. p. 173.

Washington:	
WA90–2(Jan. 5, 1990).	p. 395.
	p. 396.
WA90–5(Jan. 5, 1990).	p. 413.
	p. 414.
WA90–8(Jan. 5, 1990).	p. 425.
	p. 426.

General Wage Determination Publication

General wage deteminations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determination Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscriptions(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage deteminations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 17th day of August 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90–19858 Filed 8–22–90; 8:45 am]

BILLING CODE 4510–27–M

Occupational Safety and Health Administration

Maryland State Standards; Approval

1. *Background*—Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health Act of 1970 (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health Act of 1970 (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 5, 1973, notice was published in the **Federal Register** (38 FR 17834) of the approval of the Maryland State plan and the adoption of subpart 0 to part 1952 containing the decision.

The Maryland State Plan provides for the adoption of all Federal standards as State standards after comments and public hearing. Section 1952.210 of subpart 0 sets forth the State's schedule for the adoption of Federal standards. By letters dated May 22 and 23, 1990, from Commissioner Henry Koellein, Jr., Maryland Division of Labor and Industry, to Linda R. Anku, Regional Administrator, and incorporated as part of the plan, the State submitted State standards identical to: (1) 29 CFR 1910.1025, subpart Z, pertaining to amendments, additions and revisions to Occupational Exposure to Lead as published in the **Federal Register** of July 11, 1989 (54 FR 29274); (2) 29 CFR 1926.58, subpart D, pertaining to clarifications to Occupational Exposure to Asbestos, Tremolite, Anthopyllite, and Actinolite for Construction as published in the **Federal Register** of December 20, 1989 (54 FR 52027); and (3) 29 CFR 1926.58 and appendix J, subpart D, pertaining to amendments, additions and revisions to Occupational Exposure to Asbestos, Tremolite, Anthopyllite, and Actinolite for Construction as published in the **Federal Register** of February 5, 1990 (55 FR 2723). These standards are contained in COMAR 09.12.31. Maryland Occupational Safety and Health Standards were promulgated after a public hearing on March 9, 1990. These standards were effective on May 14, 1990.

2. *Decision*—Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and, accordingly, are approved.

3. *Location of the supplements for inspection and copying*—A copy of the standards supplements, along with the approved plan, may be inspected and copied at the following locations during normal business hours: Office of the Regional Administrator, 3535 Market Street, suite 2100, Philadelphia, Pennsylvania 19104; Office of the Commissioner of Labor and Industry, 501 St. Paul Place, Baltimore, Maryland 21202–2272; and the OSHA Office of State Programs room N–3700, Third Street and Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation*—Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that god cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

a. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

b. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 24, 1990.

Signed at Philadelphia, Pennsylvania, this 5th day of July 1990.

Richard Soltan,

Deputy Regional Administrator.

[FR Doc. 90–19989 Filed 8–23–90; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–369]

Duke Power Company; McGuire Nuclear Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of appendix J to 10 CFR part 50 to Duke Power Company (the licensee) for the McGuire Nuclear Station, Unit No. 1, located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action: The exemption would grant relief from appendix J, section III.D.1.(a), insofar as it requires that the third of a set of three Type A (containment integrated leak rate) tests be conducted during the 10-year inservice inspection (ISI) outage. For McGuire Unit 1, the first 10-year ISI outage will occur in 1991 with the end of fuel cycle (EOC) 7. Appendix J also requires that the tests be performed at approximately equal intervals. Equal intervals would be maintained at McGuire Unit 1 by testing during the 1990 EOC 6 outage. The exemption would permit the test for the first 10-year ISI outage to be performed during EOC 6 rather than EOC 7 without the need for repeat testing during the EOC 7 outage.

The exemption is in response to the licensee's application for exemption dated February 20, 1990.

The Need for the Proposed Action: The proposed exemption is needed to permit nearly equal intervals to be maintained in the scheduling of Type A tests during the transition from the first 10-year ISI outage through the second and remaining ISI periods. The interval used at McGuire is specified in the Technical Specifications and is 40 ± 10 months. (A corresponding change to the Technical Specifications would be made by license amendments.) Without the exemption, a fourth test, occurring within about one year of the third, would need to be performed during the first ISI 10-year interval; this additional test, performed so soon after the previous test, would be unlikely to reveal any significant change from the previous test, and would therefore be unnecessary and excessive. Moreover, the requirement that the third test occur during the 10-year ISI interval is of minimal safety significance when compared to the actual interval between tests.

Environmental Impacts of the Proposed Action: The proposed exemption affects only the scheduling of tests. The exemption provides the scheduling flexibility needed to maintain appropriate intervals between tests for verifying containment leakage integrity. Moreover, containment leakage integrity and assurances of containment leakage integrity are not decreased by the exemption. The proposed exemption has no affect on any accident and, therefore, potential radiological releases from or within the boundary are not increased. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: It has been concluded that there is no significant adverse impact associated with the proposed exemption (or with its associated license amendment); any alternatives to the exemption will have either no environmental impact or greater environmental impact. The principal alternative would be to deny the requested exemption. This would not reduce any adverse environmental impact, but would require that the refueling outage for EOC 7 be extended to perform an additional and unnecessary test of containment leakage integrity.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement dated April 1976 and January 1981 Addendum, for the McGuire Nuclear Station, Units 1 and 2.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the exemption dated February 20, 1990, which is available for public inspection at the Commission's Public Document room, 2120 L Street, NW., Washington, DC 20555, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 15th day of August 1990.

David B. Matthews,

Director, Project Directorate II–3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–19971 Filed 8–23–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of the Accelerated Tariff Elimination Provision in the United States-Canada Free-Trade Agreement

AGENCY: Office of the U.S. Trade Representative.

ACTION: Notice of consideration of certain ice hockey pants and certain monofilament polyurethane yarns for negotiations with the Government of Canada for accelerated elimination of the tariffs under the United States-Canada Free-Trade Agreement (FTA).

SUMMARY: Due to incomplete information on the appropriate tariff classification, tariff negotiating advice was not obtained on specific tariff subheadings for certain ice hockey pants and certain monofilament polyurethane yarns. Therefore, these items could not be included in an agreement with the Government of Canada in 1989, concerning accelerated tariff elimination under the FTA. During those negotiations, however, the United States and Canada did agree in substance to the acceleration of the elimination of duties on all ice hockey pants and certain monofilament polyurethane yarns. This notice is to inform the public that the articles identified below will be the subject of negotiations under Article 401(5) of the FTA for accelerated traffic elimination. Section 201(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 grants the President, subject to the consultation and layover requirements of section 103 of that Act, the authority to proclaim such acceleration of U.S. tariffs under the FTA as the United States and Canada may agree to under Article 401(5) of the FTA.

SUPPLEMENTARY INFORMATION: Further information on the subject of accelerated tariff elimination may be found in the **Federal Register** notices of January 23, 1989, Volume 54, Number 13, at pages 3175 and 3176; July 17, 1989, Volume 54, Number 135, at pages 29959 through 29972; February 8, 1990, Volume 55, Number 27, at pages 4501 through 4503; and May 30, 1990, Volume 55, Number 104, at pages 21835 through 21844. Inquiries regarding this notice should be directed to Rick Ruzicka, Office of North American Affairs, Office of the U.S. Trade Representative, Room 501, 600 17th Street NW., Washington, DC 20506, telephone (202) 395–5663.

Request for Comments

Comments supporting or opposing accelerated U.S. or Canadian duty elimination on the articles listed below will be accepted until September 28, 1990. Comments should be typewritten and submitted in ten copies to Rick Ruzicka, Office of North American Affairs, Office of the United States Trade Representative, room 501, 600 17th Street NW., Washington, DC 20506. All submissions must specify the United States and/or Canadian tariff subheading to which the comments refer, and must include the name, address and telepone number of the person, firm or organization making the comments.

Advice of the International Trade Commission

The U.S. International Trade Commission is being furnished with the list of articles published in this notice

for the probable economic effect of acceleration of elimination of United States duties on industries producing like or directly competitive articles and on consumers.

Articles That May Be Considered in Negotiations

1. Monofilament yarn, solely of polyurethane, single, untwisted, not on beams, provided for in subheadings 3916.90.30 or 5404.10.20 of the Harmonized Tariff Schedule of the United States and in subheading 3916.90.90 or 5404.10.00 of the Customs Tariff of Canada.

2. Pants and shells for pants for use in ice hockey, provided for in subheadings 6113.00.00, 6210.50.10, or 6210.50.20 of the Harmonized Tariff Schedule of the United States and in subheadings 6113.00.90 or 6210.50.00 of the Customs Tariff of Canada.

Francis F. Ruzicka,

Acting Assistant United States, Trade Representative for North American Affairs.

[FR Doc. 90–19961 Filed 8–23–90; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–28349; File No. SR–Amex–90–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange, Inc. Relating to Percentage Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 21, 1990, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Amex rules 131 and 154, on a one year pilot basis,[1] to broaden a specialist's ability to represent percentage orders,[2] and generally to expand the types of percentage orders allowed to be effected on the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Amex proposes that on a six-month pilot basis, Exchange Rules 131 and 154, as those rules relate to percentage orders, be revised to conform substantially to similar rules of the New York Stock Exchange ("NYSE").[3] The proposed rule change is intended to broaden the ability of an Amex specialist to represent percentage orders by (1) permitting a specialist to accept "last sale" and "buy minus—sell plus" percentage orders; [4] (2) permitting the conversion of a percentage order into a limit order on a destabilizing tick; and (3) allowing conversions that would have the effect of bettering the market.[5] The Exchange is proposing that these new conversion opportunities be subject to certain limitations and conditions designed to prevent conversions of percentage orders from unduly influencing the market. The Amex believes that this proposed rule change will contribute to the efficiency of the Exchange's market by giving the specialist additional flexibility to handle and service large-size orders, whereby enhancing the overall quality of the Exchange's auction market system.

(1) *Present Scheme: Current Amex Rules 131 and 154.* The Exchange developed Amex Rules 131 and 154 in order to free a floor broker from having to remain in the crowd to assure proper execution of a large order. When a broker executes an order, in addition to specifying the particular stock and "buy" or "sell," the broker specifies in advance the total number of shares and a limit price. The percentage order is a potential order on record with the specialist that becomes an actual limit order on the specialist's "book" only under certain circumstances. The Amex percentage order rules currently provide procedures by which the specialist mechanically introduces the order into the auction process without unduly influencing the market price.

(a) *Transaction Elections.* The basic provisions from which the percentage order takes its name provide that trades occurring in the market "elect" portions of a percentage order to become regular limit orders. The time of execution and the number of shares executed at any given time are determined by the mechanics of the market. The specialist merely supervises and logs the orderly progression of the execution.

A portion of the percentage order is "elected" into a limit order in the following manner:

—As a certain number of shares of the stock that is the subject of the percentage order is traded on the Exchange,

—an equal number of shares is entered on the specialist's book as a regular limit order at the price specified on the order, and

—the percentage order is reduced by that number of shares.

The portion "elected" is always equal in size to that of the transaction that triggered it to become a limit order. The elected portion, of course, may not be able to be immediately filled since there may not be orders on the opposite side at the proper price. To that extent, the elected portion will be treated as a new limit order and take its place behind other limit orders at the same price on the book.

When such an elected-portion/limit order is executed, it does not trigger other portions of the same or other percentage orders. Thus, execution of percentage orders have no influence on the same or other percentage orders. There is no compounding or "snow-balling" effect.

At his option, the Floor broker placing the percentage order (the "entering broker") may give the specialist written permission to be on parity with the order, thereby allowing the specialist to trade along with the order. At no time,

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[1] *See* letter from Amex to SEC, dated July 24, 1990.

[2] Amex Rule 131(n) defines a percentage order as "a limited price order to buy (or sell) 50% of the volume of a specified stock after its entry."

[3] *See* Securities Exchange Act Release No. 24505 (May 22, 1987), 52 FR 20484 (order approving File No. SR–NYSE–85–1).

[4] Pursuant to current Amex Rule 131, only so-called "straight limit" orders can be executed on the Exchange. For a definition of "straight limit," "buy minus—sell plus," and "last sale" percentage orders, *See* text accompanying note 12, *infra*.

[5] A transaction which betters the market either narrows the spread, adds depth to a prevailing bid or offer, or establishes a new bid or offer immediately after a transaction has cleared all bids and offers.

however, may the specialist participate in an amount greater than that of any "elected" portion(s) except that the specialist may participate for his own account to an extent greater than any particular percentage order where the size specified on such order has been satisfied, and in no event may the specialist trade ahead of or with other orders on the book.

(b) *Stabilizing Tick Conversions.* Current Rule 154 was designed to provide for percentage order participation in large contra-side interest entering the market, and to permit a specialist, under specified conditions, to convert an unelected percentage order into a limit order without waiting for all or part of the order to be elected. The current rules permit the order to trade directly with contra-side interest as that interest enters the market. Any portion of the temporarily-converted order that does not participate in the trade reverts back to the percentage order.

Percentage orders accompanied by conversion instructions are designated "convert" orders. Furthermore, convert orders permitting the specialist to be on "parity" are commonly referred to as "CAP" orders on the Floor.[6] Under current Amex Rule 154, however, a specialist can execute an unelected portion of a CAP order only if the transaction is stabilizing (*i.e.*, on a "minus"or "zero minus" tick in the case of a buy order, and on a "plus" or "zero plus" tick in the case of a sell order).[7] In addition, when accompanied by written instructions, a convert or CAP order may be executed on a zero plus or zero minus destabilizing tick if the order causing the conversion is for at least 5,000 shares. The broker entering this type of order may specify in writing that only half of the order may be converted.[8]

(2) *Proposed Amendments to Amex Rule 154.* This proposed rule change is concerned only with the conversion aspect of the percentage order rules; the election aspect is not proposed to be changed. The proposal to amend Amex Rule 154 adds two additional conversion events to the above described current conversion events: (i) Conversions on plus and minus destabilizing ticks, provided certain requirements are satisfied; and (ii) conversions to better the market. The Exchange is proposing to accompany the two new conversion events with provisions that will assure that the increased opportunities for conversions do not come at the cost of disadvantaging other orders in the market or of unduly influencing overall market trends.

(a) *Destabilizing Tick Conversions.* Current Amex Rule 154 recognizes that allowing a specialist to make conversions on stabilizing and zero stabilizing ticks, and to execute percentage orders in stabilizing and zero destabilizing transactions, was consistent with his market-making and agency obligations.[9] The current tick restrictions were designed to assure that the specialist, in converting percentage orders, would not unduly influence market prices or market trends. In order to maintain this assurance, the Exchange's proposal to permit conversions on plus and minus destabilizing ticks is accompanied by three limitations.

First, the specialist may convert percentage orders on plus and minus destabilizing ticks only for participation in trades of 2,500 shares or more.[10] Second, the specialist only may convert percentage orders for participation in trades at a price that is no more than ¼ point away from the last sale.[11] Third, a specialist cannot convert percentage orders for consecutive trades on destabilizing ticks, or for a series of contemporaneous trades on destabilizing ticks even if not consecutive, without the approval of a Floor Official.

The modest scope of the proposed modification is apparent when viewed from the perspective of the areas where the tick restrictions will remain. The first two limitations (*i.e.*, 2,500 shares and ¼ point limitations) have the effect of continuing to preclude conversions on plus and minus destabilizing ticks to: buy (sell) stock in trades of less than 2,500 share size at a price or prices higher (lower) than the last sale, and buy (sell) stock in trades of any size at a price that is more (less) than ¼ point above (below) the last sale.[12] The modification recognizes that large-size trades ordinarily can be anticipated to move the market as much as ¼ point, and that such a price movement would not be considered unusual or improper given the size of the trade. The proposed rule change, therefore, would permit the specialist, for the first time, to execute percentage orders along with the market trend, thereby servicing entering brokers, in the way that they and their customers desire.

The third limitation, which prohibits a series of trades on destabilizing ticks, prevents the specialist from "splitting" his conversions and executions among a series of trades. This prohibition precludes the specialist from creating a series of consecutive or contemporaneous trades which could work to create a market trend, even though each trade meets the ¼ point limitation.

When coupled together with the percentage order's price limit and the interest of the customer in achieving executions of percentage orders at the most appropriate prices possible, the Exchange believes that the limitations governing conversions on destabilizing ticks will permit the specialist to service the auction market more efficiently, while still maintaining restrictions designed to prevent converted percentage orders from unduly influencing market prices or trends.

Allowing the specialist to convert percentage orders on destabilizing ticks, however, creates a potential problem in regard to cross transactions. This proposal substantially increases the potential for large orders left with the specialist to displace other large orders brought to the Floor by members for execution in cross transactions. In order to address this problem, the Amex has proposed to preclude the specialist from converting percentage orders on a destabilizing tick when a member wants

[6] "CAP' is an acronym for "convert on parity." The "parity" instruction on a CAP order permits the specialist to be on parity (able to trade along) with a percentage order. If the specialist holds more than one percentage order in the same stock, he may not be on parity with the orders unless each one of the entering brokers has permitted the specialist to be on parity with his individual order.

[7] More specifically, the buy (sell) transaction must be either lower (higher) than the last sale or it can be equal to the last sale if the last transaction at a changed price was at a lower (higher) price than the last preceding sale. Furthermore, note that a converted percentage order must go behind any limit orders in the specialist's possession at the same or a better price.

[8] As an example, assume that the market in XYZ is 29¾–30⅛ with a last sale at 30, a plus tick. Further, assume that the specialist then accepts a CAP order to buy 10,000 shares of XYZ stock with a top limit of 30 and that, thereafter, a market order to sell 4,000 shares enters the market. The specialist can convert the unelected CAP order and execute it against the contra-side interest at 29⅞, since the execution will be a minus tick. If the sell order had been for 5,000 or more shares, however, the CAP order, coupled with appropriate written instructions, could have been executed at 30, a zero plus tick.

[9] *See* generally Amex Rule 170.

[10] It should be noted that the Amex's proposed rule change differs from the existing NYSE percentage order rules with respect to the definition of block size trades. In this regard, in recognition of the generally lower volume and transaction size which exists on the Amex, the Amex determined to propose a 2,500 share minimum to plus and minus destabilizing transactions, rather than the 10,000 share minimum in effect at the NYSE.

[11] With the approval of a Floor Official, however, the entering broker can waive the ¼ point limitation. *See* proposed Amex Rule 154, Comm. 15, fourth paragraph.

[12] Subject to waiver as described in note 10, *supra.*

to cross stock, unless the specialist can provide a better price to either side of the cross at or within the ¼ point price parameter. The specialist, therefore, cannot interfere with the proposed cross unless he is playing a positive market role by providing a more advantageous price to either the buyer or seller on the cross. The ability of the specialist to circumvent this limitation by effecting a proprietary trade that creates a new last sale price extending the ¼ point price parameter, thereby allowing the specialist to interfere with the proposed cross, would be prohibited.

(b) *Bettering the Market.* The Exchange believes that "quote conversions," under appropriate circumstances, will help the specialist to reflect more accurately the trading interest in the market. The proposal permits the specialist to convert a percentage order on a stabilizing tick to make a bid or offer in such size as he deems appropriate. The Exchange believes that this provision is appropriate because stabilizing transactions traditionally are viewed as being beneficial to the marketplace.

Furthermore, in order to add size to a prevailing bid or offer, the Amex proposal also permits the specialist to convert a percentage order on a destabilizing tick to make a bid or offer in such size as he deems appropriate. The Exchange believes that this provision is appropriate because it will permit the specialist to reflect more accurately market interest at a price which is set by other market participants.

Additionally, the proposal permits the specialist to convert a percentage order on a destabilizing tick to make a bid or offer, in such size as he deems appropriate, (1) immediately following a transaction where such transaction has cleared the Floor of bids and offers or (2) to narrow the quotation spread. In these two situations, however, the specialist's destabilizing bid or offer may not be ⅛ point away from the last sale. Even though there may be times when it would be appropriate to allow a specialist to reflect large buying (selling) interest in the market at a price above (below) the last sale, the Exchange has imposed this ⅛ point restriction on that any price movement, which is the result of a destabilizing bid or offer, would be limited to only the minimum variation of trading on the Exchange.

Additionally, as noted above, the proposal restricts a specialist from effecting consecutive or contemporaneous destabilizing "active" conversions to participate in a trade of at least 2,500 shares, while also limiting the specialist's ability to take consecutive destabilizing actions that would move the stock's price in the absence of an established or confirmed price level by other market participants.

In this regard, when converting a percentage order to better the market, the specialist may not: (1) Make an active conversion to participate in a trade of at least 2,500 shares and then make a bid (offer) at a higher (lower) price; (2) make a bid (offer) at a price higher (lower) than the last sale, and then, if a sale occurs at the bid (offer) price, make an active destabilizing conversion; or (3) make a bid (offer) higher (lower) than the last sale, and then make a higher (lower) bid (offer). The Exchange believes that these three restrictions strike an appropriate balance between minimizing the specialist's ability to convert percentage orders possibly to unduly influence market prices on the one hand, and permitting the specialist to accurately represent market interest, thereby strengthening the auction market, on the other hand.

(3) *Proposed Amendments to Amex Rule 131.* The proposal also provides for a revision of Amex Rule 131 in order to expand the types of percentage orders permitted to be entered on the Exchange, thereby corresponding to those permitted at the NYSE. Currently, Amex Rule 131 provides for straight limit percentage orders exclusively. Pursuant to the proposal, a straight limit percentage order would retain the current definition of a percentage order,[13] while last sale and buy minus—sell plus percentage orders would be added to Amex Rule 131.[14]

Pursuant to a last sale percentage order, the elected portion of the order would be executable only at the last sale or better, provided such price is at or better than the limit price specified in the order. Until it is executed, the elected portion of a last sale percentage order would remain on the book at the limit price at which it was elected. Alternatively, the elected portion of a buy minus—sell plus percentage order would become a limit order executable only on a destabilizing tick. The elected portion of such an order would be adjusted in price as the stock moves, as long as it is able to executed on the correct tick.

With respect to these three types of percentage orders, all volume subsequent to the receipt of the order at the specialist's post would be applied in determining the elected portion of the new percentage orders.

(4) *Other Amex Rules Affected.* The proposed rule change contains three provisions designed to clarify the application of several other Exchange rules to the specialist's conversion of percentage orders. These three provisons clarify the following: (i) The specialist may be the contra party to a converted percentage order, but must permit the other party, in compliance with Exchange Rule 155, to reject the trade; (ii) the specialist must remain fully subject to Exchange rules as to purchases for his own account on destabilizing ticks; and (iii) the specialist must give priority to conventional limit orders already on his book when converting percentage orders.

Additionally, current Amex Rule 154 places a prohibition on a specialist participating for his own account for an amount larger than that received by each percentage order. The proposal makes clear that this prohibition does not prevent the participation of a specialist from exceeding that of a percentage order whose size is exhausted in the transaction.

Basis

The proposed rule change is consistent with the requirements of Section 6 of the act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, section 6(b)(5) of the Act in that it will promote the quality, depth and liquidity of the Exchange's stock market. By permitting the specialist to add depth and liquidity through his representation of percentage orders in situations where he may not currently do so, this proposed rule change will have the effect of "facilitating transactions in securities" and will help to "perfect the mechanism of a free and open market pursuant to section 6(b)(5) of the Act. According to the Exchange, by creating opportunities for participation of percentage orders in the Exchange's auction market where none exist today, the proposal will remove impediments to, and otherwise facilitate, a free and open market for stock transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[13] *See* note 1, *supra.*

[14] The various types of percentage orders differ only in terms of execution, and not the process by which they are elected.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal ofice of the Amex. All submissions should refer to File No. SR–Amex–90–11 and should be submitted by September 14, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 17, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–19979 Filed 8–23–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17683; 811–4500]

American Capital California Tax-Exempt Trust; Notice of Deregistration

August 17, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: American Capital California Tax-Exempt Trust.

RELEVANT 1940 ACT SECTION: Section 8(f) and Rule 8f–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on March 8, 1990 and amended on July 17 and August 8, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 14, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, 2800 Post Oak Boulevard, Houston, Texas 77056, Attn: Valerie Resh.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511 or Max Berueffy, Branch Chief, (202) 272–3016.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copies at (800) 231–3282 (in Maryland (301) 258–4300).

APPLICANT'S REPRESENTATIONS:

1. Applicant is a Massachusetts business trust established on November 12, 1985 as a diversified open-end management company. Applicant filed its initial registration statement on November 22, 1985. It became effective on December 17, 1985. Applicant's initial public offering commenced on January 2, 1986.

2. On March 3, 1989, the Board of Trustees of Applicant approved an Agreement and Plan of Reorganization (the "Plan"). The Plan called for the transfer of the assets of Applicant to the California Portfolio of the Muni Bond Funds (the "California Portfolio") in exchange for shares of beneficial interest of the California Portfolio. On July 25, 1989 71.25% of Applicant's shareholders approved the Plan. Prior to the shareholder meeting, a Prospectus/Proxy Statement was distributed to Applicant's shareholders. The Prospectus/Proxy Statement was filed with the SEC on June 14, 1989.

3. On November 28, 1989, Applicant transferred all of its assets to the California Portfolio in exchange for shares of the California Portfolio. On this date, Applicant had 1,773,711.674 shares of beneficial interest outstanding with a net asset value of $11.72 per share. The number of shares of the California Portfolio issued to shareholders of Applicant was determined by dividing the aggregate value of Applicant's net assets by the net asset value per share of the California Portfolio as of the close of business on November 28, 1989. The net assets of Applicant were exchanged for 1,792,221.74 shares of beneficial interest of the California Portfolio, with a net asset value of $11.60 per share.

4. The investment adviser of Applicant and the California Portfolio are under common control and thus affiliated persons for purposes of the Act. Section 17(a) prohibits purchases and sales between a registered investment company and affiliated persons. Before the Plan could be completed, Applicant requested an order from the SEC pursuant to section 17(b) exempting the Plan from section 17(a) of the Act. In 1989, Applicant received this order. Investment Company Act Release Nos. 17195 (October 25, 1989) (notice) and 17228 (November 20, 1989 (order).

5. Applicant and the California Portfolio each bore their own expenses relating to the transaction. Applicant's expenses amounted to approximately $37,000. Those expenses were borne by American Capital Asset Management, the Applicant's investment adviser.

6. Applicant had no shareholders, assets or liabilities at the time of filing of this application. Applicant is not a party to any litigation or administrative proceedings. Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to windup its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-19976 Filed 8-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17684; 811-3788]

Capital Supervisors Helios Fund, Inc.; Notice of Application

August 17, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Capital Supervisors Helios Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on April 30, 1990; an amended and restated application was filed on July 13, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Hearing requests should be received by the SEC by 5:30 p.m. on September 14, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549; Applicant, 20 North Clark Street, Suite 700, Chicago, Illinois 60602-4109.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Staff Attorney, (202) 272-3035, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

APPLICANT'S REPRESENTATIONS:

1. On June 28, 1983, Applicant registered under the 1940 Act as a diversified, open-end management investment company.

2. On July 1, 1983, Applicant filed an initial registration statement under the Securities Act of 1933 to register 10,000 shares of its common stock. That registration statement, as amended, was declared effective on October 3, 1983, and Applicant commenced the public offering of its stock shortly thereafter.

3. Applicant is incorporated and in good standing under the Maryland General Corporation Law.

4. Applicant ceased offering its shares to the public on February 2, 1990 pursuant to a resolution of its board of directors. Since that date, all but one of Applicant's security holders have redeemed their shares at the net asset value per share next computed after receipt of the request for redemption.

5. Within the last 18 months, Applicant has not transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant.

6. At the time the original application was filed, Applicant had net assets of $1,003.32 in cash, representing the value of 0.525 common shares held by its sole remaining shareholder.

7. On February 2, 1990, Applicant's investment adviser undertook to pay Applicant's ordinary operating expenses (other than the investment advisory fee), and all expenses in connection with the winding-up of Applicant's affairs, in excess of Applicant's aggregate expense accruals at that date. Applicant's investment adviser has waived its fee since May 1990, and has advised Applicant that it will continue to waive its fee until Applicant is dissolved.

8. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant is not now engaged and does not propose to engage in any business activity other than that necessary for the winding-up of its affairs.

10. If an order concerning this application is issued, Applicant will proceed with its dissolution under the Maryland General Corporation Law. Assets remaining at the time of dissolution would be transferred to the sole shareholder in that event.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-19977 Filed 8-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25134]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

August 17, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 10, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Georgia Power Company (70-7756)

Georgia Power Company ("Georgia"), 333 Piedmont Avenue NE., Atlanta, Georgia 30308, an electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed an application-declaration pursuant to sections 6(a), 6(b), 7, 9(a), and 10 of the Act and Rules 50 and 50(a)(5) thereunder.

Georgia proposes to issue, from time-to-time, prior to September 1, 1992, up to an aggregate principal amount of $1 billion of: (1) Short-term and/or term notes to banks under revolving credit agreements; (2) other short-term notes to banks ("Short-Term Notes"); (3) short-term non-negotiable promissory notes ("Pollution Control Notes") to public entities in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes; and/or to issue and sell (4) commercial paper to dealers. Georgia also proposes

to enter into interest rate swap agreements having terms of up to seven years covering an underlying principal amount of debt not to exceed $1 billion.

Borrowings under revolving credit agreements will bear interest at one of four rates, including: (1) The lender's floating prime rate ("Base Borrowing"); (2) the lender's CD Rate (adjusted for Federal Reserve Board reserve requirements imposed upon the lender) ("CD Borrowing") plus up to ½%; (3) London Interbank Offered Rate ("LIBOR") (adjusted for Federal Reserve Board reserve requirements imposed upon the lender) ("Eurodollar Borrowing") plus up to ⅜%; and (4) a rate to be negotiated between the bank and Georgia. Base Borrowings will be prepayable at any time, without premium or penalty. CD Borrowings and Eurodollar Borrowings generally will be prepayable only at the end of their respective interest period. Compensation for the revolving credit facilities is provided by fees of up to ¼ of 1% times the unused portion of the bank's commitment or by comparable balances in lieu of fees.

Short-Term Notes will bear interest at: (1) The lending bank's prevailing rate offered to corporate borrowers of similar quality; (2) a margin over Libor; (3) a margin over certificate of deposit rates ("CD Rate"); or (4) the prime rate. Interest rates also may be established by bids obtained from banks prior to a proposed borrowing. Short-term Notes will be prepayable in whole, or in part, without penalty or premium. Compensation for the credit facilities may be provided by balances or comparable fees in lieu of balances.

Commercial Paper will not be prepayable, will have varying maturities, none more than 270 days, and will be sold directly to dealers at a discount rate not in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for Commercial Paper of comparable equality and of the particular maturity sold by issuers to dealers in commercial paper.

Georgia proposes to issue and sell the Commercial Paper and issue the Pollution Control Notes and Swaps under an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5).

Georgia will use the proceeds of the proposed borrowings for working capital purposes, including the financing in part of its construction program. Georgia also may retire outstanding securities.

General Public Utilities Corporation et al. (70–7762)

General Public Utilities Corporation ("GPU"), a registered holding company, and its wholly owned service company subsidiary GPU Service Corporation ("Services"), both located at 100 Interspace Parkway, Parsippany, New Jersey 07960, have filed an application with this Commission under section 6(a), 7 and 12(b) of the Act and Rule 45 thereunder.

By Order dated November 4, 1987 (HCAR No. 24489), Services was authorized, among other things, to enter into a credit agreement, dated October 1, 1987 ("Existing Agreement"), with the Bank of New York ("Bank") and to issue to the Bank unsecured promissory notes maturing from time-to-time until September 30, 1990 ("Existing Notes") representing borrowings up to a maximum amount of $15.4 million. GPU was authorized to unconditionally guarantee payment of the principal and interest on the Existing Notes and Services' other obligations to the Bank under the Existing Agreement.

Services now proposes to enter into a new term loan agreement with Bank ("New Agreement") under which Services proposes to issue a new unsecured promissory note ("New Note") in the principal amount of $12.4 million. The New Note would have a maturity date of September 30, 1993. In addition, GPU would unconditionally guarantee payment of principal and interest on the New Note as well as Services' other obligations to the Bank under the New Agreement.

The New Note will bear interest, at the election of Services, at either: (1) The Bank's Prime Rate; (2) the Adjusted Eurodollar Rate, plus ¼% per annum; (3) the Adjusted CD Rate, plus ⅜% annum; or (4) a Negotiated Fixed Rate, in each case as provided in the New Agreement. The New Note may be prepaid, in whole or in part, prior to maturity and without penalty, to the extent permitted by the New Agreement.

Georgia Power Company (70–7764)

Georgia Power Company ("Georgia Power") 333 Piedmont Avenue NE., Atlanta, Georgia 30308, and electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration under sections 9(a) and 10 of the Act.

Georgia Power proposes to purchase from Atlantic Steel Company ("Atlantic") certain distribution facilities ("Facilities") located on Atlantic's property in Cartersville, Georgia, for a sales price of approximately $1,509,607, on or before July 31, 1991 under an agreement executed on February 5, 1988, and amended by letter dated July 5, 1990, between Atlantic and Georgia Power. The Facilities will continue to be used by Georgia Power to deliver electric power to Atlantic.

Granite State Electric Company et al. (70–7765)

Granite State Electric Company ("Granite"), Massachusetts Electric Company ("Mass. Electric"), The Narragansett Electric Company ("Narragansett"), NEES Energy, Inc. ("NEES Energy"), New England Transmission Corporation ("NEET"), New England Electric Inc. ("NEEI"), New England Hydro-Transmission Electric Company, Inc. ("Mass. Hydro"), New England Hydro-Transmission Corporation ("NE Hydro"), New England Power Company ("NEP"), New England Power Service Company ("NEPSCO"), subsidiary companies of New England Electric System ("NEES"), a registered holding company, and NEES, each located at 25 Research Drive, Westborough, Massachusetts 01582, (collectively, "Participating Companies") have filed an application-declaration under Sections 6(a), 7, 9(a), 10, and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

Each of the Participating Companies propose, through October 31, 1993, to lend money to the NEES Money Pool. Granite, Mass. Electric, Narragansett, NEET, NEP and NEPSCO (collectively, "Borrowing Companies") further propose, through October 31, 1993, to borrow from the NEES Money Pool and/or banks and, in the cases of Mass. Electric and NEP, to issue commercial paper ("Commercial Paper") under an exception from the competitive biding requirements of Rule 50 under subsection (a)(5) thereunder, up to the following maximum outstanding amounts: Granite $10 million; Mass. Electric $125 million; Narragansett $70 million; NEET $10 million; NEP $300 million; and NEPSCO $10 million. The proceeds of the proposed borrowings are to be used (1) to pay then outstanding notes initially issued to banks and/or dealers in commercial paper, and/or borrowings from the Money Pool; (2) to provide new money for capitalized expenditures and/or to reimburse the treasury therefor, and (3) for other corporate purposes.

The proposed borrowings from banks will be evidenced by the issuance of notes maturing in less than one year from the date of issuance, at an effective interest cost of approximately 11.1% to 12.5% per annum, based on a base lending rate of 10%.

Commercial Paper proposed to be issued and sold by Mass. Electric and NEP will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Mass. Electric and NEP have requested, pursuant to Rule 50(a)(5), that they be authorized to carry out negotiations for the terms of the placement of the Commercial Paper. They may do so.

New England Electric System (70–7766)

New England Electric System (NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration under Sections 6(a) and 7 of the Act.

NEES proposes to issue and sell up to a maximum aggregate outstanding principal amount of $100 million of short-term notes to banks from November 1, 1990 through October 31, 1992.

The effective interest cost of borrowings from such banks will not exceed the effective interest cost of borrowings at the greater of the bank's base or prime lending rate, or the rate published by the Wall Street Journal as the high federal funds rate plus 1%, with compensating balance requirement of 10% of the line of credit and 10% of any borrowings thereunder. Based upon a prime rate of 10%, the effective interest cost would not exceed 12.5% per annum.

Eastern Utilities Associates (70–7769)

Eastern Utilities Associates ("EOA"), P.O. Box 2333, Boston, Massachusetts 02107, and its electric-power utility subsidiary, Blackstone Valley Electric Company ("Blackstone"), P.O. Box 1111, Lincoln, Rhode Island 02865, have filed an application—declaration under sections 6(b), 12(b) and 12(c) of the Act and Rules 45(a) and 50(a)(5) thereunder.

Blackstone proposes to issue and sell through July 31, 1992 to one or more institutional investors up to $20 million aggregate principal amount of first mortgage bonds of secured notes ("Debt"), which will be secured by a lien on substantially all or a portion of the assets of Blackstone. Blackstone expects that the Debt will mature in not less than three nor more than thirty years from the first day of the month on which it is issued. The debt is expected to be sold at not less than 98% nor more than 102.75% of its principal amount and to bear interest payable quarterly or semiannually in arrears. Other terms of the debt and of the purchase agreement under which it will be sold, including redemption provisions, sinking fund provisions if any, convenants, and default provisions will be determined by negotiation.

EUA proposes to make capital contributions from time-to-time through July 31, 1992 to Blackstone in an amount not exceeding $8 million. The capital contributions from EUA and the net proceeds of the sale of the Debt will be applied to any one or more of the following purposes: the redemption of all or a portion of Blackstone's First Mortgage Bonds, Series A 14.25% due 2014, $18 million principal amount, ("Series A Bonds") currently outstanding and the payment of the redemption premium and accrued interest thereon, the repayment of short-term borrowings by Blackstone and for general corporate purposes.

Blackstone will not finance the redemption of the Series A Bonds by the issuance of the Debt, however, unless the estimated present value of the savings derived from the difference between the interest on the Debt and interest on the Series A Bonds to be refunded exceeds the various redemption costs.

With respect to the Debt placement, Blackstone has requested an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder. Blackstone has requested authorization to begin negotiations of the terms of the Debt with one or a few institutional investors or to engage a placement agent to negotiate with such institutional investors. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–19978 Filed 8–23–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During Week Ended August 17, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket number: 47127.

Date Filed: August 15, 1990.

Parties: Members of the International Air Transport Association.

Subject: TC23 (Except To/From US Territories) Resos R–1 To R–35.

Proposed Effective Date: October 1, 1990.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR DOC. 90–19947 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ended August 17, 1990

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket number: 47124.

Date filed: August 13, 1990.

Due date for answers, conforming applications, or motion to modify scope: September 10, 1990.

Description: Application of Cargolux Airlines International, S.A., pursuant to Section 402 of the Act and Subpart Q of the Regulations, requests renewal and amendment of its foreign air carrier permit: (1) To provide for the operation of scheduled rather than non-scheduled service; (2) to allow up to seven scheduled round trip flights a week between the U.S. and Luxembourg; and (3) to authorize the carriage of mail, in addition to property.

Docket number: 47125.

Date filed: August 15, 1990.

Due date for answers, conforming applications, or motion to modify scope: September 12, 1990.

Description: Application of Jet Air International Charters, C.A., pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit for authority to conduct round-trip non-scheduled foreign air transportation of property and mail between Caracas, Venezuela, on the one hand, and the co-terminal points of Miami, Fl, San Juan, PR, and New York, NY(JFK), on the other hand; and between Maracaibo, Venezuela, on the one hand, and the co-terminal points of Miami, Fl and San Juan, PR, on the other

hand. Jet Air also requests that it be authorized to conduct all-cargo charter flights between the United States and Venezuela.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90–19948 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Research, Engineering, and Development Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Federal Aviation Administration Research, Engineering, and Development Advisory Committee to be held Tuesday, September 11, 1990, at 10 a.m. The meeting will take place in the Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC, in the MacCracken Room on the tenth floor.

The agenda for this meeting will include a report on the establishment of an R,E&D Technical Subcommittee and discussion of how its efforts will assist the FAA in the development of an R,E&D Plan for Fiscal Year 1991, as well as a review of how the committee will address new initiatives in the areas of noise abatement technology and security R&D.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact Mr. Martin T. Pozesky, Executive Director, Research, Engineering, and Development Advisory Committee, ASD–1, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–8183.

Any member of the public may present a written statement to the Committee at any time

Issued in Washington, DC, on August 21, 1990.

Martin T. Pozesky,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 90–19995 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–14–M

Technical Standard Orders; Emergency Locator Transmitter (ELT), 406 MHz

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of technical standard order (TSO) and request for comments.

SUMMARY: The proposed TSO–C126 prescribes the minimum performance standards that flight data recorder systems must meet to be identified with the marking "TSO–C126."

DATES: Comments must identify the TSO file number and be received on or before November 30, 1990.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Analysis Branch, AIR–120, Aircraft Engineering Division Aircraft Certification Service—File No. TSO–C126, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, room 335, 800 Independence Avenue SW., Washington, DC 29591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in room 335, FAA Headquarters Building (FOB–10A), 800 Independence Avenue SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

Proposed TSO–C126 is a new TSO which provides significant performance and information improvements for ELTs. The improvements are expected to permit more effective and timely Search and Rescue (SAR) response after aircraft accidents. Because 121.5/243 MHz ELTs approved to TSO–C19a requirements are effective when used in conjunction with the U.S. National Airspace and SAR systems, the FAA does not foresee the need for mandatory carriage of 406 MHz ELTs within the continental United States. Voluntary use of the 406 MHz ELTs would, however, provide a definite enhancement over the minimum requirements of the Federal Aviation Regulations. There may be even more benefits derived from 406 MHz ELTs when used over water and in remote areas of the world.

How To Obtain Copies

A copy of the proposed TSO–C126 may be obtained by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" TSO–126 references the Radio Technical Commission for Aeronautics Document No. DO–204, "Minimum Operational Performance Standard 406 MHz Emergency Locator Transmitters (ELT)," RTCA/DO–160C, "Environmental Conditions and Test Procedures for Airborne Equipment," and RTCA/DO–178A, "Software Considerations in Airborne Systems and Equipment Certification." RTCA Docments Nos. DO–205, DO–160C, and DO–178A may be purchased from the Radio Technical Commission for Aeronautics secretariat. One McPherson Square, 1425 K Street, NW., suite 500, Washington, DC 20005.

Issued in Washington, DC, on August 17, 1990.

David W. Ostrowski,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 90–20004 Filed 8–23–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: August 20, 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 3171 Treasury Annex,

1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0805
Form Number: IRS Form 5472
Type of Review: Revision
Title: Information Return of a 25% Foreign Owned Corporation
Description: Form 5472 is filed by U.S. corporations and foreign corporations that are 25% foreign-owned. IRS uses Form 5472 to determine if the transactions between these corporations, and the 25% foreign shareholders and other related parties are correct.
Respondents: Businesses or other for-profit
Estimated Number of Respondents/ Recordkeepers: 63,000
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping, 12 hours, 12 minutes
Learning about the law or the form, 1 hour
Preparing and sending the form to IRS, 1 hour, 14 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 909,090 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. 90–19966 Filed 8–23–90; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Appointment of Conservator; Financial of Hartford, F.S.B.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Financial of Hartford, F.S.B., Hartford, Connecticut on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20028 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Conservator; First Federal Savings Association of Tuscola

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for First Federal Savings Association of Tuscola, Tuscola, Illinois on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20027 Filed 8–22–90; 8:45 am]

BILLING CODE 6720–01–M

The Duncan Savings & Loan Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for The Duncan Savings and Loan Association, Duncan, Oklahoma ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20032 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Fidelity Savings Banks, F.S.B.; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Fidelity Savings Bank, F.S.B., Danville, Illinois, Docket No. 8758, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20019 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Notice of Appointment of Receiver; Financial Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Financial Federal Savings Bank, Hartford, Connecticut on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20020 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Notice of Appointment of Receiver; First Federal Savings & Loan Association of Tuscola

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Tuscola, Tuscola, Illinois, OTS Docket No. 3238, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20021 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings & Loan Association; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association,

Baton Rouge, Louisiana, Docket No. 6100, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20022 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Association, Warner Robins, Georgia ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20031 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Firstcentral Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Firstcentral Federal Savings Bank, Chariton, Iowa ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 17, 1990

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20033 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Great Plains Savings Association, F.A.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Great Plains Savings Association, F.A., Weatherford, Oklahoma, Docket No. 8689, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20023 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Miami Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Miami Savings Bank, Miami, Florida, Docket No. 7363, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20024 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Provident Savings Association, F.A.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Provident Savings Association, F.A., Casper, Wyoming, Docket No. 8774, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20025 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Notice of Replacement of Conservator With a Receiver; Salamanca Federal Savings Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Salamanca Federal Savings Association, Salamanca New York, OTS Docket No. 8702, with the Resolution Trust Corporation as sole Receiver for the Association on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20029 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Notice of Replacement of Conservator With a Receiver; Texas Western Federal Savings Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Texas Western Federal Savings Association, Houston, Texas, OTS Docket No. 8692, with the Resolution Trust Corporation as sole Receiver for the Association on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.

Debra J. Ahearn,

Program Analyst.

[FR Doc. 90–20030 Filed 8–23–90; 8:45 am]

BILLING CODE 6720–01–M

Appointment of Receiver; Westport Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Westport Federal Savings Bank, Hanford, California, Docket No. 8779, on August 17, 1990.

Dated: August 21, 1990.

By the Office of Thrift Supervision.
Debra J. Ahearn,
Program Analyst.
[FR Doc. 90-20026 Filed 8-23-90; 8:45 am]
BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "New Guinea Bone Carvings" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, N.Y., beginning on or about November 17, 1990, to on or about May 19, 1991, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: August 20, 1990.
Alberto J. Mora,
General Counsel.
[FR Doc. 90-19972 Filed 8-23-90; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.
ACTION: Notice

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by September 24, 1990.

Dated: August 17, 1990.
By direction of the Secretary.
Kenneth H. Hoffman,
Director, Policy and Standards Service.

Reinstatement

1. Veterans Benefits Administration.
2. Disability Benefits Questionnaire.
3. VA Forms 29-8313.
4. The form is used by the policyholder to report employment and medical information needed to continue disability insurance benefits. The information is used to determine the insured's continuous entitlement to disability insurance benefits.
5. On occasion.
6. Individuals and households.
7. 60,000 responses.
8. ¼ hour.
9. Not applicable.

[FR Doc. 90-20039 Filed 8-23-90; 8:45 am]
BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by September 24, 1990.

Dated: August 17, 1990.
By direction of the Secretary.
Kenneth H. Hoffman,
Director Policy and Standards Service

Reinstatement

1. Veterans Benefits Administration.
2. Title of the Information Collection:
   a. Application for Ordinary Life Insurance (Age 70).
   b. Information About Modified Life Insurance Reduction and Replacement Features (Age 70).
3. Department Form Numbers:
   a. VA Form 29-8485A.
   b. VA Form 29-8701.

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619-5078, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

4. The forms are used by the policyholder applying for replacement insurance for modified life insurance reduced at age 70. The information is used to initiate the granting of the insurance coverage for which applied.
5. On occasion.
6. Individuals and households.
7. 7,000 response.
8. 1/12 hour.
9. Not applicable.

[FR Doc. 90-20040 Filed 8-23-90; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 165
Friday, August 24, 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 RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, August 29, 1990.

PLACE: Mariner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of a proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to permit full service brokerage activities and financial advisory services by bank holding companies.

Discussion Agenda

2. Proposed amendments to Regulation Z (Truth in Lending) relating to rate caps on, and timing of disclosures of, home equity lines of credit. (Proposed earlier for public comment; Docket No. R–0687)

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–20082 Filed 8–22–90; 11:14 am]

BILLING CODE 6210–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, August 29, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–20083 Filed 8–22–90; 11:14 am]

BILLING CODE 6210–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE: 9:00 a.m. to 5:00 p.m., September 8, 1990; 9:00 a.m. to 12:00 p.m., September 9, 1990.

PLACE: Sonesta Hotel, 157 High Street, Portland, Maine.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Planning session to determine Institute's goals and objectives for the future; approval of final FY 1991 Grant Guidelines; and consideration of applications submitted for funding.

Portions Closed to the Public

None.

CONTACT PERSON FOR MORE INFORMATON: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, VA 22314 (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 90–20081 Filed 8–22–90; 11:14 am]

BILLING CODE 6820–SC–M

Corrections

Federal Register
Vol. 55, No. 165
Friday, August 24, 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 AGRICULTURE

Animal and Plant Health Inspection Service

29 CFR Parts 92, 94, 98, and 151

[Docket 90-023]

RIN 0579-AA30

Importation of Certain Animals, Poultry, Animal and Poultry Products, and Animal Embryos

Correction

In rule document 90-17541 beginning on page 31484, in the issue of Thursday, August 2, 1990, make the following corrections:

1. On page 31486, in the eighth column, under the heading "Semen", the last two entries, corresponding with "94.2(a)(2)" and "94.2(a)(3)" of the first column, should read "98.24(a)(2)" and "98.24(a)(3)", respectively.

2. On page 31488, in the first column, under the heading "Original part 92", the 17th entry, should read "92.11(a)".

3. On the same page, in the fifth column, under the heading "Ruminants (subpart D)", in the 11th entry, "92.401" should read "92.410".

4. On the same page, in the sixth column, under the heading "Swine (subpart E)", the entry corresponding with "92.11(b)(1)" of the first column, was omitted and should read "92.510".

5. On the same page, in the seventh column, under the heading "Dogs (subpart F)", "92.510" should be deleted.

6. On page 31490, in the fifth column, under the heading "Ruminants (subpart D), under "92.423(c)" insert "92.423(d)".

7. On the same page, in the eighth column, under the heading "Semen", the entry "98.28" which corresponds with "93.31(a)(1)" of the first column, should be deleted.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3806-3]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

Correction

Document 90-15801 beginning on page 28415 in the issue of Wednesday, July 11, 1990, was published in the "Proposed Rules" section of the issue. It should have appeared in the "Notices" section.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 90N-0192]

Regulations Under the Tea Importation Act; Tea Standards

Correction

In rule document 90-19306 beginning on page 33670 in the issue of Friday, August 17, 1990, make the following corrections:

1. On page 33670, in the second column, in the subject heading "TBA" should read "Tea", as set forth above.

§ 1220.40 Tea standards.

2. On page 33671, in the first column, the section heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Boehringer Ingelheim Animal Health, Inc.; Withdrawal of Approval of NADA's

Correction

In notice document 90-19376 appearing on page 33766 in the issue of Friday, August 17, 1990, in the second column, in the 13th line "to" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D-0368]

Action Levels for Residues of Certain Pesticides in Food and Feed; Correction

Correction

In notice document 90-19377 appearing on page 33766 in the issue of Friday, August 17, 1990, in the third column, in the 14th line, remove the comma after "broccoli".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Finance Administration

42 CFR Part 413

[BPD-601-F]

RIN 0938-AD76

Medicare Program; Payment for Outpatient Surgery at Eye Specialty Hospitals and Eye and Ear Specialty Hospitals

Correction

In rule document 90-19410 beginning on page 33697, in the issue of Friday, August 17, 1990, make the following correction:

§ 413.118 [Corrected]

On page 33699, in the third column, in § 413.118, the paragraph designation "(b)" should read "(a)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26269; Notice No. 90-18]

RIN 2120-AD20

Small Airplane Airworthiness Review Program Notice No. 4

Correction

In proposed rule document 90-14485 beginning on page 26534 in the issue of

Thursday, June 28, 1990, make the following corrections:

§ 23.535 [Corrected]

1. On page 26557, in the third column, in § 23.535(f), in the second and third lines of the formula, "ρ_2" should read "$\rho/2$".

2. On page 26568, in the third column, above the billing code, add the following text:

83. A new appendix H is added to read as follows:

BILLING CODE 1505-01-D

federal register

Friday
August 24, 1990

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing Federal Housing Commissioner

24 CFR Parts 203, 213, 220, 221, 222, 226, 233, 234, and 235

Single Family Mortgage Insurance Programs; Occupant and Investor Mortgagors; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Federal Housing Commissioner

24 CFR Parts 203, 213, 220, 221, 222, 226, 233, 234, and 235

[Docket No. R-90-1381; FR-2456-F-03]

RIN 2502-AE40

Single Family Mortgage Insurance Programs; Occupant and Investor Mortgagors

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.
ACTION: Final rule.

SUMMARY: This rule implements section 203(g) of the National Housing Act (NHA), as added by section 406 of the Housing and Community Development Act of 1987 and amended by section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and by section 143 of the Department of Housing and Urban Development Reform Act of 1989. Section 203(g) authorizes HUD (1) to insure single family mortgages under title II of the National Housing Act, or (2) to approve substitute mortgagors for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal residence or a secondary residence, as determined by HUD. An exemption from this occupancy requirement is provided for certain categories of mortgagors, including mortgagors under the section 203(k) Rehabilitation Loan Insurance program and certain public entity, nonprofit, serviceperson, refinancing, and other mortgagors under various National Housing Act authorities.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, room 9266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone: voice, (202) 708-3046; TDD (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0059. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Findings and Certifications. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

The Department published a proposed rule "Single Family Mortgage Insurance Programs—Occupant and Investor-Mortgagors" on October 3, 1988 (53 FR 38844). This final rule is substantially the same as the October 3 proposed rule with the following exceptions: (1) In compliance with section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628, approved November 7, 1988), an exemption from the rule's occupancy requirement is added for mortgagors that meet certain requirements in connection with the refinancing of existing FHA-insured mortgages; (2) in compliance with section 143 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), only certain limited categories of private investor-mortgagors are now eligible to participate in FHA's basic single family mortgage insurance programs; (3) the proposed rule's provisions on section 203(k) rehabilitation loans are revised to remove a maximum 85 percent loan-to-value limitation for non-occupant mortgagors and to add an escrow requirement for such mortgagors similar to that which applied to non-occupant mortgagors under § 203.18(c)(4). Direct endorsement lenders are authorized to approve substitute mortgagors as provided in a HUD final rule expanding the direct endorsement program published July 2, 1990 (55 FR 27218). Finally, there is one technical correction to § 220.30 of the current regulations. Each of these changes is discussed later in this preamble under the heading Responses to Public Comment and Discussion of Rule Changes.

The Preamble of the proposed rule contained extensive discussions of the definitions of "principal residence" and "secondary residence" as used in the rule; the rule's overall interpretation of section 406 of the 1987 Act; a detailed description of the application of the rule to various mortgagors under the separate insurance programs; and finally, a discussion of the application of the rule's 75 percent loan to value ratio. These discussions are not repeated in this final rule except for those relating to application of the 75 percent loan to value ratio (which this rule changes) and the new exemption for certain refinancing investor-mortgagors. Otherwise, the positions taken and interpretations made in the earlier Preamble remain valid for this final rule.

Statutory Basis

This rule implements section 203(g) of the National Housing Act (NHA) as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and the Department of Housing and Urban Development Reform Act of 1989. Section 203(g)(1) authorizes HUD to insure single family mortgages under title II of the NHA, or to approve substitute mortgagors for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal residence or a secondary residence, as determined by HUD. (Section 203(g)(3) defines "substitute mortgagor" to mean a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes this liability and agrees to pay the mortgage debt.)

Section 203(g)(3) exempts from the occupancy requirement set forth in section 203(g)(1) the following categories of mortgagors (or co-mortgagors, as appropriate):

a. The Alaska Housing Authority, and the Governments of Guam and Hawaii, or any agency or instrumentality thereof, under section 214 of the NHA (Insurance of Mortgages on Property in Alaska, Guam, and Hawaii).

b. The Department of Hawaiian Home Lands under section 247 of the NHA (Mortgage Insurance on Hawaiian Home Lands).

c. Any other State or local government or an agency thereof (This exemption was added by section 143(a) of the Department of Housing and Urban Development Reform Act of 1989).

d. A private nonprofit or public entity, as provided by section 221(h) or 235(j) of the NHA (insurance of mortgages executed by nonprofit organizations (and public entities, in the case of section 235(j)) to finance the purchase or rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers).

e. A serviceperson whose inability to meet the occupancy requirement stems

from his or her duty assignment, as provided by sections 216 (Waiver of Occupancy Requirements for Servicemen) and 222 (Mortgage Insurance for Servicemen) of the NHA.

f. An Indian tribe, as provided in section 248 of the NHA (Mortgage Insurance on Indian Reservations).

g. A participant in the Rehabilitation Loan Insurance program under section 203(k) of the NHA.

h. A mortgagor that, pursuant to section 223(a)(7) of the NHA, is refinancing an existing FHA mortgage for not more than the outstanding balance of the existing mortgage, provided the amount of monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed. (This exemption was added by section 1062(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.)

i. A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low- or moderate-income persons, as determined by the Secretary. (This exemption was added by section 143(a) of the Department of Housing and Urban Development Reform Act of 1989.)

When first added to the National Housing Act (by section 406 of the Housing and Community Development Act of 1987), section 203(g) provided that its occupancy requirements would apply only if the mortgage involved a principal obligation that exceeded 75 percent of the loan to value ratio, or comparable limitation under the insuring authority involved. This provision was repealed by section 143(b)(1) of the Department of Housing and Urban Development Reform Act of 1989. The effect of the repeal is largely to eliminate private investor-owners as participants in HUD's single family mortgage insurance programs.

Applicability

1. Section 406(d) of the Housing and Community Development Act of 1987 provides that the amendments made by section 406(a) of the 1987 Act and the "conforming" amendments effected by section 406(b) of the 1987 Act shall only apply to mortgages insured:

a. pursuant to a conditional commitment or a master conditional commitment issued by HUD on or after February 5, 1988 (the effective date of the 1987 Act); or

b. in accordance with the direct endorsement program (24 CFR 203.163), if the approved underwriter of the mortgagee signs the appraisal or master appraisal report for the property on or after February 5, 1988.

The 1987 amendments will apply to substitute mortgagors, only if the original mortgage was subject to the changes brought about by section 203(g) of the NHA and section 406(b) of the 1987 Act.

Administrative instructions incorporating the requirements of section 406 were issued by the Department on February 5, 1988 (See HUD Mortgagee Letter 88-2). For the purpose of determining applicability of section 406, those instructions treat a certificate of reasonable value (CRV) or a master CRV issued by the Department of Veterans Affairs (VA) as the equivalent of a HUD conditional commitment or master conditional commitment.

2. Section 1062 of the Stewart B. McKinney Homeless Assistance Act of 1988, added to the listing of mortgagors exempt from the 75 percent limitations of the 1987 Act, investor mortgagors refinancing an existing FHA mortgage, where they meet certain requirements. The McKinney Act was enacted on November 7, 1988.

3. Sections 143 (c) and (d) of the Department of Housing and Urban Development Reform Act of 1989 (The 1989 Act) provide that the amendments made by sections 143 (a) and (b) of that Act shall apply only with respect to (1) mortgages insured (A) pursuant to a conditional commitment issued on or after December 15, 1989, the date of the enactment of the 1989 Act; or (B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of the 1989 Act; and (2) the approval of substitute mortgagors, if the original mortgagor was subject to the 1989 Act amendments.

Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of the 1989 Act, shall continue to be governed (to the extent applicable) by the provisions amended by the 1989 Act as such provisions existed immediately before December 15, 1989.

Administrative instructions incorporating the requirements of section 143 were issued by the Department on December 26, 1989 (See HUD Mortgagee Letter 89-31). These instructions include VA CRV's in the same manner as did Mortgagee Letter 88-2.

The provisions of this rule (which incorporate the requirements set forth in section 406 of the 1987 Act, as amended by section 1062 of the McKinney Act and section 143 of the 1989 Reform Act) generally apply to mortgages insured (1) pursuant to a conditional commitment or master conditional commitment issued by HUD on or after September 24, 1990; or (2) pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or after September 24, 1990; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after September 24, 1990. Provisions setting forth new restrictions on assumption by investors have a similar applicability test, but these are based on the effective date of the 1989 Act rather than on the effective date of this rule.

The provisions of section 406 of the 1987 Act and Mortgage Letter 88-2, issued February 5, 1988, apply to mortgages insured (1) pursuant to a conditional commitment or master conditional commitment issued by HUD on or after February 5, 1988, but before December 15, 1989; (2) pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or after February 5, 1988, but before December 15, 1989; (3) pursuant to a certificate of reasonable value issued by the Department of Veterans Affairs on or after February 5, 1988, but before December 15, 1989.

It should be noted that, as a result of the recent legislation, FHA mortgage transactions with respect to investor mortgagors now fall into three categories, to which three different set of rules are applicable: Pre-1987 Act investor-mortgagors, post-1987, but pre-1989 Act, mortgagors and post-1989 Act mortgagors to which the provisions set forth in this rule apply.

Responses to Public Comment and Discussion of Rule Changes

Twenty-two written comments were received from the public on the proposed rule. Nineteen comments were from local realtors. Three were from national or state associations—National Association of Realtors, National Association of Homebuilders and the California Association of Realtors.

The local commenters were universally opposed to the 75 percent loan-to-value (or its equivalent) ratio which the proposed rule generally applies to investor mortgagors. The national and state associations, while recognizing that the 75 percent loan to value requirement was mandated by statute, claimed that the implementation guidelines set by HUD in the proposed rule were too stringent. They had a

number of recommendations for change. Since the 75 percent loan to value requirement was repealed by section 143(b)(1) of the 1989 Act, a discussion of its relative merits is now moot. All proposed rule references to the 75 percent requirement are removed in this final rule.

The inclusion in this final rule (§§ 203.43(c) and 234.52) of an exemption from the occupancy requirement where an investor-mortgagor is refinancing a single family FHA-insured mortgage at an amount which does not exceed the outstanding balance of the existing mortgage, and at monthly payments less than those due under the existing mortgage, is mandated by statute (Section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988) and should be self-explanatory.

Section 406 of the Housing and Community Development Act of 1987 expressly excludes rehabilitation loans insured under section 203(k) from the 75 percent loan-to-value limitation generally applicable to non-occupant mortgagors. This final rule provides an 85 percent limit "or such higher limit not to exceed the limits applicable to a mortgagor who is to occupy a dwelling as its principal residence as the Secretary of HUD may prescribe." This nominally lower limit will give the Secretary of HUD the flexibility to allow maximum loan-to-value ratios for public entities and other relatively low-risk mortgagors, while providing for lower limits, if it is considered appropriate, for other eligible investor mortgagors.

In addition, certain "escrow" provisions, somewhat similar to those previously contained in 24 CFR 203.18(c) applying to non-occupant mortgagors under the FHA section 203 basic home mortgage program, are made applicable in this rule to mortgagors seeking an insured rehabilitation loan under section 203(k). Since enactment of the Housing and Community Development Act of 1987, these safeguard provisions no longer apply in the section 203(b) basic home mortgage program. The Department, however, considers such provisions appropriate for the section 203(k) rehabilitation loan program. This final rule adds a new paragraph to § 203.50, analogous to § 203.18(c)(2), providing for a certification from the non-occupant mortgagor that:

(i) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property before a due date approved by the Commissioner, except with the prior written approval of the Commissioner;

(ii) The mortgagor agrees that, if the property is not sold before a due date approved by the Commissioner to a purchaser acceptable to the Commissioner, who will occupy the property, the mortgagor will assume personal liability, and agree to pay the mortgage indebtedness. Any amount held in escrow, trust, or special account under § 203.50(j) will be applied in reduction of the outstanding principal amount of the mortgage as of the specified due date; and

(iii) The mortgagee agrees that any portion of the fund held in escrow, trust, or special account not applied to the mortgage in accordance with the provisions of this paragraph, shall be deducted from the amount of the insurance benefits to which the mortgagee would otherwise be entitled if a claim for insurance benefits is filed.

The above requirements provide the Secretary tested safeguards which can be taken into account in determining the appropriate loan-to-value ratios for rehabilitation loans to investor-mortgagors.

The proposed rule contained an extensive revision to 24 CFR 203.258 and corresponding sections in parts 213, 220, 221, 222 and 234 relating to substitute mortgagors. This final rule adds a provision, contained in a recent final rule expanding the direct endorsement program (55 FR 27218, July 2, 1990) authorizing direct endorsement lenders to approve substitute mortgagors. The final rule also includes in the definition of "substitute mortgagor" persons who purchase without assuming liability on the mortgage note, or who purchase where no release is given by the mortgagee to the previous mortgagor.

Finally, this rule makes a technical correction in 24 CFR 220.30(a). In setting forth maximum mortgage amounts and loan to value limitations, a provision was inadvertently included in that section which states, for various types of mortgages, that after the first $35,000 in mortgage amounts, an 80 percent loan to value ratio shall apply. This provision does not accurately reflect the statutory limits (section 203(b) of the National Housing Act) which should apply to section 220 home mortgages. The 80 percent provision is, therefore, removed from 24 CFR 220.30(a) in this final rule.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. This rule implements a congressional mandate that changes the eligibility status of nonoccupant mortgagors and generally limits FHA financing to owner-occupants and occupants of secondary residences. Both of these changes are relatively modest, and are not likely to have significant economic effect on small entities. In any event, the effects are the result of legislation and there are no means available to the Department to alter their impact.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Sections 203.31(a)(2) and 234.51(b) of this rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN PROPOSED RULE—SINGLE FAMILY MORTGAGE INSURANCE PROGRAM: OCCUPANT AND INVESTOR MORTGAGORS

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Mortgagor Notice of Intent to satisfy Occupancy requirement upon discharge from military (2501-0059).	24 CFR, 203.31(a)(2), 234.51(b)	5,000	1	5,000	0.005	25
Total Burden Hours						25

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16246) under Executive Order 12291 and the Regulatory Flexibility Act at Sequence Number 1172.

HUD has determined, in accordance with Executive Order 12612, Federalism, that this rule does not have a substantial, direct effect on the States or on the relationship between the Federal Government and the States, or on the distribution of power or responsibilities among the various levels of government. The rule is limited to revising certain specific program requirements in connection with FHA mortgage insurance. The revisions are mandated by statute and do not alter the established roles of HUD, the States and local governments.

HUD has determined that this rule is not likely to have a significant impact on family formation, maintenance, and general well-being within the meaning of Executive Order 12606, The Family, because it does not affect the role or institution of the family in society. The rule provides for more stringent FHA eligibility requirements with respect to investor-mortgagors. The new requirements would not, however apply to owner-occupant families of FHA housing.

(The Catalog of Federal Domestic Assistance program numbers are sections 14.103, 14.108, 14.110, 14.115, 14.117, 14.119, 14.120, 14.121, 14.123, 14.133, 14.165, 14.166, 14.172, and 14.175.)

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs—housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 226

Government employees; Mortgage insurance; Single family housing.

24 CFR Part 233

Loan programs: housing and community development, Mortgage insurance, Experimental housing, Projects.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

Accordingly, 24 CFR parts 203, 213, 220, 221, 222, 226, 233, 234, and 235 are amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for part 203 is revised to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. In § 203.18, paragraphs (a), (a)(2), (a)(3), (c), (d), (e)(1) and (f) are revised; and a new paragraph (a)(4) is added, to read as follows:

§ 203.18 Maximum mortgage amounts.

(a) Mortgagors of principal or secondary residences. A mortgage executed by a mortgagor who is to occupy the property as a principal residence or as a secondary residence (as these terms are defined in paragraph (f) of this section) may not exceed the lesser of the amounts specified in paragraphs (a) (1) and (2), (a) (1) and (3), or (a) (1) and (4) of this section (whichever applies), as follows:

* * * * *

(2) Loan-to-value limitation—principal residences—no approval before construction. If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in paragraph (f)(1) of this section) and the dwelling was not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling:

* * * * *

(3) Loan-to-value limitation—principal residences—approval before construction. If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in paragraph (f)(1) of this section) and the dwelling is approved for mortgage insurance before the beginning of construction, or the dwelling meets one of the alternative conditions listed in paragraph (a)(2) of this section, the following loan-to-value ratios apply:

* * * * *

(4) Loan-to-value limitation—secondary residences. If the mortgage covers a dwelling that is to be occupied as a secondary residence (as defined in paragraph (f)(2) of this section), the loan-to-value ratio may not exceed 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

* * * * *

(c) Eligible non-occupant mortgagors. A mortgage may be executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (f)(3) of this section) for up to an amount authorized for the appropriate loan type in paragraph (a) of this section except where a lesser amount is expressly provided for in this part.

(d) *Outlying area properties.* A mortgage covering a single family

residence located in an area in which the Commissioner finds that it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages in built-up, urban areas; or a mortgage covering a single family dwelling that is to be used as a farm home on a plot of land that is two and one-half or more acres in size and adjacent to an all-weather public road, may not exceed:

(1) In the case of a mortgagor who is to occupy the dwelling as a principal residence (as defined in paragraph (f)(1) of this section):

(i) 75 percent of the dollar limitation on the principal obligation for a one-family residence under paragraph (a)(1)(i) of this section. This limit may be increased by up to 20 percent, if necessary to account for the increased cost of the residence due to the installation of a solar energy system, as defined in § 203.18a(b).

(ii) 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, if:

(A) The Commissioner approved the dwelling for insurance before the beginning of construction; or

(B) Construction was completed more than one year before the date of the application for insurance; or

(C) The Secretary of Veterans Affairs approved the dwelling for guaranty, insurance, or direct loan before the beginning of construction.

(iii) If the property does not meet the requirements of paragraph (d)(1)(ii) of this section, 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(2) In the case of a mortgagor who is to occupy the dwelling as a secondary residence (as defined in paragraph (f)(2) of this section):

(i) The amount permitted in paragraph (d)(1)(i) of this section, or

(ii) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(e) *Disaster victims.* * * *

(1) The mortgage is executed by a mortgagor who is to occupy the dwelling as a principal residence (as defined in paragraph (f)(1) of this section);

* * * * *

(f) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor maintains (or will maintain a part-time place of abode, and typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the National Housing Act, or any other State or local government or agency thereof;

(ii) A private nonprofit or public entity, as provided in section 221(h) or 235(j) of the National Housing Act, or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate income persons, as determined by the Secretary;

(iii) An Indian tribe, as provided in section 248 of the National Housing Act;

(iv) A serviceperson who is unable to meet the occupancy requirement because of his or her duty assignment, as provided in section 216 of the National Housing Act or subsection (b)(4) or (f) of section 222 of the National Housing Act;

(v) A mortgagor or co-mortgagor under subsection 203(k) of the National Housing Act; or

(vi) A mortgagor who, pursuant to § 203.43(c) of this part, is refinancing an existing mortgage insured under the National Housing Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

3. In § 203.29, paragraph (c) is revised to read as follows:

§ 203.29 Eligible mortgages in Alaska, Guam, or Hawaii.

* * * * *

(c) If the Alaska Housing Authority, or the Government of Guam or Hawaii, or any agency or instrumentality those entities, is the mortgagor or the mortgagee, or the mortgagor is regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rental and sales prices and a reasonable return on the investment, any mortgage otherwise eligible for insurance under this subpart may be insured:

(1) In any case where the Alaska Housing Authority, or the government of Guam or Hawaii, or any agency or instrumentality of those entities, is the mortgagor, without regard to any requirement that the mortgagor occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f)), or meet loan-to-value or comparable limitations based on the failure of the mortgagor to meet this occupancy requirement;

(2) Without regard to any requirement that the mortgagor has paid on account of the property a prescribed percentage of the appraised value of the property; or

(3) Without regard to any requirement that the mortgagor certify that the mortgaged property is free and clear of all liens other than the mortgage offered for insurance and that there will not be any unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property.

* * * * *

4. Section 203.31 is revised to read as follows:

§ 203.31 Mortgagor of a principal residence in military service cases.

(a) A mortgage that is otherwise eligible for insurance under any of the provisions of this part may be insured without regard to any requirement contained in this part that the mortgagor occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)) at the time of insurance, or that the mortgagor meet loan-to-value or comparable limitations based on the failure of the mortgagor to meet an occupancy requirement, if:

(1) The Commissioner is satisfied that the inability of the mortgagor to meet the occupancy requirement is by reason of his or her entry into military service after the filing of an application for insurance; and

(2) The mortgagor expresses an intent (in such form as the Commissioner may prescribe), to meet the occupancy requirement upon his or her discharge from the service.

(b) A serviceperson will also be considered to meet the occupancy requirement referred to in paragraph (a) of this section for mortgage insurance purposes, if the following conditions are satisfied:

(1) The serviceperson and his or her family expect to meet the occupancy requirement referred to in paragraph (a) of this section for two or more years. The Commissioner may shorten this period to one year, if (i) the serviceperson's family will occupy the

property for at least one year and (ii) the serviceperson is assigned to a combat zone or other hazardous duty area where the family cannot accompany him or her; and

(2) The property is located in an area in which the prospects of resale are reasonable.

(Approved by the Office of Management and Budget under OMB control number 2502–0059)

5. In § 203.43, the introductory language in paragraph (c), and paragraphs (c)(1) (i) and (ii) and (k) are revised, to read as follows:

§ 203.43 Eligibility of miscellaneous type mortgages.

* * * * *

(c) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in the other provisions of this subpart, any mortgage given to refinance an existing mortgage insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(1)(i) Except as provided by paragraph (c)(1)(ii) of this section, the refinancing mortgage must be in an amount that does not exceed the least of (A) the original principal amount of the existing mortgage; (B) the sum of the outstanding principal balance of the existing mortgage, plus loan closing charges approved by the Commissioner; or (C) in the case of an eligible non-occupant mortgagor (as defined in § 203.18(f)), the outstanding balance of the existing mortgage.

(ii) In the case of graduated payment mortgages insured under section 203 of the Act pursuant to section 245 (a) or (b) of the Act (§ 203.45 or § 203.46 [as in effect immediately before its removal at 52 FR 32754, published August 28, 1987]), the refinancing mortgage must have a principal amount that does not exceed the outstanding balance of the existing mortgage.

* * * * *

(k) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired in the settlement of an insurance claim under any section or title of the National Housing Act.

6. Section 203.43b is amended by revising the introductory text of paragraph (a) and paragraphs (a)(2) and (b)(2) to read as follows:

§ 203.43b Eligibility of mortgages covering housing intended for secondary residence.

(a) A mortgage covering a secondary residence is eligible for insurance if the following additional requirements are met:

* * * * *

(2) The dwelling shall meet such minimum standards as the Secretary may prescribe for secondary residences.

* * * * *

(b) * * *

(2) Insurance of mortgages on properties intended as secondary residences would materially and adversely affect the availability of mortgage funds for residential construction in the designated area.

* * * * *

7. In § 203.43c, paragraph (g) is revised to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(g) The mortgage may not exceed the balance remaining after subtracting from the amount determined under §§ 203.18 (a) or (c), 203.18a, and 203.18b of this part an amount equal to the portion of the unpaid balance of the blanket mortgage covering the cooperative development that is attributable to the dwelling unit that the mortgagor is entitled to occupy as of the date the mortgage is accepted for insurance.

* * * * *

8. In § 203.43d, the introductory text and paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 203.43d Eligibility of mortgages in certain communities.

Notwithstanding any other requirements of this subpart, a mortgage covering a one- to four-family dwelling occupied by the mortgagor as a principal residence (as defined in § 203.18(f)(1)) is eligible for insurance if the following requirements are met:

(a) * * *

(3) As a direct result of the community's temporarily impaired economic condition, owners of homes in the community occupied as principal residences (as defined in § 203.18(f)(1)) have been involuntarily unemployed or underemployed and have, thus, incurred substantial reductions in income that significantly impair their ability to continue timely payment of their mortgages;

(4) As a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

* * * * *

9. In § 203.43g, paragraph (a)(1) is revised to read as follows:

§ 203.43g Eligibility of mortgages in certain communities.

(a) * * *

(1) The mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)).

* * * * *

10. In § 203.43j, paragraph (e) is revised to read as follows:

§ 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.

* * * * *

(e) *Purchase for principal residence.* The mortgagor must be a purchaser who intends to occupy the property as a principal residence (as defined in § 203.18(f)(1)), or a current owner-occupant refinancing a mortgage which is now due or which will become due before the lease termination date in February 1991.

* * * * *

11. In § 203.45, paragraph (g) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)). It does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4), 203.18 (c) through (e), 203.43, 203.43a, 203.43j, or 203.49.

* * * * *

12. In § 203.49, paragraph (h) is revised to read as follows:

§ 203.49 Eligibility of adjustable rate mortgages.

* * * * *

(h) *Cross-reference.* Sections 203.21 (level payment amortization provisions) and 203.44 (open-end advances) do not apply to this section. This section does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4) (mortgagors of secondary residences), 203.18(c) (eligible non-occupant mortgagors), 203.18(d) (outlying area properties), 203.18(e) (disaster victims), 203.43 (miscellaneous type mortgages), 203.43c (mortgages involving a dwelling unit in a cooperative housing development), 203.43d (mortgages in certain communities), 203.43e (mortgages covering houses in federally impacted areas), 203.45 (graduated payment mortgages), and 203.47 (growing equity mortgages).

* * * * *

13. In § 203.50, paragraphs (f) and (j) are revised, and a new paragraph (k) is added, to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

* * * * *

(f) The loan may not exceed an amount which, when added to any outstanding indebtedness of the borrower that is secured by the property, creates an outstanding indebtedness in excess of the lesser of:

(1)(i) The limits prescribed in §§ 203.18(a) (1) and (3) (in the case of a dwelling to be occupied as a principal residence, as defined in § 203.18(f)(1)); (ii) the limits prescribed in §§ 203.18(a) (1) and (4) (in the case of a dwelling to be occupied as a secondary residence, as defined in § 203.18(f)(2)); (iii) 85 percent of the limits prescribed in § 203.18(c), or such higher limit, not to exceed the limits set forth in §§ 203.18(a) (1) and (3), as the Secretary may prescribe in the case of an eligible non-occupant mortgagor as defined in § 203.18(f)(3); (iv) the limits prescribed in § 203.18a; and (v) the limits prescribed in § 203.18b, based upon the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation; or

(2) The limits prescribed in the authorities listed in this paragraph (f), based upon 110 percent of the Commissioner's estimate of the value of the property after rehabilitation.

* * * * *

(j) The Commissioner may insure advances made by the mortgagee during rehabilitation if the following conditions are satisfied:

(1) The mortgage shall be a first lien on the property.

(2) The mortgagor and the mortgagee shall execute a rehabilitation loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances shall be made as provided in the reliabilitation loan agreement.

(4) The principal amount of the mortgage shall be held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor pending advancement to the mortgagor or his creditors as provided in the rehabilitation loan agreement.

(5) The loan shall bear interest at the rate prescribed in § 203.20 on the amount advanced to the mortgagor or its creditors, and the amount held in an account or trust for the benefit of the mortgagor.

(6) If paragraph (k) of this section applies, the rehabilitation loan agreement shall restrict advancement to the mortgagor, or to creditors other than the mortgagee, so that any loan proceeds in excess of the 85 percent set forth in paragraph (f)(1)(iii) of this section shall not be advanced until the property is sold to a purchaser described in paragraph (k)(2) of this section.

(k) In the case of a dwelling (1) to be occupied neither as a principal residence nor as a secondary residence and (2) where the loan is approved for a limit higher than the 85 percent set forth in paragraph (f)(1)(iii) of this section, the eligible non-occupant mortgagor (as defined in § 203.18(f)(3)) shall certify to the Commissioner that:

(1) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property before a due date approved by the Commissioner, except with the prior written approval of the Commissioner;

(2) The mortgagor agrees that, if the property is not sold before a due date approved by the Commissioner to a purchaser, acceptable to the Commissioner, who will occupy the property, assume personal liability, and agree to pay the mortgage indebtedness, any amount held in escrow, trust, or special account under paragraph (j) of this section will be applied in reduction of the outstanding principal amount of the mortgage as of the due date approved by the Commissioner;

(3) The mortgagee agrees that any portion of the fund held in escrow, trust, or special account, not applied to the mortgage in accordance with the provisions of this paragraph (k), shall be deducted from the amount of the insurance benefits to which the mortgagee would otherwise be entitled if a claim for insurance benefits is filed.

14. Part 203, subpart A, is amended by adding a new section after § 203.50 to read as follows:

§ 203.51 Applicability.

The provisions of §§ 203.18 (a), (c), (d), (e)(1), and (f); § 203.29(c); § 203.31; § 203.43(c); 203.43(k); § 203.43c(g); § 203.43d(a), § 203.43g(a)(1); § 203.43j(e); § 203.45(g); § 203.49(h); § 203.50(f); and § 203.50(k) of this subpart apply to mortgages insured:

(1) Pursuant to a conditional commitment or master conditional commitment issued on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report or master appraisal report for the property on or after September 24, 1990; or

(3) Pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after September 24, 1990.

15. Section 203.258 is revised to read as follows:

§ 203.258 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d) of this section, the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note, only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under § 203.43h or § 203.43i only if the mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)).

(2) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part (except a mortgage referred to in paragraph (b)(1) of this section), only if the substitute mortgagor is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in § 203.18(f)) or if the substitute mortgagor is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(3) With respect to any mortgage covering a dwelling to be occupied as a secondary residence, the loan to value ratio may not exceed 85 percent of the greater of (i) the appraised value of the property at the time the mortgage is accepted for insurance; or (ii) the appraised value of the property at the time approval of a substitute mortgagor is requested.

(c) *Applicability—current mortgages.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor was insured (1) pursuant to a conditional commitment or master conditional commitment issued on or after December 15, 1989; or (2) in accordance with the Direct Endorsement program (24 CFR 200.163), where the approved underwriter of the mortgagee signed the appraisal report or master appraisal report for the property on or after December 15, 1989, but before December 15, 1989; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after December 15, 1989.

(d) *Applicability—earlier mortgages.* If the mortgage was insured (1) pursuant

to a conditional commitment or master conditional commitment issued on or after February 5, 1988, but before December 15, 1989; or (2) in accordance with the Direct Endorsement program (24 CFR 200.163), where the approved underwriter of the mortgagee signed the appraisal report or master appraisal report for the property on or after February 5, 1988, but before December 15, 1989; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after February 5, 1988, but before December 15, 1989, the Commissioner may approve a substitute mortgagor with respect to the mortgage only if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f)), or is an eligible non-occupant mortgagor (as defined in the following sentence), or if the mortgage has a principal balance that is not more than 75 percent of the greater of (i) the appraised value of the property at the time the mortgage is accepted for insurance, or (ii) the appraised value of the property at the time approval of a substitute mortgagor is requested. For purposes of this paragraph (d), the term "eligible non-occupant mortgagor" has the meaning given in § 203.18(f), except that paragraph (d)(3)(ii) (A) and (B) of this section apply in place of § 203.18(f)(3) (i) and (ii).

(A) A public entity, as provided in section 214 or 247 of the National Housing Act; and

(B) A private nonprofit or public entity, as provided in section 221(h) or 235(j) of the National Housing Act.

If neither paragraph (b) nor the preceding portion of this paragraph (d) applies, the Commissioner may approve a substitute mortgagor without regard to whether the mortgagor is to occupy the dwelling.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163–164 may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section for mortgages which they own or service, and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debt; and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

16. The authority citation for part 213 continues to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

17. In § 213.510, paragraph (a) is revised to read as follows:

§ 213.510 Mortgage maturity.

(a) *Maturity.* The mortgage must have a maturity satisfactory to the Commissioner, not to exceed 40 years from the date of the beginning of amortization. However, if the mortgage covers property released from a sales project, the maturity may not exceed 30 years from the beginning of amortization (where the mortgagor is an eligible non-occupant mortgagor), or 35 years from that date if the mortgagor occupies the dwelling as a principal residence or as a secondary residence (as these terms are defined in § 203.18(f) of this chapter). This paragraph applies in the manner provided in § 203.51 of this chapter.

* * * * *

18. In § 213.751(b), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 213.751 Cross-reference.

* * * * *

(b) * * *

203.258 Substitute mortgagors.

* * * * *

19. Part 213, subpart D, is amended by adding a new section, to read as follows:

§ 213.752 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note, if it obtains the Commissioner's approval of a substitute mortgagor, as provided in paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart C of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in 24 CFR 203.18(f) of this chapter) or is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of 24 CFR 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart C of this part meeting the conditions of § 203.258(d).

(e) *Definition.* For purposes of this section, the term "substitute mortgagor" is defined as provided in § 203.258(f) of this chapter.

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

20. The authority citation for part 220 continues to read as follows:

Authority: Secs. 207, 211, 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

21. In § 220.1(a) the last section entry is revised to read as follows:

§ 220.1 Cross-reference.

(a) * * *

203.51 Applicability.

* * * * *

22. In § 220.30, the introductory language in paragraphs (a) and (a)(3) and paragraphs (a)(1), (a)(2), (a)(4), (a)(5), and (c) are revised; and new paragraphs (a)(6), (d), and (e) are added, to read as follows:

§ 220.30 Maximum mortgage amounts—loan-to-value limitation.

(a) *Mortgagors of principal or secondary residences.* A mortgage executed by a mortgagor who is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in paragraph (d) of this section) may not exceed the following:

(1) *New construction—principal residences—prior approval.* If the mortgage covers a dwelling that is to be occupied as a principal residence and the dwelling was approved for mortgage insurance before the beginning of construction, the sum of the following percentages of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner, minus $200, whichever appraisal amount or sum is the lesser, in

the case of a mortgagor qualifying as a veteran) and

(ii) 95 percent of such estimate in excess of $25,000.

(2) *New construction—principal residences—no prior approval.* If the mortgage covers a new dwelling under construction that is to be occupied as a principal residence and that is approved for mortgage insurance after the beginning of construction, 90 percent of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance.

(3) *Existing construction—principal residences—prior approval.* If the mortgage covers an existing dwelling that is to be occupied as a principal residence and that was approved for mortgage insurance before the beginning of construction, or the construction of which has been completed for more than one year, the sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation, in the following percentages:

* * * * *

(4) *Existing construction—principal residences—no prior approval.* If the mortgage covers an existing dwelling that is to be occupied as a principal residence and that was not approved for mortgage insurance before the beginning of construction, and the construction of which has been completed less than one year, 90 percent of the sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation.

(5) *Secondary residences.* If the mortgage covers a dwelling that is to be occupied as a secondary residence, 85 percent of:

(i) The Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance, in the case of a mortgage covering a newly constructed dwelling.

(ii) The sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation, in the case of a mortgage covering an existing dwelling.

(6) *Refinancing.* In a case under paragraph (a)(3), (a)(4), or (a)(5)(ii) of this section that involves the refinancing of existing indebtedness, the sum of the following:

(i) The estimated cost of repair and rehabilitation.

(ii) The amount (as determined by the Commissioner) required to refinance the existing indebtedness secured by the property.

(iii) Any existing indebtedness (as determined by the Commissioner) incurred in connection with improving, repairing, or rehabilitating the property.

* * * * *

(c) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (d) of this section) may not exceed (1) the Commissioner's estimate for the appropriate loan type under paragraphs (a) (1) through (4) of this section or (2) the amount specified in paragraph (a)(6) of this section.

(d) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 of the Act; or any other State of local government or a agency thereof;

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to seek or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(e) *Applicability.* Paragraphs (a), (c), and (d) of this section apply as provided in 24 CFR 203.51 of this chapter.

23. Part 220, subpart A is amended by adding a new center heading and a new section, to read as follows:

Applicability

§ 220.249 Applicability.

The provisions of § 220.30 apply as provided in 24 CFR 203.51 of this chapter.

24. In § 220.251(a), a new entry in the listing of sections is added in the appropriate place, to read as follows:

§ 220.251 Cross-reference.

(a)* * *

203.258 Substitute mortgagors.

* * * * *

25. Part 220, subpart B, is amended by adding a new section, to read as follows:

§ 220.253 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart A of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 220.30(d)).

(2) The Commissioner may approve as a substitute mortgagor an eligible non-occupant mortgagor (as defined in § 220.30(d)) with respect to any mortgage insured under this part, only if the outstanding balance of the mortgage does not exceed the Commissioner's estimate of:

(i) The replacement cost of the property as of the date the mortgage was originally accepted for insurance, or the date the substitute mortgagor is approved by the Commissioner, which ever is greater, in the case of a dwelling described in § 220.30(a) (1) or (2); or

(ii) The cost of repair or rehabilitation, plus the Commissioner's estimate of the replacement cost of the property as of either the date the mortgage was originally accepted for insurance, or the date the substitute mortgagor is approved by the Commissioner, whichever is greater, in the case of a dwelling described in § 220.30(a) (3) or (4).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor, only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts; and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by

the mortgagee to the previous mortgagor.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

26. The authority citation for part 221 continues to read as follows:

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715*l*; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

27. In § 221.1(a) the last entry in the listing of sections is revised to read as follows:

§221.1 Cross-reference.

(a)* * * /

203.51 Applicability

* * * * *

28. In § 221.10, the introductory language is revised to read as follows:

§ 221.10 Maximum mortgage amount—dollar limitation.

A mortgage executed by a mortgagor who is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)) may not exceed:

* * * * *

29. Section 221.12 is removed and reserved.

§ 221.12 [Reserved]

30. In § 221.20, the introductory language in paragraph (a)(1) is revised; paragraph (b) is revised; and new paragraphs (a)(4) and (c) are added, to read as follows:

§ 221.20 Maximum mortgage amount—loan-to-value limitation.

* * * * *

(a) *Mortgagors of principal or secondary residences.* (1) If the mortgagor is to occupy the dwelling as a principal residence (as defined in paragraph (c)(1) of this section), the mortgage may not exceed:

* * * * *

(4) If the mortgagor is to occupy the dwelling as a secondary residence (as defined in paragraph (c)(2) of this section), the mortgage may not exceed 85 percent of the Commissioner's estimates referred to in paragraph (a)(1)(i) or (ii) of this section, as appropriate.

(b) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (c) of this section), who will use the insured loan proceeds to facilitate the construction or the repair or rehabilitation of the dwelling and to provide financing pending the subsequent resale of the property to a qualifying mortgagor under this subpart, may not exceed the lesser of (1) the Commissioner's estimates referred to in paragraph (a)(1)(i) or (ii) of this section, as appropriate, or (2) the value of the property as of the date the mortgage is accepted for insurance.

(c) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the Act; or any other State or local government or a agency thereof; or

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low- or moderate-income persons, as determined by the Secretary.

31. In § 221.30, paragraph (b) is revised to read as follows:

§ 221.30 Maturity of mortgage.

* * * * *

(b) In the case of any other mortgagor, if the Commissioner:

(1) Determines that the mortgagor (i) is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)); and (ii) is unable to make the required payments under a mortgage having a shorter amortization period, and

(2) Approved the dwelling for mortgage insurance before the beginning of construction, or the Administrator of Veterans Affairs approved the dwelling for guaranty, insurance, or direct loan before the beginning of construction.

32. In § 221.50, the introductory text of paragraph (b)(1) and paragraph (b)(2) are revised, and new paragraphs (b) (3) and (4) are added, to read as follows:

§ 221.50 Mortgagor's minimum investment.

* * * * *

(b) * * *

(1) *Loan-to-value limitation—principal residences—approval before construction.* If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in § 221.20(c)(1)) and is approved for mortgage insurance before the beginning of construction, or was completed more than one year before the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's estimate of the appraised value of the property as of the date the mortgage is accepted for insurance constitutes the maximum loan-to-value ratio:

* * * * *

(2) *Loan-to-value limitation—principal residences—no prior approval.* A loan-to-value limitation of 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance is required, if (i) the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in § 221.20(c)) and (ii) the dwelling does not meet the requirements contained in paragraph (b)(1) of this section.

(3) *Loan-to-value limitation—secondary residences.* A loan-to-value limitation of 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance is required, if the mortgage covers a dwelling that is to be occupied as a secondary residence (as defined in § 221.20(c)).

(4) *Loan-to-value limitation—mortgagors of dwellings that are not principal or secondary residences.* A loan-to-value limitation on the appraised value of the property for the appropriate loan type under paragraphs (a) (1) through (3) of this section is applicable with respect to eligible non-occupant mortgagors (as defined in § 221.20(c)), if the mortgage covers a dwelling referred to in § 221.20(b).

* * * * *

33. In § 221.60, paragraphs (b)(1), (c), and (j) are revised to read as follows:

§ 221.60 Eligibility requirements for low-income homeowners.

* * * * *

(b) *Definitions.* * * *

(1) "*Single family dwelling*" includes a two-family dwelling in which the owner occupies one of the units as a principal residence (as defined in § 221.20(c)).

* * * * *

(c) *Types of transactions.* The mortgage shall involve one of the following types of transactions: (1) The financing of the purchase of a rehabilitated single family dwelling or a

rehabilitated one-family unit in a condominium project from a nonprofit mortgagor by a low-income purchaser who is to occupy the dwelling as a principal residence (as defined in § 221.20(c)).

(2) The rehabilitation or improvement and refinancing of a single family dwelling owned by a mortgagor who (i) is to occupy the dwelling as a principal residence (as defined in § 221.20(c)) and (ii) has purchased the dwelling from a nonprofit organization that is engaged in purchasing and rehabilitating substandard housing, and selling it after rehabilitation.

* * * * *

(j) *Interest rate increase—discontinuance of occupancy.* The mortgage must provide that if the mortgagor does not continue to occupy the dwelling as a principal residence (as defined in § 221.20(c)), the interest rate will increase to the maximum rate in effect under this subpart at the time the commitment for insurance was issued on the project mortgage (where the mortgage finances the purchase of the property from a nonprofit mortgagor or on the individual mortgage (where the mortgage finances the rehabilitation or improvement and refinancing of property owned by the mortgagor). If the property is sold to one of the following purchasers, the increase in interest rate will not be required:

(1) A nonprofit organization that has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing provided pursuant to section 221(h) of the National Housing Act, except that the sale must be to the same nonprofit organization from which the unit was purchased, if the mortgage finances the purchase.

(2) A public housing agency under the United States Housing Act of 1937 having jurisdiction over the area in which the dwelling is located.

(3) A low-income purchaser meeting the income requirements of section 221(h) of the Act.

* * * * *

34. In § 221.65, paragraphs (b) and (d)(4) are revised to read as follows:

§ 221.65 Eligibility requirements for a low- and moderate-income purchaser of a family unit in condominium.

* * * * *

(b) *Purchaser qualifications.* To qualify as a mortgagor, the purchaser must:

(1) Occupy the dwelling as a principal residence (as defined in § 221.20(c)), and

(2) Be approved by the Commissioner as having an income within the limits prescribed for occupants in projects financed with a below-market interest rate (BMIR) mortgage insured pursuant to §§ 221.501 *et seq.*

* * * * *

(d) * * *

(4) It shall provide that if the mortgagor does not continue to occupy the property as a principal residence (as defined in § 221.20(c)), the interest rate shall increase to the maximum rate in effect under this subpart at the time the commitment for insurance was issued on the project mortgage, except that the increase in interest rate shall not be applicable if the property is sold to one of the following purchasers:

(i) A nonprofit organization approved by the Commissioner;

(ii) A low- or moderate-income purchaser meeting the requirements of paragraph (b) of this section.

* * * * *

35. Part 221, subpart A, is amended by adding a new center heading and a new section, to read as follows:

Applicability

§ 221.70 Applicability.

(a) The provisions of §§ 221.10; 221.20 (a) through (c); 221.30(b); 221.50(b); 221.60 (b)(1), (c)(1), (c)(2), and (j); and 221.65 (b) and (d)(4) of this subpart, and the removal of § 221.12 of this subpart, apply to mortgages insured:

(1) Pursuant to a Conditional Commitment or a Master Conditional Commitment issued by the Commissioner, or a Certificate of Reasonable Value or a Master Certificate of Reasonable Value issued by the Administrator of Veterans Affairs, on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163 of this chapter), if the approved underwriter of the mortgagee signs the Appraisal Report or the Master Appraisal Report for the property on or after September 24, 1990.

(b) The provisions referred to in paragraph (a) of this section, as they existed immediately before September 24, 1990, govern the insurance of mortgages that do not meet the conditions of that paragraph.

36. In § 221.251(a), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 221.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

37. Part 221, subpart B, is amended by adding a new section, to read as follows:

§ 221.252 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart A of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)) or is a private nonprofit or public entity as provided in section 221(h) of the National Housing Act.

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor, only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 of this chapter may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 222—SERVICEPERSON'S MORTGAGE INSURANCE

38. The authority citation for part 222 continues to read as follows:

Authority: Secs. 211, 222, National Housing Act (12 U.S.C. 1715b, 1715m); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. The part heading for part 222 is revised to read as set forth above.

40. In § 222.1(a), the last entry in the listing of sections is revised to read as follows:

§ 222.1 Cross-reference.

(a) * * *

203.51 Applicability.

* * * * *

41. In § 222.2, paragraphs (b), (c), and (d) are revised to read as follows:

§ 222.2 Definition of terms.

* * * * *

(b) *Certificate of eligibility* means the official certificate issued by the Secretary to the Federal Housing Commissioner which establishes that the person designated on the certificate as the serviceperson has met the eligibility requirements set forth in section 222 of the National Housing Act.

(c) *Serviceperson* means a person to whom the Secretary has issued a certificate of eligibility.

(d) *Period of ownership by serviceperson* means that period of time during which the Secretary is required to pay mortgage insurance premiums to the Federal Housing Commissioner, commencing with the date the Commissioner endorses a mortgage for insurance and terminating when the Secretary furnishes the Commissioner with a certificate indicating that the Secretary will no longer be liable for payment of the insurance premiums to the Commissioner.

42. In § 222.4, paragraph (c) is removed.

43. In § 222.6, the introductory language in paragraph (a), and paragraph (b), are revised, to read as follows:

§ 222.6 Application of payments.

(a) Notwithstanding the provisions of § 203.24 of this chapter and until the Commissioner has notified the mortgagee that the period of ownership by a serviceperson has been terminated, the mortgagor's monthly payments must be applied to the following items in the order set forth:

* * * * *

(b) After the mortgagee receives notification from the Commissioner that the period of ownership by a serviceperson has been terminated, the mortgagee must apply all monthly payments received from the mortgagor in the order set forth in § 203.24 of this chapter.

44. Section 222.7 is revised to read as follows:

§ 222.7 Use of mortgage proceeds.

The proceeds of mortgages must be used for the purpose of financing the construction or purchase of an eligible dwelling by a serviceperson.

45. Section 222.8 is revised to read as follows:

§ 222.8 Eligible mortgagors.

To be eligible for mortgage insurance under this part, the mortgagor must:

(a) Meet the requirements of §§ 203.32 through 203.36 of this chapter;

(b) Hold a certificate of eligibility issued by the Secretary, indicating that the mortgagor meets the eligibility requirements of section 222 of the National Housing Act; and

(c) Occupy the dwelling as a principal residence (as defined in § 203.18(f)(1) of this chapter) or certify that his or her failure to do so is a result of his or her military assignment, or, in the case of the Coast Guard or U.S. National Oceanic and Atmospheric Administration, other assignment.

46. Section 222.50 is revised to read as follows:

§ 222.50 Transfer of insurance.

The insurance of a mortgage pursuant to §§ 203.1 *et seq.* (part 203, subpart A); §§ 213.501 *et seq.* (part 213, subpart C); §§ 220.1 *et seq.* (part 220, subpart A); §§ 221.1 *et seq.* (part 221, subpart A); §§ 226.1 *et seq.* (part 226, subpart A); §§ 227.1 *et seq.* (part 227, subpart A); §§ 234.1 *et seq.* (part 234, subpart A); §§ 235.1 *et seq.* (part 235, subpart A); §§ 237.1 *et seq.* (part 237, subpart A); all of this chapter, covering a single family dwelling or a family unit in a condominium project, may, with the approval of the Commissioner and upon the request of the mortgagee, be transferred for insurance under this subpart, if the mortgage indebtedness has been assumed by a serviceperson who (a) holds a certificate of eligibility issued by the Commissioner, (b) becomes the owner of the property, and (c) either occupies the property as a principal residence (as defined in 24 CFR 203.18(f)(1) of this chapter) or certifies that his or her failure to do so is the result of his or her military assignment, or, in the case of the Coast Guard or U.S. National Oceanic and Atmospheric Administration, other assignment.

47. Part 222, subpart A, is amended by adding a new section, to read as follows:

§ 222.52 Applicability.

The provisions of §§ 222.2 (b) through (d); 222.6; 222.7; 222.8; and 222.50 apply as provided in 24 CFR 203.51 of this chapter.

48. In § 222.251(a), the listing of sections is amended by adding a new entry at the appropriate place, to read as follows:

§ 222.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

49. Part 222, subpart B, is amended by adding a new section, to read as follows:

§ 222.254 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d), the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f) of this chapter) or is an eligible nonoccupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 of this chapter may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

50. The authority citation for part 226 continues to read as follows:

Authority: Secs. 211, 807, 809, National Housing Act (12 U.S.C. 1715b, 1748f, 1748h–1);

sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

51. In § 226.1(a), the last entry in the listing of sections ("203.51 negotiated interest rate") is removed.

52. Section 226.8 is revised to read as follows:

§ 226.8 Eligible mortgagors.

(a) *Eligibility requirements.* No mortgage may be insured under this part, unless it is executed by a mortgagor who:

(1) Meets the employment status requirements set forth in § 226.3; and

(2) At the time of insurance, is the owner of the property; and occupies the property as a principal residence (as defined in § 203.18(f)(1) of this chapter) or certifies that the failure to do so is the result of a change in his or her employment.

(b) *Applicability.* Paragraph (a) of this section applies as provided in § 203.51 of this chapter.

53. In § 226.251(a), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 226.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

54. Part 226, subpart B, is amended by adding a new section, to read as follows:

§ 226.252 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured pursuant to this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f) of this chapter) or is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor if the mortgage executed by the original mortgagor of the mortgage met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* For purposes of this section, the term "substitute mortgagor" is defined as provided in § 203.258(f) of this chapter.

PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE

55. The authority citation for part 233 is revised to read as follows:

Authority: Secs. 211, 233, National Housing Act (12 U.S.C. 1715b, 1715x); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

56. In § 233.5, paragraph (a)(5) is removed and reserved.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

57. The authority citation for part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

58. In § 234.25, paragraph (c)(2) is revised to read as follows:

§ 234.25 Mortgage provisions.

* * * * *

(c) * * *

(2) Have a maturity satisfactory to the Commissioner of not more than 30 years from the date of the beginning of amortization, except that the term may be up to 35 years from that date, if the mortgagor:

(i) Occupies the property as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)); and

(ii) Is not able, as determined by the Commissioner, to make the required payments under a mortgage having a shorter amortization period.

* * * * *

59. In § 234.26, paragraphs (e) (2) and (3) are revised to read as follows:

§ 234.26 Project requirements.

* * * * *

(e) * * *

(2) An application for mortgage insurance of a unit will not be approved if approval would result in less than 80 percent of the FHA-insured mortgages covering units in the project being occupied by mortgagors or co-mortgagors as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)).

(3) In addition to the other requirements of this section, in order for a project to be acceptable to the Secretary, at least 51 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)), or must have been sold to owners who intend to meet this occupancy requirement.

* * * * *

60. In § 234.27, the introductory text of paragraphs (a), (a)(2) and (a)(3), and paragraph (d) are revised; and new paragraphs (a)(4) and (e) are added, to read as follows:

§ 234.27 Maximum mortgage amounts.

(a) *Mortgagors of principal or secondary residences.* Except for "high-cost" mortgage limits provided for in paragraph (b) of this section, a mortgage executed by a mortgagor who is to occupy the property as a principal residence or a secondary residence (as these terms are defined in paragraph (e) of this section) may not exceed the lesser of the amounts in paragraphs (a)(1) and (a)(2), (a)(1) and (a)(3), or (a)(1) and (a)(4) of this section (whichever applies), as follows:

* * * * *

(2) *Loan-to-value limitation—principal residences—no approval before construction.* If a family unit is to be occupied as a principal residence and is not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the family unit as of the date the mortgage is accepted for insurance, unless the family unit:

* * * * *

(3) *Loan-to-value limitation—principal residences—approval before construction.* If a family unit is to be occupied as a principal residence and is approved for mortgage insurance before the beginning of construction, or it meets one of the alternative conditions listed in paragraph (a)(2) of this section, the following loan-to-value ratios apply:

* * * * *

(4) *Loan-to-value limitation—secondary residences.* If a family unit is to be occupied as a secondary residence, the loan-to-value ratio is 85 percent of the appraised value of the family unit as of the date the mortgage is accepted for insurance.

* * * * *

(d) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as defined in paragraph (e) of this section) may not exceed the lesser of (1) the dollar limitation under paragraph (a)(1) of this section or (2) the amount authorized for the appropriate loan type under paragraphs (a) (2) through (4) of this section, as of the date the mortgage is accepted for insurance.

(e) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the National Housing Act; or any other State or local government or a agency thereof;

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(iii) A serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216, or in subsection (b)(4) or (f) of section 222;

(iv) A mortgagor that, pursuant to § 234.52, is refinancing an existing mortgage insured under the National Housing Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

61. In § 234.49, paragraph (a) is revised to read as follows:

§ 234.49 Eligible mortgages in Alaska, Guam, or Hawaii.

(a) If the Alaska Housing Authority, or the Government of Guam or Hawaii, or any agency or instrumentality thereof, is the mortgagor or the mortgagee; or the mortgagor is regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rental and sales prices and a reasonable return on the investment, any mortgage otherwise eligible for insurance under this subpart may be insured:

(1) In any case where the Alaska Housing Authority, or the government of Guam or Hawaii, or any agency or instrumentality thereof, is the mortgagor, without regard to any requirement that the mortgagor occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)), or meet loan-to-value limitations based on the failure of the mortgagor to meet an occupancy requirement;

(2) Without regard to any requirement that the mortgagor has paid on account of the property a prescribed percentage of the appraised value of the property; or

(3) Without regard to any requirement that the mortgagor certify that the mortgaged property is free and clear of all liens other than the mortgage offered for insurance, and that there will not be any unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property.

* * * * *

62. Section 234.51 is revised to read as follows:

§ 234.51 Mortgagor of principal residence in military service cases.

A mortgage otherwise eligible for insurance under any of the provisions of this part may be insured without regard to any requirement contained in this part that the mortgagor occupy the dwelling as a principal residence (as defined in § 234.27(e)(1)) at the time of insurance, or that the mortgagor meet loan-to-value limitations based on his or her failure to meet an occupancy requirement, if:

(a) The Commissioner is satisfied that the inability of the mortgagor to meet an occupancy requirement is by reason of the mortgagor's entry into military service after the filing of an application for insurance; and

(b) The mortgagor expresses an intent (in such form as may be prescribed by the Commissioner) to meet the occupancy requirement upon his or her discharge from military service. (Approved by the Office of Management and Budget under OMB control number 2502–0059).

63. In § 234.52, the introductory text and paragraph (a) are revised, to read as follows:

§ 234.52 Refinancing of existing mortgages.

The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in the other provisions of this subpart, any mortgage covering a family unit given to refinance an existing mortgage insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(a)(1) Except as provided in paragraph (a)(2) of this section, the refinancing mortgage must be in an amount that does not exceed the least of (i) the original principal amount of the existing mortgage; (ii) the sum of the outstanding balance of the existing mortgage, plus loan closing costs approved by the Commissioner; or (iii) in the case of an eligible non-occupant mortgagor (as defined in § 234.27(e)), the outstanding balance of the existing mortgage, provided that the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(2) In the case of graduated payment mortgages insured under section 234(c) of the Act pursuant to section 245 (a) or (b) of the Act (§ 234.75 or § 234.76 (as in effect before its removal at 52 FR 32754, published August 28, 1987)), the refinancing mortgage must have a principal amount that does not exceed the outstanding balance of the existing mortgage.

* * * * *

64. In § 234.75, paragraph (g) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 234.27(e)(1)). It does not apply to a mortgage that meets the requirements of § 234.27 (a)(4) or (d), or § 234.79.

* * * * *

65. In § 234.79, paragraph (h) is revised to read as follows:

§ 234.79 Eligibility of adjustable rate mortgages.

* * * * *

(h) *Cross-reference.* Sections 234.36 (level payment amortization provisions) and 234.70 (open-end advances) do not apply to this section. This section does not apply to a mortgage that meets the requirements of §§ 234.27(a)(4) (mortgagors of secondary residences), 234.27(d) (mortgagors of dwellings that are not principal or secondary residences), 234.68 (mortgages covering housing in certain neighborhoods), 234.69 (mortgages covering housing in federally impacted areas), 234.69a (mortgages for individually owned condominium units for existing multifamily housing demonstration),

234.75 (graduated payment mortgages), and 234.77 (growing equity mortgages).

* * * * *

66. Part 234, subpart A, is amended by adding at the end of the subpart a new center heading and a new section, to read as follows:

Applicability

§ 234.65 Applicability.

(a) The provisions of §§ 234.25(c)(2), 234.26(e) (2) and (3); 234.27 (a), (d), and (e); 234.49(a); 234.51; 234.52; 234.75(g); and 234.79(h) of this subpart apply to mortgages insured:

(1) Pursuant to a Conditional Commitment or a Master Conditional Commitment issued by the Commissioner, or a Certificate of Reasonable Value or a Master Certificate of Reasonable Value issued by the Administrator of Veterans Affairs, on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163 of this chapter), if the approved underwriter of the mortgagee signs the Appraisal Report or the Master Appraisal Report for the property on or after September 24, 1990.

(b) The provisions referred to in paragraph (a) of this section, as they existed immediately before September 24, 1990, govern the insurance of mortgages that do not meet the conditions of paragraph (a) of this section.

67. In § 234.255(a), a new entry to the listing of sections is added at the appropriate place, to read as follows:

§ 234.255 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

68. Part 234, subpart B, is amended by adding a new section, to read as follows:

§ 234.256 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d) of this section, the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part, if the mortgagor is to occupy the property as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 may themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

69. The authority citation for part 235 continues to read as follows:

Authority: Secs. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 235.1 Cross-reference.

(a) * * *

70. In § 235.1(a), the last section entry is revised to read as follows:

203.51 Applicability.

* * * * *

71. In § 235.2, paragraph (c) is revised to read as follows:

§ 235.2 Basic program outline.

* * * * *

(c) Assistance will be limited to mortgagors who purchase for occupancy as a principal residence (as defined in § 203.18(f) of this chapter) new or substantially rehabilitated single family or condominium units.

* * * * *

72. Section 235.32 is revised to read as follows:

§ 235.32 Increased maximum mortgage amount for physically handicapped persons.

If the mortgage relates to a dwelling to be occupied as a principal residence (as defined in § 203.18(f) of this chapter) by a handicapped person as defined in § 235.5(c)(2), the dollar amount limitation under § 235.25 or § 235.30 may be increased in such amount as may be necessary to reflect the cost of making the dwelling accessible to and usable by the handicapped person, but not to exceed 10 percent of the limitation.

73. In § 235.201(a), a new entry to the listing of sections is added at the appropriate place, to read as follows:

§ 235.201 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

74. Part 235, subpart B, is amended by adding a new section, to read as follows:

§ 235.206 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided under this section. The Commissioner may release a mortgagor from personal liability on any second mortgage note it holds in connection with its approval of a substitute mortgagor under this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part only if the mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1) of this chapter) and only if the mortgagor meets all applicable requirements of this part.

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts; and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

Dated: August 14, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-19673 Filed 8-23-90; 8:45 am]

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federal register

Friday
August 24, 1990

Part III

Tennessee Valley Authority

Privacy Act of 1974; Notice of Systems of Records

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Notice of Systems of Records

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of systems of records.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(4), TVA is publishing a notice of the existence and character of each TVA system of records.

TVA is deleting the notice covering the system of records entitled TVA–24, "Reforestation, Erosion Control, and Plantation Case History Records—TVA." This system of records is no longer in use and the records were transferred to the National Archives and Records Administration, Southeast Region Branch Archives, East Point, Georgia.

TVA is renaming three systems of records. TVA–3, "Cooperative Training Program for Construction Craftsmen—TVA," is being renamed "Upgrade Craft Training Program—TVA." TVA–12, "Employee Travel Advance Records—TVA" is being renamed "Travel History Records—TVA." TVA–22, "Questionnaire—Farms in Vicinity of Proposed Nuclear Power Plant—TVA" is being renamed "Questionnaire—Farms in Vicinity of Proposed or Licensed Nuclear Power Plant—TVA." These name changes are made to better reflect the content of the systems of records.

TVA is including medical and dental benefit plan records in the categories of records covered by the system of records entitled TVA–9, "Medical Record System—TVA."

TVA is also adding the following authority citation to the system of records entitled TVA–31, "OIG Investigative Records—TVA:" "Inspector General Act Amendments of 1988 (Pub. L. 100–504, 102 Stat. 2515)."

TVA has also corrected minor typographical and stylistic errors in previously existing notices and has updated those notices to reflect current organizational structure. Also updated are zip codes, system locations and notification, categories of individuals covered, categories of records in the system, storage policies and practices, retention and disposal, record access, and contesting record procedures.

FOR FURTHER INFORMATION CONTACT: Ronald E. Brewer, Privacy Act Officer, TVA, Edney Building 4W 05B, Chattanooga, TN 37402–2801, (615) 751–2520.

Accordingly, TVA is today publishing notices of its systems of records in order to make available in one place in the Federal Register the most up-to-date information about these systems. This document gives notice that the following TVA systems of records are in effect:

Table of Contents

TVA–1 Apprentice Training Record System.
TVA–2 Personnel Files.
TVA–3 Upgrade Craft Training Program.
TVA–4 Demonstration Farm Records.
TVA–5 Discrimination Complaint Files.
TVA–6 Employee Accident Information System.
TVA–7 Employee Accounts Receivable.
TVA–8 Employee Alleged Misconduct Investigatory Files.
TVA–9 Medical Record System.
TVA–10 Employee Statement of Employment and Financial Interests.
TVA–11 Payroll Records.
TVA–12 Travel History Records.
TVA–13 Employment Applicant Files.
TVA–14 Grievance Records.
TVA–15 LAND BETWEEN THE LAKES® Hunter Records.
TVA–16 LAND BETWEEN THE LAKES® Register of Law Violations.
TVA–18 Employee Supplementary Vacancy Announcement Records.
TVA–19 Consultant and Personal Service Contractor Records.
TVA–21 Nuclear Quality Assurance Personnel Records.
TVA–22 Questionnaire—Farms in Vicinity of Proposed or Licensed Nuclear Power Plant.
TVA–23 Radiation Dosimetry Personnel Monitoring Records.
TVA–26 Retirement System Records.
TVA–27 Test Demonstration Farm Records.
TVA–28 Woodland Resource Analysis Program Input Data.
TVA–29 Electricity Use, Rate, and Service Study Records.
TVA–30 LAND BETWEEN THE LAKES® Mailing Lists.
TVA–31 OIG Investigative Records.
TVA–32 Call Detail Records.
TVA–33 Office of Nuclear Power Call Detail Records.
TVA–34 Project/Tract Files.
TVA–35 Building Access Security Records.

TVA–1

SYSTEM NAME:

Apprentice Training Record System—TVA.

SYSTEM LOCATION:

Labor Relations Staff, TVA, Knoxville, TN 37902–1499; Human Resource Information Systems, TVA, Knoxville, TN 37902–1499; Computer Operations, TVA, Chattanooga, TN 37402–2801; all TVA locations where apprentices are employed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA apprentices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment, qualifications, and evaluation information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Apprenticeship Act of 1937, 50 Stat. 664; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To the Bureau of Apprenticeship and Training, the Veterans' Administration, Tennessee Valley Trades and Labor Council, and the State and local government agencies for reporting and evaluation purposes.

To respond to a request from a Member of Congress regarding the status of an apprentice.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA employee: Job description, dates of employment, reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

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

STORAGE:

Records are maintained on automated data storage devices, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name, craft, job code, union code, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Labor Relations, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; General Aptitude Test Battery scores from State employment security office; references from employers and military and educational institutions; and evaluations from joint committee on apprenticeship.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing and examination material would compromise the objectivity of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–2

SYSTEM NAME:

Personnel Files—TVA.

SYSTEM LOCATION:

Human Resources, TVA, Knoxville, TN 37902–1499; Human Resource Information Systems, TVA, Knoxville, TN 37902–1499; area employment offices in Chattanooga, Muscle Shoals, and Nashville; construction project employment offices; Computer Operations, TVA, Chattanooga, TN 37402–2801; National Personnel Records Center, St. Louis, MO 63118. Security/suitability investigatory files are located separately from other records in this system. Information on education, career counseling, or job performance may be maintained by the TVA organization that provides the training or career counseling or that employs the individual and by Equal Opportunity Staff. Duplicate or certain specifically temporary information may be maintained by division personnel officers, supervisors, and administrative officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to education; qualifications; work history; interests and skills; test results; performance evaluation; career counseling; personnel actions; job description; salary and benefit information; service dates, including other Federal and military service; replies to congressional inquiries; medical data; and security investigation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10577; Executive Order 10450; Executive Order 11478; Executive Order 11222; Veterans' Preference Act of 1944, 58 Stat. 387, as amended; Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103; various sections of title 5 of the United States Code related to employment by TVA.

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

To disclose test results to State employment services.

To a State employment security office in response to a request relating to a former employee's claim for unemployment compensation.

To respond to a request from a Member of Congress regarding the status of an employee, former employee, or applicant.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request from any pertinent source, directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information, as requested, to a prospective employer of a TVA or former TVA employee: job descriptions, dates of employment, and reasons for separation.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employees' Group Life Insurance to Office of Federal Employees' Group Life Insurance.

To transfer information regarding claims for health insurance benefits to health insurance carrier.

To union representatives in exercising their responsibilities under TVA collective-bargaining agreements.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA contractors and subcontractors engaged at TVA's direction in studies and evaluation of TVA personnel management and benefits; or the investigation of nuclear safety, reprisal, or other matters involving TVA personnel practices or policies; or the implementation of TVA personnel policies.

To provide pertinent information to local school districts and other government agencies in order to study TVA project impacts and to aid school districts in qualifying for assistance under Pub. L. 81–874 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To commemorate the month and day of employee birthday anniversaries.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices and microfiche.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Personal History Records:

Nonmicrofilmed records stored at National Personnel Records Center and microfilmed records stored at TVA are destroyed 75 years after birth date of employee or 60 years after date of earliest document in the record if the date of birth cannot be ascertained. Reference copies are destroyed when no longer needed.

Congressional inquiries are retained indefinitely; test records are retained 10 years; occupational register cards are retained 1 year, with the exception of apprentices which are retained for 5 years; some information maintained on magnetic tape is erased after 1 year, records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Human Resources, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the Manager of Employment Services, TVA, Knoxville, TN 37902–1499. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response.

In addition, current employees should address inquiries also to their supervisors or personnel officers.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the Manager of Employment Services, TVA, Knoxville, TN 37901–1499. In addition, current employees may present requests for access to their supervisors or the personnel officer of the employing division. Requests should include the individual's full name, employing division, job title, and date of birth. A social security number is not required but may expedite TVA's response. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or access to classified information to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Manager of Employment Services, TVA, Knoxville, TN 37902–1499.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions; former employers; and other reference sources; State employment services; supervisors and other TVA personnel or personnel records; medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3) and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k)(5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–3

SYSTEM NAME:

Upgrade Craft Training Program-TVA.

SYSTEM LOCATION:

Resource Development, Business Operations, TVA, Knoxville, TN 37902–1499; construction project offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in the Upgrade Craft Training Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To State employment services and prospective employers for use in placement of the student.

To request information from a Federal, State, or local agency or from private individuals, if necessary, to obtain information relevant to a TVA decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Business Operations, Resource Development, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if information on them is maintained in this system of records should address inquiries to the system manager named above.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the system manager named above.

Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualification for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information about them in this system of records should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k)(5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–4

SYSTEM NAME:

Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Agricultural Institute, TVA, Muscle Shoals, AL 35660–1010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tennessee Valley farmers participating in TVA farm demonstration programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, investment, income, and labor information. The information in this system is not used in any determination about the rights, benefits, or privileges of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

Information in this system of records may be disclosed to State extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To request information from a government agency or private individual where such information may be relevant to providing additional assistance under this program.

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

STORAGE:

Records are maintained in file folders and on an automated data storage devices, punched cards, microfilm and microfiche.

RETRIEVABILITY:

Records are indexed by an assigned code.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties

require such access. All records are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Agricultural Institute, TVA, Muscle Shoals, AL 35660–1010

NOTIFICATION PROCEDURE:

Individuals upon whom information is maintained in this system of records are aware of the fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and State and county of the farm.

RECORD ACCESS PROCEDURES:

All information maintained in this system of records has been supplied by the subject individual. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains by State extension services and universities.

TVA–5

SYSTEM NAME:

Discrimination Compliant Files—TVA.

SYSTEM LOCATION:

Equal Opportunity Staff, TVA, Knoxville, TN 37902–1499. Duplicate copies may be maintained in the files of the TVA organization where the complaint originated.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Employees, former employees, or applicants who have received counseling or filed complaints of discrimination based on race, color, religion, sex, national origin, age, reprisal, or handicap.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to a decision or determination made by TVA or the Equal Employment Opportunity Commission affecting an individual. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimonies of witnesses, investigative reports, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd: Executive Order 11478; 42 U.S.C. 2000e–16; 29 U.S.C. 633a.

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

A report of each complaint is made to the Equal Employment Opportunity Commission. If an administrative appeal is filed, the entire file is disclosed to the Equal Employment Opportunity Commission.

To the employee's representative.

To respond to a request from a Member of Congress regarding the status of a complaint.

To the parties of complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its equal employment opportunity program or who are providing support services to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records in this system are kept in file folders.

RETRIEVABILITY:

Records in this system are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those personnel whose official duties require such access.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGERS(S) AND ADDRESS:

Director of Equal Opportunity, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals who have filed discrimination complaints are aware of that fact. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, the approximate date of their complaint, and their employing organization, if employed.

RECORD ACCESS PROCEDURES:

Individuals who have filed a discrimination complaint have been provided a copy of the record. However, an individual may gain access to the official copy of the complaint record by writing the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals who have filed a discrimination complaint have had an opportunity during the complaint procedure to amend their record. However, request for amendment or correction of items not involving the complaint procedure may be addressed to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA personnel and other records; witnesses.

TVA–6

SYSTEM NAME:

Employee Accident Information System—TVA.

SYSTEM LOCATION:

Occupational Health and Safety, TVA, Muscle Shoals, AL 35660–1010.

Accident reports may also be maintained in the file of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have sustained a work-related injury or illness or have been involved, as the operator of a TVA vehicle, in a vehicular accident.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the accident, injury, or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennnessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024; Executive Order 12196.

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

To the Department of Labor as required by the Occupational Safety and Health Act.

To the Office of Workers' Compensation Programs in relation to an individual's claim for compensation.

To respond to a request from a Member of Congress regarding the status of an employee.

To provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Information in this system is maintained on automated data storage devices and in file folders.

RETRIEVABILITY:

Records are indexed by name, date of birth, and social security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained for five years, and after that period are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Occupational and Health and Safety, TVA, Muscle Shoals, AL 35660–1010.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, date of birth, and approximate date of injury.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical records; witnesses of accidents and injuries, including appraisers of property damage.

TVA–7

SYSTEM NAME:

Employee Accounts Receivable—TVA.

SYSTEM LOCATION:

Controller, TVA, Knoxville, TN 37902–1499; Office of the General Counsel, TVA, Knoxville, TN 37902–1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who:

Authorize a payment for specified purposes in their behalf; receive overpayment of earnings; receive duplicate payments; are otherwise indebted to TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information concerning indebtedness and repayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 55; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

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

STORAGE:

Records are maintained on printouts, invoices, posting documents, and invoices.

RETRIEVABILITY:

Records are indexed by payroll number, social security number, badge number, name, or invoice number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Printouts are disposed of in 3 years, invoices in 7 years, microfiche of registers in 50 years, and posting documents in 50 years.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individuals's full name and employing organization. Provisions of the social security number is not required, but may expedite TVA's response and may prevent the erroneous retrieval of records for another individual with the same name.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in the system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA payroll records: TVA disbursement voucher records.

TVA–8

SYSTEM NAME:

Employee Alleged Misconduct Investigatory Files—TVA.

SYSTEM LOCATION:

Office of the General Counsel, TVA, Knoxville, TN 37902–1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees about whom a complaint of misconduct during employment has been made.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information regarding conduct during employment with TVA which may be in violation of law or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10450; Executive Order 11222; Hatch Political Activity Act, 5 U.S.C. 7324–7327; 28 U.S.C. 535.

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

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decisions on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevent enforcement information or other pertinent information and to request information from private individuals if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or investigation number.

SAFEGUARDS:

These records, are stored in a locked GSA-approved security container. Access to the records is limited to TVA attorneys and their administrative assistants who have a need for them in the course of TVA business and to other TVA employees whose need is approved by Office of the General Counsel management.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

This system of records in the requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C.

552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records in exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempted from subsections (c)(3); (d); (e)(1); (4)(G), (4)(H), (4)(I); and (f) of 5 U.S.C. 552a (Section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA-9

SYSTEM NAME:

Medical Record System—TVA.

SYSTEM LOCATION:

Medical Services, TVA, Chattanooga, TN 37402–2801; all TVA medical facilities; Computer Operations, TVA, Chattanooga, TN 37402–2801; National Personnel Records Center, St. Louis, MO 63118; District Offices, Office of Workers' Compensation Programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for TVA employment, employees, former employees, official visitors, contractual assignees to TVA, interns, externs, employees of TVA contractors, and other Federal agencies who are examined under contract.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical information pertinent to an individual's employment, official visit, or contractual work with TVA or other Federal agencies, including medical and psychological history, examination, testing, counseling, treatment, and related information; workers compensation claim records; medical and dental benefit plan records; rehabilitation records; and information related to employee participation in the alcohol and drug testing and employee assistance program.

Medical and psychological information relative to nuclear plant security.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 5 U.S.C. 7902; Federal Employees' Compensation Act, 5 U.S.C. chapter 81, 5 U.S.C. chapter 87 (Medical information relating to life insurance program); 5 U.S.C. 3301; Occupational Safety and Health Act of 1970, Pub. L. 93–237, 87 Stat. 1024, Pub. L. 91–616, Federal Civilian Employee Alcoholism Program and Pub. L. 92–255, Drug Abuse Among Federal Civilian Employees, which are amended in regard to confidentiality of records by Pub. L. 93–282; Public health laws (State and Federal) related to the reporting of health hazards, communicable diseases or other epidemiological information; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

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

Compensation claim records are used for adjudicating claims and providing therapy. Appropriate information is exchanged with physicians, hospitals, and rehabilitation agencies approved by the Office of Workers' Compensation Programs for service to injured employees.

Medical records are used for employee population health monitoring which includes routine clinical and epidemiological investigations. Such studies may require the transfer of selected items of medical data to health-related agencies, organizations, or professionals for the purpose of obtaining specialized clinical consultation, compiling vital and health statistics, or conducting biomedical investigations.

Alcohol and drug testing and employee assistance program records may be exchanged with a physician or treatment center working with an employee, or in accordance with the provisions of Pub. L. 93–282.

Information in the Medical Record System provided to officials of other Federal agencies responsible for other Federal benefit programs administered by Office of Workers' Compensation Programs. Retired Military Pay Centers, Veterans' Administration, Social Security Administration, and private contractors engaged in providing benefits under Federal contracts.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, the issuance of a security clearance, the reporting of an investigation of an employee, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To respond to a request from a Member of Congress regarding an employee.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information regarding claims for health insurance or disability benefits to the health insurance carrier or plan participant.

To request information from a Government agency or private individual, if necessary, to obtain information relevant to a TVA decision within the purposes of this system of records.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To TVA consultants, contractors, and subcontractors who are engaged in studies and evaluation of TVA's administration of its medical program or who are providing support sources to the program.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide information to private physicians and other health care professionals or facilities designated by an employee.

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

STORAGE:

Records are maintained on automated data storage devices, microfilm, and in file folders.

RETRIEVABILITY:

Records are indexed by name, social security number, date of birth, and employee compensation case number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Remote access facilities are secured through physical and system-based safeguards. Special instructions issued to medical staff employees assure the confidentiality of medical records.

RETENTION AND DISPOSAL:

Records are maintained in accordance with TVA rules and regulations approved by the Archivist of the United States. Retention schedules specify the length of time various records are kept. Active medical records are kept indefinitely. Inactive files are kept in Medical Services, TVA, for 6 years followng the date of last medical record entry. They are then purged and essential record material is microfilmed. The paper records are destroyed by recycling. Microfilm records are destroyed 34 years from date of filming.

X-rays of employees are microfilmed 20 years after termination of employee and the original destroyed. The microfilm records are destroyed in TVA 20 years from date of filming. X-rays of nonemployees and all dependents are destroyed in TVA 6 years from date of film.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Director, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals should address inquiries to the system manager named above or to the medical office at the TVA facility where employed, if a current employee.

Individuals should provide their full name, date of birth, employing organization, and date of last employment, and employee compensation case number, if any. Provision of social security number is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact or address their inquiries to the system manager named above or the medical office at the TVA facility where currently employed.

CONTESTING RECORDS PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains; TVA medical staff; private physicians and medical institutions; Office of Workers' Compensation Programs; TVA personnel records; other health agencies and departments.

TVA–10

SYSTEM NAME:

Employee Statement of Employment and Financial Interests—TVA.

SYSTEM LOCATION:

Office of the General Counsel, TVA, Knoxville, TN 37902–1499. Original copies may be kept in line organization offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees at former TVA grade M–8 and above who submitted a report prior to the enactment of the Ethics in Government Act of 1978; employees in TVA pay groups 7 to 11 in positions designated as requiring submission of a statement; every TVA consultant who is a "special Government employee"; every TVA personal service contractor who is a "special Government employee" and who is determined to be an "expert" or who is otherwise required to submit a satement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of employment and financial interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222 and 12674; Ethics in Government Act of 1978; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To report as requested to the Office of Personnel Management pursuant to Executive Order 10577 and other laws.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in the file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons designated by the Chief Operating Officer or the Board of Directors to review statements of financial interest.

RETENTION AND DISPOSAL:

Records are retained in accordance with established records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Associate General Counsel and Designated Agency Ethics Officer, Office of the General Counsel, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system of records are aware of that fact by having filed a statement. However, inquiries may be addressed to the Office of the General Counsel, TVA, Knoxville, TN 37902–1499. Requests should include the individual's full name and employing division.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information about them in this system of records should contact the Office of the General Counsel, TVA, Knoxville, TN 37902–1499.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the Office of the General Counsel, TVA, Knoxville, TN 37902–1499.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

TVA–11

SYSTEM NAME:

Payroll Records—TVA.

SYSTEM LOCATION:

Controller, TVA, Knoxville, TN 37902–1499; garnishment files are located at the Office of the General Counsel, TVA, Knoxville, TN 37902–1499; duplicate copies of some records may also be maintained in the files of the employing organization; National Personnel Records Center, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and personal service contractors selected for certain training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, pay, leave, and debt claim information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Internal Revenue Code; Fair Labor Standards Act, 29 U.S.C. Chapter 8; 5 U.S.C. Chapter 63.

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

To report earnings and other required information to Federal, State, and local taxing authorities as required by law.

To report earnings to the Civil Service Retirement System for members of that system.

To transmit payroll deduction information to financial institutions and employee organizations.

To report earnings to courts when garnishments are served or in bankruptcy or wage earner proceedings.

To report earnings to unions for those crafts on which TVA contributions to union welfare or pension funds are based on earnings. Reports of hours worked are made to unions for those crafts on which such TVA contributions are based on hours worked.

To report earnings to the Department of Housing and Urban Development, State welfare agencies, and State employment security offices where an individual has made a claim for benefit with such agency.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To transfer information necessary to support a claim for life insurance benefits under Federal Employee's Group Life Insurance to Office of Federal Employee's Group Life Insurance.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals, if necessary, to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transfer information regarding claims for health insurance benefits to health insurance carriers.

To TVA contractors and subcontractors engaged in studies and evaluations of TVA payroll and personnel management.

To union representatives exercising their responsibilities under TVA collective bargaining agreements.

To report earnings to the Department of Housing and Urban Development, and State welfare agencies where an individual makes a claim for benefits and to report earnings to State employment security offices in both manual and automated from for use by these offices in determining unemployment benefits.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

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

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are primarily indexed by name. They may also be retrieved by reference to employing organization, date of end of pay period, social security or badge number, year of birth, or job title.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

File folders are retained for 3 years after termination. Timesheets are retained for 7 years. payroll registers are retained in active status for 1 year, transferred to TVA record storage for 5 years, and to National Personnel Records Center for an additional 50 years. Magnetic tapes processed by the Controller are retained for 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Controller, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing organization, and date of last employment. The social security number is not required but may expedite TVA's response and may prevent the erroneous retrieval of records for another individual with the same name.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information on them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct information on them in this system of records should contact the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records;

employee's supervisor for report of hours worked.

TVA-12

SYSTEM NAME:

Travel History Records—TVA.

SYSTEM LOCATION:

Travel and Benefits Accounting, Controller, TVA, Knoxville, TN 37902–1499. Duplicate copies of certain records may also be maintained in the files of the employing organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former TVA employees who traveled on official business and filed travel expense vouchers, applied for a travel advance, or transferred between official stations; recently-hired employees who filed for reimbursement of relocation expenses; candidates for TVA positions who filed for reimbursement of travel expenses; and contractors with which there is an employer/employee relationship (i.e., personal services contractors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel advance requests, travel expense vouchers and supporting documentation, travel charge card program records and reports, and travel orders. Records supporting relocation expense claims also include Government Bills of Lading, real estate sales agreements and settlements, Federal Truth-In-Lending disclosure statements, lease agreements, receipts for loss of rental deposit, and relocation income tax allowance documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5709, and related Federal travel regulations; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Debt Collection Act of 1982 (31 U.S.C. 3711(d)(4)).

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

STORAGE:

Records are maintained on magnetic media, hard-copy printouts, microfiche, and in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Security will be provided by physical, administrative, and computer system safeguards. Files are kept in secured facilities not accessible to unauthorized individuals.

RETENTION AND DISPOSAL:

These records are retained in accordance with TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisor, Travel and Benefits Accounting, Controller, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and social security number.

RECORD ACCESS PROCEDURES:

Individuals who seek access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name and social security number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above. Requests should include the individual's full name and social security number.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA disbursement voucher records; TVA application for travel advance; travel charge card program records and reports.

SYSTEM NAME:

Employment Applicant Files—TVA.

SYSTEM LOCATION:

Human Resources, Employment Services and Human Resource Information System, TVA, Knoxville, TN 37902–1499; area and project employment offices; Computer Operations, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment including former employees seeking reemployment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 5 U.S.C. 3101.

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

To respond to a request from a Member of Congress regarding the status of an individual's application.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request from any pertinent source, directly or through a TVA contractor engaged at TVA's direction, information relevant to a TVA decision concerning the hiring of an employee, the issuance of a security clearance, or other decision within the purposes of this system or records.

To disclose test results to State employment services.

To provide information as requested to the Office of Personnel Management pursuant to Executive Orders 10450 and 10577 and other laws.

To provide information to a Federal agency in response to is request in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices and printouts.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records and limited to those persons whose official duties require such access. All filing systems are locked when unattended. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Applications are kept for one year from last indication of interest, with the exception of apprenticeship applications, which are kept for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Human Resource Services, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to Manager, Employment Services, TVA, Knoxville, TN 37902–1499. Requests should include the individual's full name, social security number, date of birth, and approximate date of application.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the Manager, Employment Services, TVA, Knoxville, TN 37902–1499. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to Manager, Employment Services, TVA, Knoxville, TN 37902–1499.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; educational institutions, employers, and other references; state employment services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); and (f) (2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence and to the extent that disclosure of testing or examination material would compromise the objectivity or fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–14

SYSTEM NAME:

Grievance Records—TVA.

SYSTEM LOCATION:

Labor Relations Staff, TVA, Knoxville, TN 37902–1499.

Original correspondence on the initial grievance steps below the Labor Relations level is maintained in the organization in which the grievance originated. Original correspondence on grievance appeals to the corporate level are maintained in the files of the Labor Relations office.

Duplicate copies of such correspondence are also maintained in the files of the organization concerned with the grievance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees and former employees who have formally appealed to TVA for adjustment of their grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evidence and arguments relevant to the matter giving rise to the grievance and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To respond to a request from a Member of Congress regarding the status of an employee's grievance.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To request information from a Federal, State, or local agency, or private individual if necessary to obtain information relevant to a TVA decision within the purposes of this system of records.

To refer, where there is an indication of a violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained on automated data storage devices in some organizations and in file folders.

RETRIEVABILITY:

Records are indexed by name or by craft.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Labor Relations, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals who have filed grievances are aware of that fact. Inquiries may, however, be addressed to the system manager named above. Requests should include the individual's full name, craft, and location of employment.

RECORD ACCESS PROCEDURES:

Individuals who have filed a grievance may gain access to the official copy of the grievance record by contacting the system manager named above. Requests should include the grievant's full name, craft, and location of employment.

CONTESTING RECORD PROCEDURES:

The contest, amendment, or correction of a grievance record is permitted during the prosecution of that grievance. However, an individual may address requests for amendment or correction of items not involved in prosecution of the grievance to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; TVA personnel records; statements and testimony of witnesses and related correspondence.

TVA–15

SYSTEM NAME:

LAND BETWEEN THE LAKES® Hunter Records—TVA.

SYSTEM LOCATION:

LAND BETWEEN THE LAKES®, TVA, Golden Pond, Kentucky 42211–9001; Computer Operations, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom hunter use permits are issued and those who apply for participation in managed hunts at LAND BETWEEN THE LAKES®.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, State hunting license(s) number(s), and information related to the hunts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 6161.

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

To respond to a request from a Member of Congress regarding the status of an applicant.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as licenses, or to request information from a private individual to the extent necessary to obtain information relevant to a TVA decision concerning the issuance of a permit to hunt or any other privilege.

To provide hunt information to State agencies concerned with wildlife management practices.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To provide mailing lists to organizations or contractors cooperating with LAND BETWEEN THE LAKES® in activities or events for the purpose of publicizing those activities or events.

To provide mailing lists to an independent LAND BETWEEN THE LAKES® support organization for the purpose of soliciting members for the organization.

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES®, for the purpose of soliciting membership in such organizations.

To provide mailing lists to students or faculty of educational institutions for the purposes of research.

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

STORAGE:

Records are maintained on automated data storage devices, card files, and computer printouts.

RETRIEVABILITY:

Records are indexed by name; automated files may be retrieved by any key data element.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Applications for managed hunts are maintained for one year; carbon copies of hunter use permits are maintained two years; and automated records on those permits are maintained five years. Other information may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the system manager named above. Requests should include the name as listed on the application or hunter use permit or the hunter use permit number.

RECORD ACCESS PROCEDURE:

All information maintained in this system of records has normally been supplied by the subject individual. Moreover, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

TVA-16

SYSTEM NAME:

LAND BETWEEN THE LAKES® Register of Law Violations—TVA.

SYSTEM LOCATION:

Patrol Office, LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons cited or arrested for violation of State or Federal law at LAND BETWEEN THE LAKES®.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to the investigation and disposition of the violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; 18 U.S.C. 7, 13; Kentucky Revised Statutes 150, Chapter 43, Kentucky Act 1974; Tennessee Public Acts 1972, Chapter 552.

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

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, organization, or order issued pursuant thereto.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

NOTIFICATION PROCEDURE:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

RECORD ACCESS PROCEDURES:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

CONTESTING RECORD PROCEDURES:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

RECORD SOURCE CATEGORIES:

This system of records has been exempted from this provision pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c) (3), (4); (d); (e) (1), (2), (3), (4)(G), (4)(H), (4)(I), (5); (f); (g) and (h) of 5 U.S.C. 552a (Section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(j)(2) and TVA regulations at 18 CFR 1301.23.

TVA-18

SYSTEM NAME:

Employee Supplementary Vacancy Announcement Records—TVA.

SYSTEM LOCATION:

Human Resource offices in Knoxville and Chattanooga, Tennessee, and Muscle Shoals, Alabama; may also be maintained in other offices that issue or receive response to supplementary vacancy announcements.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees applying for placement in positions covered by the supplementary vacancy announcement procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and supporting material submitted by employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478; Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103; 5 U.S.C. 3101; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Records are maintained in secured facilities.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Human Resources, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals upon whom records are maintained in this system are aware of that fact through filing an application. However, inquiries may be addressed to the name and address to which application was submitted. Requests should include the individual's full name, position applied for, and location of job.

RECORD ACCESS PROCEDURES:

Individuals upon whom records are maintained in this system have supplied all information in this system. However, requests for access may be addressed to the name and address to which application was submitted.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the name and address to which application was submitted.

RECORD SOURCE CATEGORIES:

The individual upon whom the record is maintained.

TVA–19

SYSTEM NAME:

Consultant and Personal Service Contractor Records—TVA.

SYSTEM LOCATION:

Human Resources and Information Services, TVA, Knoxville, TN 37902–1499; Purchasing, TVA, Chattanooga, TN 37402–2801; Computer Operations, TVA, Chattanooga, TN 37402–2801; and TVA user organizations.

Payment records are located at these TVA Controller offices: Knoxville, TN 37902–1499; Chattanooga, TN 37402–2801; and Muscle Shoals, AL 35660–1010.

Records related to personal service contractors employed under the Comprehensive Employment and Training Act of 1973, Pub. L. 93–203, are located at Resource Development, TVA, Knoxville, Tennessee 37902–1499, and LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

Records on individuals who provide services under a TVA contract with an organization are kept in the files of that organization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who provide services to TVA; participants in TVA-State employment programs; individuals who provide services under a TVA contract with an organization; and participants in other special employment programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each organization maintains its contracts, records of the qualifications, performance, and evaluation of the contractor, and related correspondence. For public service employment program participants, Human Resources maintains information related to job placement such as test scores, interest inventories, and supervisor's evaluations. Payment information is maintained by the Controller.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Comprehensive Employment and Training Act, Pub. L. 93–203, 87 Stat. 839; Executive Order 11222; Executive Order 10450; Executive Order 10577; provisions of 5 U.S.C. applicable to employment with TVA; Internal Revenue Code.

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

To transmit reports as requested to the Office of Personnel Management, pursuant to 5 U.S.C. 3323, Executive Orders 10577 and 10450, and other laws.

To report earnings information to the Internal Revenue Service and the Social Security Administration.

To respond to a request from a Member of Congress regarding the status of a contractor or consultant.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto.

To request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To transmit to the appropriate State contracting agency reports of hours worked by participants in the public service employment program, and to request reimbursement.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

To provide the following information to a prospective employer of a TVA or former TVA consultant or personal service contractor: Job descriptions, dates of employment, and reason for separation.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name, social security number, or voucher number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Records are disposed of periodically as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, Human Resources, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know if records on them are maintained in the system should address inquiries to the system manager named above. Requests shall include the individual's full name, employing or contracting organization, and whether the individual was a participant in the public service employment program. Social security numbers are not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals wishing to gain access to information on them in this system of records should contact the system manager named above. Access will not be granted to investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. Access will not be granted to testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; educational institutions, former employers, and other reference sources; State employment services; supervisors and other TVA personnel or personnel records: medical officers; other Federal agencies.

In addition to the above sources, security/suitability investigatory files contain information from law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, and to the extent that disclosure of testing or examination material would compromise the objectivity of fairness of the testing or examination process. This exemption is pursuant to 5 U.S.C. 552a(k) (5) and (6) and TVA regulations at 18 CFR 1301.24.

TVA–21

SYSTEM NAME:

Nuclear Quality Assurance Personnel Records—TVA.

SYSTEM LOCATION:

Nuclear Quality Assurance, TVA, Chattanooga, TN 37402–2801.

Copies of records for Quality Assurance Evaluators are maintained in the office of the Manager, Nuclear Quality Assurance.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees involved in quality assurance work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the qualifications of employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233 as implemented at Nuclear Regulatory Commission Regulatory Guide 1.58.

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To the Nuclear Regulatory Commission or its authorized representatives for inspection or evaluation of TVA Quality Assurance procedures.

To respond to a request from a Member of Congress regarding the status of an employee.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigation and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Nuclear Quality Assurance, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name and employing organization.

RECORD ACCESS PROCEDURE:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from subsection (d); (e)(4)(H); (f)(2), (3), and (4) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) to the extent that disclosure of material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. The exemption is pursuant to 5 U.S.C. 552a(k)(5) and TVA regulations at 18 CFR 1301.24.

TVA–22

SYSTEM NAME:

Questionnaire—Farms in Vicinity of Proposed or Licensed Nuclear Power Plant—TVA.

SYSTEM LOCATION:

Agricultural Institute, TVA, Muscle Shoals, AL 35660–1010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals from whom TVA purchases land for proposed nuclear plant, individuals having vegetable gardens, irrigated land, dairy cows, and milk goats within two-mile radius of proposed or licensed plant site.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information and information related to agriculture, milk consumption, water resources, and farm product value.

This information is not used for making determinations about the rights, benefits, or privileges of any individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; National Environmental Policy Act, Pub. L. 91–190, 83 Stat. 852; Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233.

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

Information in this systems of records is used in developing environmental evaluations and impact statements. Certain relevant but nonsensitive information may be disclosed in these statements. Information may also be used:

In administrative and licensing proceedings including the presentation of evidence and disclosure to opposing counsel in the course of discovery.

To disclose to any agency of the Federal Government having oversight or review authority with regard to TVA activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by assigned number and aerial photo number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are maintained indefinitely or for the life of the plant.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Agricultural Institute, TVA, Muscle Shoals, AL 35660–1010.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained in this system are aware of that fact through response to the questionnaire. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name, farm address, and approximate date of survey.

RECORD ACCESS PROCEDURES:

Individuals on whom information is maintained in this system have supplied all such information. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individual about whom the record is maintained.

TVA–23

SYSTEM NAME:

Radiation Dosimetry Personnel Monitoring Records—TVA.

SYSTEM LOCATION:

Radiological Health Department, Nuclear Assurance and Services, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, former employees, and visitors who might be exposed or are exposed to radiation while in TVA installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on the magnitude of exposure at TVA installations, exposure prior to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Energy Reorganization Act of 1974, Pub. L. 93–438, 88 Stat. 1233; 10 CFR parts 19, 20; Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To the Nuclear Regulatory Commission for its use in evaluating TVA hazard control measures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to

respond to process issued under color of authority of a court of completent jurisdiction.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by name and social security number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

These records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Radiological Health Department, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and whether or not a TVA employee.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; TVA personnel conducting radiation monitoring programs.

TVA–26

SYSTEM NAME:

Retirement System Records—TVA.

SYSTEM LOCATION:

Retirement Services, TVA, Knoxville, TN 37902–1499.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired, and former members of the TVA Retirement System; TVA employees and former employees who are members of the Civil Service Retirement System; designated beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information; retirement, benefit, and investment information; related correspondence; and legal documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Internal Revenue Code.

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

To report earnings to the Internal Revenue Service.

To supply information on coverage to Blue Cross-Blue Shield of Tennessee, Provident Life Insurance Company, and other insurance carriers.

To disclose information to actuarial firms for valuation and projecting benefits.

To disclose information to the Medical Board of the TVA Retirement System for determinations related to disability retirement.

To certify insurance status to the Office of Personnel Management and the Office of Federal Employees' Group Life Insurance.

To respond to a request from a Member of Congress regarding the status of a system member.

To request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to a TVA decision within the purpose of this system of records.

To refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

To provide information to a Federal agency, in response to its request, in connection with the issuance of any benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To provide the TVA Retirees Association, retired members of the TVA Retirement System, and retired former TVA employees who are covered by the Civil Service Retirement System, with names and mailing addresses of other retired members and retired employees.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained on automated data storage devices, ledgers, and in file folders.

RETRIEVABILITY:

Records are indexed by name, sex, date of birth, address, social security number, active member number, retirement number, or salary.

SAFEGUARDS:

Records in this system are maintained in locked files or safes, in secure facilities. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retention periods vary from two years to permanent depending on the nature of the information and the medium in which they are stored.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Retirement Services, Division of Finance, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Inquiries should include the individual's full name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Individuals who desire access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals wishing to correct or amend information maintained on them in this system should address inquiries to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained; TVA personnel and payroll records.

TVA-27

SYSTEM NAME:

Test Demonstration Farm Records—TVA.

SYSTEM LOCATION:

Resource Development, Technology Development, National Programs, TVA, Muscle Shoals, AL 35660–1010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Farmers located outside the Tennessee Valley participating in TVA demonstration farm programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agricultural, income, investment, labor, and food data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To request information from a Government agency or private individual where such information may be relevant to providing additional assistance under this program.

To disclose to State extension services and the U.S. Department of Agriculture for use in program evaluation and in assistance to program participants.

To the appropriate agency, whether Federal, state, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices, cards, and printouts.

RETRIEVABILITY:

Records are indexed by an assigned number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities and locked when unattended.

RETENTION AND DISPOSAL:

Records are retained indefintely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Technology Development, TVA, Muscle Shoals, AL 35660–1010.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, county, and State in which individual participated in a TVA farm demonstration program.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system is solicited from the individual to whom the record pertains by State extension services and universities.

TVA-28

SYSTEM NAME:

Woodland Resource Analysis Program Input Data—TVA.

SYSTEM LOCATION:

River Basin Operations, Resource Development, TVA, Norris, TN 37828; River Basin Operations, Resource Development, TVA Muscle Shoals, AL 35660–1010.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private landowners, agencies, and corporations owning woodlands in Valley region and participating in TVA woodland resource management demonstration program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal, financial, and land resource information pertinent to woodland resource planning. The information in this system is not used by TVA in the determination about the rights, benefits, or privileges of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd: Executive Order 6161.

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

Evaluated information is supplied to State forestry personnel for use in assisting the landowner.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained on hard/copy printouts and microfiche.

RETRIEVABILITY:

Records are indexed by State.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Files are kept in secured facilities.

RETENTION AND DISPOSAL:

Records are retained for 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Vice President, River Basin Operations, Resource Development, TVA, Knoxville, TN 37902, 1499.

NOTIFICATION PROCEDURE:

Individuals on whom information is maintained are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Individuals should provide their full name, State of residence, and the calendar year(s) of participation in the program.

RECORD ACCESS PROCEDURE:

Individuals on whom records are maintained have been provided copies of all information in that record. However, requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains provides the information to State forestry personnel. The information is evaluated by TVA and returned to the State forestry personnel who utilize the information in evaluated form to assist the landowner.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

TVA-29

SYSTEM NAME:

Electricity Use, Rate, and Service Study Records—TVA.

SYSTEM LOCATION:

Transmission and Customer Service, Rate Design, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals residing in households which are participating in eletricity use, rate, and service studies including those receiving electricity conservation assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about an individual's income, employment, family size, characteristics of his dwelling including type of heating and cooling systems and number and kind of appliances, and other characteristics of study participants relevant to patterns of residential electrical use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To distributors and contractors assisting TVA in the study.

To the appropriate agency, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are indexed by an identification number assigned to each household.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

RETENTION AND DISPOSAL:

Survey information will be retained until completion of the program and for two years thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of Rate Design, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Requests for access may be directed to the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains.

TVA-30

SYSTEM NAME:

LAND BETWEEN THE LAKES® Mailing lists—TVA.

SYSTEM LOCATION:

LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons using, visiting, or having an interest in the activities, programs, or facilities of LAND BETWEEN THE LAKES®.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal identifying information, address, and information about their LAND BETWEEN THE LAKES® associated interests, activities, or program participation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order No. 6161.

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

To provide mailing lists to organizations or TVA contractors cooperating with LAND BETWEEN THE LAKES® in activities or events for the purpose of publicizing those activities or events.

To provide mailing lists to an independent LAND BETWEEN THE LAKES® support organization for the purposes of soliciting members for the organization.

To provide mailing lists to nonprofit conservation organizations, having missions related to that of LAND BETWEEN THE LAKES®, for the purpose of soliciting memberships in such organizations.

To provide mailing lists to students or faculty of educational institutions for the purposes of research.

To provide mailing lists to participants in LAND BETWEEN THE LAKES® Leadership Training programs for the purpose of facilitating communication among participants.

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

STORAGE:

Records are maintained on card files, automated data storage devices, and computer printouts.

RETRIEVABILITY:

Records are primarily indexed by name and identification code. They may also be retrieved by reference to interests, organization, or address elements.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Access facilities are secured through physical, administrative, and system-based safeguards.

RETENTION AND DISPOSAL:

Records are kept for the period of time the individual is to receive mailings.

SYSTEM MANAGER(S) AND ADDRESS:

Manager of LAND BETWEEN THE LAKES®, TVA, Golden Pond, KY 42211–9001.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address their inquiries to the system manager name above. Request should include the individual's full name and address.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the system manager named above.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, organization representatives, and TVA employees.

TVA–31

SYSTEM NAME:

OIG Investigative Records—TVA.

SYSTEM LOCATION:

Office of the Inspector General, TVA, Knoxville, TN 37902–1499. Duplicate copies of certain documents may also be located in the files of other offices and divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations by the Office of the Inspector General (OIG) or who provide information in connection with such investigations, including but not limited to: Employees, former employees, current or former contractors and subcontractors and their employees, consultants, and other individuals and entities which have or are seeking to obtain business or other relations with TVA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to investigations, including information provided by known or anonymous complainants; information provided by the subjects of investigations; information provided by individuals or entities with whom the subjects are associated (e.g., coworkers, business associates, relatives); information provided by Federal, State, or local investigatory, law enforcement, or other Government or non-Government agencies; information provided by witnesses and confidential sources; information from public source materials; information from commercial data bases or information resources; investigative notes; summaries of telephone calls; correspondence; investigative reports or prosecutive referrals; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Executive Order 10450; Executive Order 11222; Hatch Act, 5 U.S.C. 7324–7327; 28 U.S.C. 535; Proposed Plan for the Creation, Structure, Authority, and Function of the Office of Inspector General, Tennessee Valley Authority, approved by the TVA Board of Directors on October 18, 1985; TVA Code XIII INSPECTOR GENERAL, approved by the TVA Board of Directors on Febraury 19, 1987; and Inspector General Act Amendments of 1988, Pub. L. 100–504, 102 Stat. 2515.

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

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal, State, or local entity (1) in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant to a decision on such matters or (2) in connection with any other matter properly within the jurisdiction of such other entity and related to its prosecutive, investigatory, regulatory, administrative, or other responsibilities.

To the appropriate entity, whether Federal, State, or local, in connection with its oversight or review responsibilities or authorized law enforcement activities.

To respond to a request from a Member of Congress regarding an individual, or to report to a Member on the results of investigations, audits, or other activities of OIG.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To the subjects of an investigation and their representatives in the course of a TVA investigation of misconduct; to any other person or entity that has or may have information relevant to the investigation to the extent necessary to assist in the conduct of the investigation, such as to request information.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To a consultant, private firm, or individual who contracts or subcontracts with TVA, to the extent necessary to the performance of the contract.

To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant or potentially relevant information and to request information from private individuals or entities, if necessary, to acquire information pertinent to the hiring, retention, or promotion of an employee, the issuance of a security clearance, the conduct of a background or other investigation, or other matter within the purposes of this system of records.

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

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by individual name or case file number.

SAFEGUARDS:

Access to and use of records is limited to authorized staff in OIG and to other authorized officials and employees of TVA on a need-to-know basis as determined by OIG management. Security will be provided by physical, administrative, and computer system safeguards. Files will be kept in secured facilities not accessible to unauthorized individuals.

RETENTION AND DISPOSAL:

These records are retained in accordance with TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD ACCESS PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

CONTESTING RECORD PROCEDURES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

RECORD SOURCE CATEGORIES:

This system of records is exempt from this requirement pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsections (c)(3); (d); (e)(1), (4)(G), (4)(H), and (4)(I); and (f) of 5 U.S.C. 552a (section 3 of the Privacy Act of 1974) pursuant to 5 U.S.C. 552a(k)(2) and TVA regulations at 18 CFR 1301.24.

TVA–31

SYSTEM NAME:

Call Detail Records—TVA.

SYSTEM LOCATION:

Data Center, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees, contractor personnel, and other individuals who make telephone calls from or charge telephone calls to TVA telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of TVA telephones; records relating to long distance telephone calls charged to TVA; records indicating assignment of telephone numbers and authorization numbers; records relating to locations of TVA telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To respond to a request from a Member of Congress regarding an individual.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To a telecommunications company as well as to other TVA contractors providing telecommunications support to permit servicing the account.

To TVA contractors engaged at TVA's direction in investigations of abuse of TVA telephone service or other related issues.

To TVA contractors and contractor personnel to determine individual responsibility for telephone calls.

To TVA contractors in connection with amounts due TVA for telecommunications services provided to them.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are retrieved by name, authorization number, or telephone number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Automated data is secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Telecommunications Services Department, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

TVA Telecommunication Control System; telecommunications companies with which TVA contracts for telephone service; telephone and authorization number assignment records; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

TVA–33

SYSTEM NAME:

Office of Nuclear Power Call Detail Records—TVA.

SYSTEM LOCATION:

Emergency Operations Center, Computer Room, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

TVA employees, contractor personnel, and other individuals who make telephone calls from or charge telephone calls to TVA telephones located at TVA nuclear plant sites.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of TVA telephones at TVA nuclear plant sites; records relating to long distance telephone calls charged to TVA telephones at TVA nuclear plant sites; records indicating assignment of telephone numbers and authorization numbers at TVA nuclear plant sites; records relating to locations of TVA telephones at TVA nuclear plant sites.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To respond to a request from a Member of Congress regarding an individual.

To provide to the appropriate entity, whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decision makers in proceedings under the TVA grievance adjustment procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

To a telecommunications company as well as to other TVA contractors providing telecommunications support to permit servicing the account.

To TVA contractors engaged at TVA's direction in investigations of abuse of TVA telephone service or other related issues.

To TVA contractors and contractor personnel to determine individual responsibility for telephone calls.

To TVA contractors in connection with amounts due TVA for telecommunications services provided to them.

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

STORAGE:

Records are maintained in file folders and on automated data storage devices.

RETRIEVABILITY:

Records are retrieved by name, authorization number, or telephone number.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Automated data is secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

These records are retained in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Telecommunications Services Department, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals wishing to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above. Requests should include the individual's full name, employing division, job title, and official TVA telephone number and authorization number.

RECORD SOURCE CATEGORIES:

Station message detail recording systems associated with telecommunications equipment at TVA nuclear plant sites; telecommunications companies with which TVA contracts for telephone service; telephone and authorization number assignment records; results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

TVA–34

SYSTEM NAME:

Project/Tract Files—TVA.

SYSTEM LOCATION:

Land Management and Disposal Files, TVA Records Center, and Computer Operations, TVA, Chattanooga, TN 37402–2801.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or business entities from/to whom TVA is in the process of or has (1) acquired, transferred, or sold land or landrights, (2) made payment for construction, maintenance, or other damage to real property, or (3) made payment for relocation assistance. A project/tract file may name more than one individual and/or business entity involved in a transaction. (The system records that pertain to individuals and reflect personal information are subject to the Privacy Act. The system also contains records that are not subject to the Privacy Act. Noncovered records include public information and records on corporations and other business entities.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Maps, property descriptions, appraisal reports, and title documents on real property; reports on contracts and transaction progress; contracts and options; records of investigations, claims, and/or payments related to land transactions, damage restitution, and relocation assistance; related correspondence and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd; Pub. L. 87–852, 76 Stat. 1129; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

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

The response to a request from a Member of Congress regarding an individual.

To lienholders as necessary to secure subordinations or releases of liens or to protect lienholders rights.

To county clerk and register of deeds offices to document and put on record the title acquired by TVA.

To landowners, prospective landowners, claimants, or trespassers to establish or cure titles, to resolve encroachments, to resolve boundary disputes, or to resolve questions about easement rights or the application of Section 26a of the TVA Act, 16 U.S.C. 831y–1.

To contractors to secure appraisals and title abstracts.

To request information from a Federal, State, or local agency or from private individuals as necessary to obtain information relevant to a TVA decision to acquire or dispose of property or to pay claims or make payments related to land transactions, damage restitution, and relocation assistance.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies, or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant to the requesting agency's decision on that matter.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To provide to the appropriate entity whether Federal, State, or local, in connection with its oversight review responsibilities or authorized law enforcement activities.

To report any required information to Federal, State, and local taxing authorities as required by law.

To genealogical researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years to establish historical records.

To archaeological researchers, relevant portions of maps, descriptions, appraisals, and title documents on real property, after 20 years to reconstruct historical settings.

To respond to a request from a Member of Congress regarding the status of a matter relating to a specific project or tract.

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

STORAGE:

Records are maintained on registers, index and aperture cards, microfilm, in file folders, and/or on automated data storage devices.

RETRIEVABILITY:

Records are primarily indexed by tract number and project symbol. Records may also be retrieved by cross-index reference to individual and business entity names.

SAFEGUARDS:

Access to and use of these records are limited to persons whose official duties require such access. Files are kept in secured facilities. Remote access facilities are secured through physical and system-based safeguards.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with established TVA record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Land Acquisition and Disposal, Resource Development, TVA, Chattanooga, TN 37402–2801.

NOTIFICATION PROCEDURE:

Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager named above. Requests should include the individual's full name and, to the extent known, any project/tract identifying information such as the project name, tract number, address, or related data.

RECORD ACCESS PROCEDURES:

Individuals seeking to gain access to information about them in this system of records should contact the system manager named above. Requests should include the individual's full name, and to the extent known, any project/tract identifying information such as project name, tract number, address, or related data. Access will be granted only to individually segregable personal information about the requester and to segregable nonpersonal information in accordance with TVA regulations on release of records relating to negotiations in progress involving contracts or agreements for the acquisition or disposal of real or personal property by TVA prior to the conclusion of such negotiations.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their requests to the system manager named above.

RECORD SOURCE CATEGORIES:

Public records and directories; landowners, tenants, and other individuals and business entities (including financial institutions) having an interest in or knowledge related to land ownership, appraisal, or title history; TVA personnel and contractors including independent appraisers and commercial title companies.

TVA–35

SYSTEM NAME:

Building Access Security Records—TVA.

SYSTEM LOCATION:

Public Safety Service, TVA, Knoxville, TN 37902–1499, and Public Safety Service, TVA, Chattanooga, TN 37402–2801. Duplicate copies of certain records may also be located in the files of various organizations' offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals including, but not limited to: Current or former employees; current or former contractor personnel, subcontractor personnel; visitors, and other idnviduals that have or are seeking to obtain business or other relations with TVA; and individuals who have requested and/or been granted access to TVA buildings or secured areas within a building.

CATEGORIES OF RECORDS IN THE SYSTEM:

Visitor and employee registers, TVA forms authorizing access for individuals into TVA buildings or secured areas within a building, and historical information on an individual's building access or denial of access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd.

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

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

To provide information to a Federal, State, or local entity (1) in connection with the hiring or retention of an individual, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant to a decision on such matters or (2) in connection with any other matter properly within the jurisdiction of such other entity and related to its prosecutive, investigatory, regulatory, administrative, or other responsibilities.

To the appropriate entity, whether Federal, State, or local, in connection with its oversight or review responsibilities or authorized law enforcement activities.

To respond to a request from a Member of Congress regarding an individual.

To the parties or complainants, their representatives, and impartial referees, examiners, or administrative judges, or other decisionmakers in proceedings under the TVA grievance adjustment procedures, TVA Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To a consultant, private firm, or individual who contracts or subcontracts with TVA, to the extent necessary to the performance, of the contract.

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

STORAGE:

Records are maintained on automated data storage devices, hard-copy printouts, and in file folders.

RETRIEVABILITY:

Hard-copy records are indexed by card access number; automated files may be retrieved by any key data element.

SAFEGUARDS:

Security is provided by physical, administrative, and computer system safeguards. Records are kept in secured facilities not accessible to authorized individuals.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with established TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Public Safety Service, TVA, Knoxville, TN 37902–1499.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named above. Individuals should provide name and social security number.

RECORD ACCESS PROCEDURES:

Requests for access may be addressed to the system manager named above. Individuals should provide name and social security number.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

The individual about whom the record pertains; requesting organization; TVA personnel records.

Louis S. Grande,

Vice President, Information Services.

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federal register

Friday
August 24, 1990

Part IV

Department of Education

34 CFR Part 302

Chapter 1 State-Operated or Supported Programs for Handicapped Children Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 302

RIN 1820-AA83

Chapter 1 State Operated or Supported Programs for Handicapped Children Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the chapter 1 State Operated or Supported Programs for Handicapped Children program (chapter 1 Handicapped program) authorized under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. This program provides financial assistance to State operated and supported programs and projects to supplement the provision of special education and related services or early intervention services to handicapped infants, toddlers, and children.

EFFECTIVE DATE: These final regulations take effect either October 9, 1990, or later if the Congress takes certain adjournments, with the exception of § 302.22. Section 302.22 will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these final regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. William Tyrrell, Director, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Switzer Building, room 3609, MES 2720, Washington, DC 20202; telephone: (202) 732-1025.

SUPPLEMENTARY INFORMATION:

A. Background

On April 28, 1988, the President signed into law the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Public Law 100-297 (the Act). Title I of the Act amends the Elementary and Secondary Education Act of 1965 (ESEA) to include new and reauthorized Federal education programs. One of the programs that was reauthorized and substantively revised is the chapter 1 Handicapped program. This program provides financial assistance, through Stated educational agencies, to State agencies and local educational agencies to supplement the provision of special education and related services or early intervention services to handicapped infants, toddlers, and children participating in programs and projects assisted under this part.

On October 17, 1989, the Secretary published a notice of proposed rulemaking (NPRM) for the chapter 1 Handicapped program in the **Federal Register** (54 FR 42704-42714). The preamble included a summary of the most significant statutory changes resulting from the reauthorization of the chapter 1 Handicapped program.

B. Analysis of Comments

In the October 17, 1989 NPRM, the Secretary allowed 62 days for interested parties to comment on the proposed regulations. At public request, a notice was published in the **Federal Register** at 55 FR 1217 (January 12, 1990), extending the public comment period to January 26, 1990.

The Secretary received 42 written comments on the NPRM from a variety of agencies, individuals, and organizations, many of which have had long experience with the chapter 1 Handicapped program. An analysis of the comments and the changes that have been made in the regulations since publication of the NPRM is included as the Appendix to these final regulations.

As a result of public comment on the NPRM, the Secretary has made a number of changes in the final regulations. In addition, some other changes have been made to clarify and unify the treatment of common issues that appear throughout the final regulations. The most significant changes in these final regulations are summarized below.

C. Major Changes in the Regulations

1. Clarification of Terminology

In response to a request from commenters, the term "have been fully served" in §§ 302.1(c) and 302.60, which is statutory language, has been deleted and replaced with language that clarifies the statutory requirement. The revised language clarifies that other handicapped infants, toddlers, and children aged birth through twenty-one, who do not meet the description in § 302.1(a) and (b) of these final regulations, are eligible for services under the chapter 1 Handicapped program only if the State educational agency determines that all the handicapped infants, toddlers, and children described in § 302.1(a) and (b) are enrolled in programs or projects that are designed to supplement their special education or early intervention needs, and in the case of handicapped children, are receiving special education and related services in accordance with an individualized education program (IEP) under part B of the Education of the Handicapped Act (EHA) or in the case of handicapped infants and toddlers, are receiving early intervention services in accordance with an individualized family service plan (IFSP) under part H of the EHA.

Section 302.5(a) of these final regulations has been revised by adding the definition of "children" in section 1221(a) of the statute to the list of definitions in the Elementary and Secondary Education Act of 1965 that applied to this part. This change was made to clarify that references to children throughout these final regulations include handicapped children as defined in part B of the EHA and handicapped infants and toddlers as defined in this part. The definition of "handicapped children" in 34 CFR 302.5(e) of the NPRM has been deleted. The definition of "handicapped children" in 34 CFR 300.5 of the regulations for part B of the EHA has been made applicable to this part, except with respect to individuals from birth through aged two, and that definition has been added to § 302.5(c) of these final regulations, which contains the definitions from 34 CFR part 300 that apply to this part.

2. Application of the Education Department General Administrative Regulations

The references to the Education Department General Administrative Regulations (EDGAR) in the NPRM have been substantially retained in these final regulations. However, two changes were made to ensure consistency with parallel requirements in other Department regulations. Another change was necessary because of regulations. Another change was necessary because of additional requirements under other regulations that were made applicable to this part since the publication of the NPRM. The reasons for the Secretary's decision are set forth in the appendix.

On October 23, 1989, the President signed into law the Department of the Inteior and Related Agencies Appropriations Act for Fiscal Year 1990. Under this law, as of December 23, 1989, all recipients of Federal grant funds, including funds under the chapter 1 Handicapped program, (and their subtier contractors and/or subgrantees) are prohibited from using appropriated

funds for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. In addition, for each award action over $100,000 after December 22, 1989, this law requires each recipient and its subtier contractors and/or subgrantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with nonappropriated funds after December 22, 1989, and (3) to file quarterly updates about the use of lobbyists if material changes occur in their use. The Secretary published final regulations in the **Federal Register** on February 26, 1990 (55 FR 6736–6746), to be codified in 34 CFR part 82 (New Restrictions on Lobbying), which became effective on April 16, 1990. Therefore, a new paragraph (a)(5), which makes 34 CFR part 82 (New Restrictions on Lobbying) applicable to this part, has been added to § 302.4 of these final regulations.

As with other parts of EDGAR that the Secretary has determined are applicable to this part, the Secretary believes that these final regulations are the minimum necessary for ensuring basic accountability without imposing undue paperwork and additional administrative burdens on State and local educational agencies.

3. Activities That May Be Assisted

Section 302.3 of the NPRM provided that the Secretary makes payments to States to carry out activities, programs, and projects that are designed to supplement the special education or early intervention needs of handicapped children participating in programs funded under this part. The Secretary has determined that this provision of the NPRM was not entirely consistent with the relevant statutory authority in section 1222(a) of the Act. Under the statute, the Secretary makes payments to States to carry out activities, programs, and projects that are designed to supplement the provision of special education and related services to handicapped children participating under this part or early intervention services to handicapped infants and toddlers participating under this part. Therefore, language has been added to § 302.3 to specify that payments made to States under this part may be used to support programs, projects, and activities that supplement the provision of special education and related services to handicapped children and early intervention services to handicapped infants and toddlers, consistent with § 302.63 of these final regulations. This change reflects clarification provided throughout these final regulations that all handicapped infants and toddlers particpating in programs and projects assisted under this part must receive early intervention services, and not a free appropriate public education, except in States participating in part H of the EHA during the phase-in period for part H services.

4. Assurances in a State Educational Agency's Application to the Secretary

In response to comments concerning which standards State educational agencies should apply to early intervention programs and projects assisted under this part, § 302.11(a)(2)(ii) has been added to specify that the early intervention standards in the regulations for part H of the EHA at 34 CFR part 303 (Early Intervention Program for Infants and Toddlers with Handicaps) apply to programs and projects designed to supplement the provision of early intervention services to handicapped infants and toddlers.

The Secretary received a number of comments requesting clarification of data collection requirements in § 302.11(h) of the NPRM. Language has been added to § 302.11(h)(1)–(2) specifying that handicapped children aged six through twenty-one must be counted by age and disability, but that handicapped infants and toddlers aged birth through two and handicapped children aged three through five are counted only by age, and not by disability. These data collection requirements are consistent with the requirements of section 618 of the EHA, which is referenced in section 1221(b)(5)(a) of the Act.

Further, the Secretary believes that the application of these data collection requirements to individuals aged birth through five is particularly important since it prevents unnecessary labeling of these individuals with a specific handicapping condition.

In response to a request from commenters that the Secretary clarify a State educational agency's monitoring responsibility for early intervention program services in § 302.11(e), a comment has been added following § 302.11 of these final regulations regarding the standards that States are to apply in monitoring programs and projects that are designed to supplement the provision of early intervention services to handicapped infants and toddlers.

5. Child Count Requirements

The Secretary received many comments requesting clarification as to whether handicapped infants and toddlers, who transferred from State operated or supported programs in which they received early intervention services in order to participate in local educational agency programs in which they receive a free appropriate public education, could become transfer students. Paragraph (a)(3) has been added to § 302.22 to clarify that handicapped infants and toddlers may become transfer students only if they transfer from State agency programs in which they were receiving a free appropriate public education for at least one school year, as that period is defined by State law for handicapped as well as nonhandicapped infants, toddlers, and children, in order to participate in local educational agency programs in which they continue to receive a free appropriate public education, provided that the State received a part H grant award for the previous fiscal year and also receives a part H grant.

In light of the Secretary's experience in administering the Chapter 1 Handicapped program since the effective date of the reauthorized Chapter 1 Handicapped program statute, the Secretary has determined that a provision must be added to § 302.22 by including a new paragraph (c) to clarify that the only children eligible to be counted for purposes of computing a grant or subgrant under this part are those handicapped children enrolled on December 1 who are receiving a free appropriate public education, and, except as provided in § 302.63(a), those handicapped infants and toddlers enrolled on December 1 who are receiving early intervention services at no cost to parents, in accordance with § 302.63(c) of these final regulations. This clarification is consistent with the Department's longstanding practice that parents of all participants in the Chapter 1 Handicapped program may not be charged for required services.

The Secretary received many comments on the provision at § 302.23(d) of the NPRM, redesignated as § 302.23(b) in these final regulations, which prohibits the counting of infants and toddlers who are at risk of becoming developmentally delayed if early intervention services are not provided. The Secretary recognizes that States participating under part H of the EHA may serve "at risk" infants and toddlers with part H funds. Under the Chapter 1 Handicapped program statute,

infants and toddlers, who are at risk of becoming developmentally delayed if early intervention services are not provided and who are not "Handicapped," are ineligible to be counted for the purpose of computing a grant or subgrant under this part. Therefore, the Secretary has no legal authority to make "at risk" infants and toddlers, as defined in § 303.16(a) of the regulations for part H of the EHA, eligible to be counted under this part.

6. State Agency Responsible for Providing Free Appropriate Public Education on Early Intervention Services

Section 302.24 has been revised to clarify that if a handicapped infant or toddler receives early intervention services from more than one State agency, the State agency that is primarily responsible for the provision of early intervention services must count that infant or toddler under this part.

7. Assurances in a Subgrantee's Application to the State Educational Agency

In order to ensure consistency of data collection requirements throughout these final regulations for grantees and subgrantees, and in response to requests for clarification from commenters, changes in data collection requirements for subgrantees in §302.31(b)(1)–(2) have been made in these final regualtions. These revised requirements correspond to the changes made to §302.11(h)(1)–(2) of these final regulations and also reflect applicable statutory requirements in part B of the EHA that apply to this part.

In response to a comment, § 302.31(b)(5) of these final regulations has been revised to require that a subgrantee's application contain a description of the opportunities that parents have received to participate in the development of the project application. This change is consistent with the Secretary's authority to require that project applications contain such information as is necessary to insure that a subgrantee has met its obligation to provide parents with opportunities to participate in the development of the project application. Since the project application is not submitted to the State until parents have had opportunities to participate in its development, § 302.31(b)(5) has been revised in these final regulations to require that this information be submitted with the project application.

8. Allowable Expenditures

In the NPRM, the Secretary specifically requested public comment regarding services that can or cannot be paid for with funds provided under this part. Clarification as to allowable expenditures under this part is provided in the Appendix to these final regulations, which includes an analysis of the comments the Secretary received on subpart F of the NPRM. The follwoing is a summary of the changes in these final regulations to fiscal requirements which have been made in response to public comment.

Section 302.51(b) of the NPRM, which provided that parents cannot be charged for room and board for a residential placement required for educational purposes, has been changed from a regulatory provision to a Comment following § 302.62 of these final regulations, since it is already required under part B of the EHA and need not be included as a specific regulatory provision in this part.

Section 302.51(c) of the NPRM, redesignated as § 302.51(b), has also been revised to clarify that funds distributed under this part can be used to pay for tuition and fees only if the tuition and fees are associated with activities other than special education and related services that are specified in a handicapped child's IEP or early intervention services that are specified in a handicapped infant's or toddler's IFSP.

9. Post-Award Conditions

Section 302.63(a) of the NPRM made it permissible for States that did not participate in part H of the EHA to assure that handicapped infants and toddlers participating in programs and projects assisted under this part received a free appropriate public education and that the procedural safeguards in part B of the EHA and 34 CFR part 300 were afforded to them and their parents. However, in light of statutory requirements that mandate assurances from grantees and subgrantees that all handicapped infants and toddlers participating under this part receive early intervention services, and that they and their families are afforded all the rights and procedural safeguards in part H of the EHA, the Secretary has determined that § 302.63(a) of the NPRM should be deleted from these final regulations. This change has been made because the Secretary has concluded that except for the situation described in § 302.63(a) of these final regulations, it is impermissible for States to receive assistance under this part based on their provision of a free appropriate public education to handicapped infants and toddlers in lieu of early intervention services.

Based upon the legislative history of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the provisions in § 302.63(b) of the NPRM concerning services during the phase-in period for part H services for States participating in part H of the EHA have been retained and redesignated as § 302.63(a) of these final regulations. With this exception, States receiving assistance under this part must assure that all handicapped infants and toddlers participating in programs and projects assisted under this part receive early intervention services, and that they and their families are afforded all the rights and procedural safeguards under part H of the EHA.

In the NPRM, the Secretary invited comment on whether early intervention services required under this part should be provided at no cost to parents. Based on an analysis of these comments and, in particular, the experience of State educational agencies that had previously served handicapped infants and toddlers under this part without charging parents for required services, § 302.63(d) of the NPRM has been retained and redesignated as § 302.63(c) in these final regulations.

The Secretary has determined that, at the time, all required early intervention services provided to handicapped infants and toddlers under this part should be provided at no cost to parents. The Secretary believes that the prohibition against charging parents for required early intervention services under this part is consistent with the Department's longstanding practice that all participants in the Chapter 1 Handicapped program not be charged for required services in order to be counted for purposes of computing a grant or subgrant under this part, consistent with § 302.22(c) of these final regulations.

At the current time, data are not available on the effects of charging parents under an income-based sliding fee scale with regard to State program incentives and family disincentives for participation in the Chapter 1 Handicapped Program. Part H of the EHA currently allows States to implement a sliding fee schedule in providing early intervention services to handicapped infants and toddlers. The Secretary will undertake an evaluation of States that implement such a sliding fee scale under part H, and re-evaluate the Department's position regarding the Chapter 1 Handicapped Program as the data become available.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

List of Subjects in 34 CFR Part 302

Education, Education of handicapped, Elementary and Secondary education, Grant programs education.

Dated: June 28, 1990.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.009; Chapter 1 State Operated or Supported Programs for Handicapped Children Program)

The Secretary amends title 34 of the Code of Federal Regulations by revising part 302 to read as follows:

PART 302—CHAPTER 1 STATE OPERATED OR SUPPORTED PROGRAMS FOR HANDICAPPED CHILDREN PROGRAM

Subpart A—General

Sec.

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302.2 Who is eligible for an award?
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Subpart B—How Does a State Apply for a Grant?

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302.60 May uncounted children be served in programs and projects under this part?
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302.63 How does a State educational agency administer this program in a manner consistent with Part H of the EHA?
302.64 What complaint procedures shall a State adopt?
302.65 What minimum complaint procedures shall a State adopt?
302.66 How may an organization or individual file a complaint?
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Authority: 20 U.S.C. 2791 *et seq.*, unless otherwise noted.

Subpart A—General

§ 302.1 What is the Chapter 1 State Operated or Supported Programs for Handicapped Children program?

Under the Chapter 1 State Operated or Supported Programs for Handicapped Children program (Chapter 1 Handicapped program), the Secretary provides financial assistance to State educational agencies and, through them, to State agencies and local educational agencies to provide services designed to supplement special education or early intervention services for children—

(a)(1) For whom the State is directly responsible for providing special education or early intervention services (including schools or programs providing special education and related services for handicapped children under contract or other arrangements); and

(2) Who are participating in a State operated or State supported school or program for handicapped infants, toddlers, or children (including schools and programs operated under contract or other arrangement with a State agency); or

(b) Who previously participated in a State operated or State supported program and are receiving special education or early intervention services from local educational agencies; and

(c) Other handicapped infants, toddlers, and children if the State educational agency has determined that all the handicapped infants, toddlers, and children aged birth through twenty-one described in paragraphs (a) and (b) of this section—

(1) Are enrolled in programs or projects assisted under this part that are designed to supplement their special education or early intervention needs; and

(2)(i) In the case of handicapped children, are receiving special education and related services in accordance with an individualized education program (IEP) under part B of the EHA; or

(ii) In the case of handicapped infants and toddlers, are receiving early intervention services in accordance with an individualized family service plan (IFSP) under part H of the EHA.

(Authority: 20 U.S.C.2792(a), 2795)

§ 302.2 Who is eligible for an award?

(a) Each State educational agency that meets the requirements of this part is eligible to receive a grant for each fiscal year to support programs and projects under this part.

(b) The following public agencies are eligible to receive subgrants from the State educational agency:

(1) State agencies that operate or support schools and programs for handicapped infants, toddlers, or children.

(2) Local educational agencies that provide services to handicapped children who formerly were enrolled in schools or programs operated or supported by a State agency in accordance with the requirements in § 302.22(a).

(Authority: 20 U.S.C. 2791(a)(1), 2794)

§ 302.3 What kinds of activities may be assisted?

The Secretary makes payments to a State to carry out activities, programs, and projects, including the acquisition of equipment, that are designed to supplement the provision of special education and related services to handicapped children participating in programs and projects funded under this part or early intervention services to handicapped infants and toddlers participating in programs and projects funded under this part, consistent with § 302.63.

(Authority: 20 U.S.C. 2792(a))

§ 302.4 What regulations apply?

The following regulations apply to this part:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs) as follows:

(i) Subpart A (General), except for § 76.3 (ED general grant regulations apply to these programs).

(ii) Sections 76.125 through 76.137 (Consolidated Grant Applications for Insular Areas).

(iii) Section 76.401 (Disapproval of an application—opportunity for a hearing).

(iv) Subpart F (What Conditions Must Be Met by the State and Its Subgrantees?), except for the following sections:

(A) Sections 76.580–76.581 (Coordination).

(B) Sections 76.650 through 76.662 (Participation of Students Enrolled in Private Schools).

(C) Section 76.684 (Day care services).

(D) Section 76.690 (Energy conservation awareness).

(v) Subpart G (What Are the Administrative Responsibilities of the State and Its Subgrantees?), except for the following sections:

(A) Sections 76.770 through 76.772 (State Administrative Responsibilities).

(B) Section 76.780 (A State shall adopt complaint procedures).

(C) Section 76.781 (Minimum complaint procedures).

(D) Section 76.782 (An organization or individual may file a complaint).

(vi) Subpart H (What Procedures Does the Secretary Use to Get Compliance?).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 78 (Education Appeal Board).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)).

(b)(1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received by State educational agencies, other State agencies, and local educational agencies under this part. These requirements must be available for Federal inspection and must—

(i) Be sufficiently specific to ensure that funds received under this part are used in compliance with all applicable statutory and regulatory provisions;

(ii) Ensure that funds received under this part are only spent for reasonable and necessary costs of operating programs under this part; and

(iii) Ensure that funds received under this part are not used for general expenses required to carry out other responsibilities of State and local governments.

(2) A State may satisfy this requirement by—

(i) Using fiscal and administrative requirements applicable to the use of its own funds;

(ii) Adopting new fiscal and administrative requirements; or

(iii) Applying the provisions in 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(c) The regulations in this part (34 CFR part 302).

(d) The regulations in 34 CFR part 300 (Assistance to States for Education of Handicapped Children), with respect to the rights and procedural safeguards under Part B of the EHA.

(e) The regulations in 34 CFR part 303 (Early Intervention Program for Infants and Toddlers with Handicaps), with respect to the rights and procedural safeguards under part H of the EHA that apply to public agencies receiving funds under this part.

(Authority: 20 U.S.C. 1412(1)–(6), 1413(a), 2791–2796, 2831(a))

§ 302.5 What definitions apply to this program?

(a) *Definitions in the Elementary and Secondary Education Act of 1965.* (1) The following terms used in this part are defined in section 1471 of the Elementary and Secondary Education Act of 1965:

Equipment
Free public education
Local educational agency
Parent
State educational agency

(Authority: 20 U.S.C. 2891)

(2) The following term used in this part is defined in section 1221(a) of the Elementary and Secondary Education Act of 1965:

Children

(Authority: 20 U.S.C. 2791(a)(2))

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Budget
Contract
EDGAR
Facilities
Fiscal Year
GEPA
Grant
Grantee
Private
Project
Public
Secretary
State
Subgrant
Subgrantee

(Authority: 20 U.S.C. 2791 *et seq.*)

(c) *Definitions in 34 CFR part 300.* The following definitions in 34 CFR Part 300 apply to this part:

Free appropriate public education (34 CFR 300.4)
Handicapped children (34 CFR 300.5) (except for individuals from birth through age two)
Individualized education program (34 CFR 300.340)
Public agency (34 CFR 300.11)
Related services (34 CFR 300.13)
Special eduction (34 CFR 300.14)

(Authority: 20 U.S.C. 1401)

(d) *Definitions in part H of the EHA.* The following definition in section 672(2) of part H of the EHA applies to this part, except for section 672(2)(B):

Early intervention services

(Authority: 20 U.S.C. 1472(2))

(e) *Other definitions.* The following definitions also apply to his part:

Act means chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended.

(Authority: 20 U.S.C. 2701)

EHA means the Education of the Handicapped Act.

(Authority: 20 U.S.C. 1401 *et seq.*)

Handicapped infants and toddlers means individuals from birth through age two, who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: Cognitive development, physical development, language and speech development, psychosocial development, or self-help skills; or

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(Authority: 20 U.S.C. 1472(1))

State agency means an institution or agency of the State that has direct responsibility established under State statute, State regulation, signed agreement between respective agency officials, or other document, for providing free appropriate public education or early intervention services to handicapped infants, toddlers, or children in schools or programs operated or supported by the State agency. The term does not include an agency whose responsibility for handicapped infants, toddlers, or children is limited solely to the distribution of State financial assistance to other agencies that State law makes directly responsible for providing free appropriate public education or early intervention services.

(Authority: 20 U.S.C. 2791(c)(1))

State operated program means a school or program for handicapped infants, toddlers, or children that is administered directly by a State agency.

(Authority: 20 U.S.C. 2791(c)(1))

State supported program means a school or program for handicapped infants, toddlers, or children that is operated under contract or other arrangement with a State agency.

(Authority: 20 U.S.C. 2791(c)(1))

§§ 302.6–302.9 [Reserved]

Subpart B—How Does a State Apply for a Grant?

§ 302.10 How does a State apply for a grant?

In order to receive funds under this part, the State educational agency shall submit an application to the Secretary that meets the requirements in § 302.11.

(Authority: 20 U.S.C. 2791(b))

§ 302.11 What must be included in an application for a grant?

A State educational agency shall include the following assurances in its application:

(a) Each program or project assisted under this part for handicapped infants, toddlers, or children receiving funds under this part, including each program or project administered by any other public agency—

(1) Is under the general supervision of the persons responsible for programs or projects assisted under this part for handicapped infants, toddlers, or children in the State educational agency; and

(2) Meets—(i) The education standards of the State educational agency; or

(ii) The early intervention standards consistent with the requirements of 34 CFR part 303 if it is a program or project that is designed to supplement the provision of early intervention services to handicapped infants and toddlers.

(b) All child count information reported under § 302.22 is accurate and submitted in the manner required by the Secretary

(c) All handicapped children in a State, other than handicapped infants and toddlers, who are participating in programs and projects funded under this part receive a free appropriate public education, and these children and their parents are provided all the rights and procedural safeguards under part B of the EHA and this part.

(d) All handicapped infants and toddlers in the State participating in programs and projects funded under this part receive early intervention services, and these infants and toddlers and their families are provided the rights and procedural safeguards under part H of the EHA and this part.

(e) Programs and projects receiving assistance under this part are administered in a manner consistent with this part, subpart 2 of part F of the Act, part B of the EHA, and, as determined by the Secretary to be appropriate, part H of the EHA, including the monitoring by the State educational agency of compliance under those programs listed in paragraphs (c) and (d) of this section.

(f) Programs and projects funded under this part are coordinated with services under the EHA.

(g) For fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this part through the State office responsible for administering part B of the EHA.

(h) The State educational agency will report annually to the Secretary—

(1) The number of handicapped children aged three through twenty-one served under this part, as described in section 618(b)(1) of the EHA—

(i) For handicapped children aged three through five by age category; and

(ii) For handicapped children aged six through twenty-one by age and disability category;

(2) The number of handicapped infants and toddlers aged birth through two served under this part by age category as described in section 618(b)(1) of the EHA;

(3) The number of handicapped children served under this part in State operated or supported programs and the number of handicapped children served in local educational agency programs for handicapped children previously served in those State programs; and

(4) The uses and allocations of funds under this part.

(i) The State educational agency will report to the Secretary such other information as the Secretary may reasonably request.

(Approved by the Office of Management and Budget under control number 1820–0573)

(Authority: 20 U.S.C. 1412(6), 1476(b), 2791(b), 2792(a))

Comment: In monitoring programs and projects that are designed to supplement the provision of early intervention services to handicapped infants and toddlers, the standards to be applied by the State educational agency to these programs and projects are the standards for early intervention services that apply under part H of the EHA. The State educational agency may develop paired monitoring teams, i.e., one person (or persons) from the State educational agency and one person (or persons) from the State's part H lead agency can jointly conduct monitoring and evaluation activities.

§§ 302.12–302.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant to a State?

§ 302.20 How does the Secretary determine the amount of a grant to a State?

The Secretary awards grants to participating States in the amounts calculated in accordance with the formula described in section 1221 (c), (d), and (e) of the Act.

(Authority: 20 U.S.C. 2791(c)–(e))

§ 302.21 What are the dates for counting and reporting the number of enrolled children?

(a) Each State agency and local educational agency shall count the handicapped infants, toddlers, and children described in § 302.22 enrolled on December 1 of each year and shall

report that count to the State educational agency.

(b) The State educational agency shall submit a report to the Secretary by the following February 1 that provides the information required by paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 1820–0543)

(Authority: 20 U.S.C. 1411(a)(3), 2791(c))

§ 302.22 Which children are to be counted?

(a) The following children are to be counted for purposes of computing a grant under this part:

(1) Handicapped infants, toddlers, and children from birth through twenty-one years of age enrolled in programs or schools for handicapped infants, toddlers, and children operated or supported by a State agency that is directly responsible for providing free appropriate public education for handicapped children or early intervention services for handicapped infants and toddlers (including schools or programs providing special education and related services or early intervention services under contract or other arrangement with those agencies); and

(2) A handicapped child to whom the State was directly responsible for providing special education and related services and who was enrolled in a State operated or supported program, including schools or programs providing special education and related services under contract or other arrangement with a State agency, and is now enrolled in a program operated or supported by a local educational agency if that child—

(i) Was enrolled in a State operated or supported program for at least one school year, as that period is defined under State law for schools serving nonhandicapped as well as handicapped children and has left that program in order to participate in such a program operated or supported by a local educational agency;

(ii) Was receiving and continues to receive a free appropriate public education; and

(iii) The State educational agency transfers to the local educational agency in whose program the child participates an amount equal to the sums received by the State educational agency under this part that are attributable to the child, to be used for the purposes set forth in § 302.51.

(3) A handicapped infant or toddler can only be eligible to become a local educational agency transfer student if—

(i) The requirements in § 302.22(a)(2) are met;

(ii) The State was authorized to provide the handicapped infant or toddler with a free appropriate public education, in accordance with the requirements in § 302.63(a); and

(iii) The State received a part H grant award for the previous fiscal year and also receives a part H grant award for the first fiscal year in which the handicapped child is counted as a local educational agency transfer student.

(b) Children in State operated or supported programs for neglected or delinquent children or in adult correctional institutions who are also eligible for programs under this part—

(1) May be counted for the purposes of generating funds under both this part and the chapter 1 program for neglected and delinquent children if they are served under each of these programs; and

(2) May be served under each of those programs.

(c) In order for a child described in paragraphs (a) and (b) of this section to be included in the report of children enrolled on December 1 of each year—

(1) A handicapped child must be receiving a free appropriate public education; and

(2) Except as provided in § 302.63(a), a handicapped infant or toddler must be receiving early intervention services at no cost to parents, consistent with § 302.63(c).

(Authority: 20 U.S.C. 2791, 2792, 2795, 2812))

§ 302.23 Which individuals may not be counted?

(a) For purposes of computing an allocation under this part, handicapped infants, toddlers, and children may not be counted who—

(1) Are counted under part B of the EHA;

(2) Are counted under the Chapter 1 Migrant Education Program (34 CFR part 201);

(3) Are not receiving a free appropriate public education or early intervention services at no cost to parents, consistent with § 302.63; or

(4) Are handicapped children aged three through five if a State is not eligible for a grant under section 619 of the EHA (see 34 CFR part 301).

(b) Individuals from birth through age two who are not handicapped infants and toddlers, but who are at risk of becoming developmentally delayed if early intervention services are not provided, may not be counted for the purpose of computing a grant or subgrant under this part.

(Authority: 20 U.S.C. 1411(a)(1)(A), 2791)

§ 302.24 Which agency must count a child receiving services from more than one agency?

If more than one State agency is directly responsible for providing a free appropriate public education to a handicapped child, or early intervention services to a handicapped infant or toddler, the State agency that is primarily responsible for the provision of education to that handicapped child or early intervention services to that handicapped infant or toddler, as determined by the State educational agency, is the only State agency that must count that handicapped infant, toddler, or child under this part.

(Authority: 20 U.S.C. 2791)

§§ 302.25–302.29 [Reserved]

Subpart D—How Does an Applicant Apply for a Subgrant?

§ 302.30 What are the requirements for a State agency or local educational agency to receive a subgrant?

(a) *General.* A State agency, including a State educational agency, or a local educational agency within a participating State may receive a subgrant under this part for any fiscal year if—

(1) It has on file with the State educational agency an application that contains the assurances and information required under § 302.31; and

(2) The application has been approved by the State educational agency.

(b) *Frequency of submission.* A State agency or a local educational agency shall file an application for a subgrant under this part with the State educational agency for a project period of not more than three fiscal years, including the first fiscal year for which a subgrant is made under that application.

(c) *Amendments to the application: updating of information in the application.* Prior to the receipt of project funds for any fiscal year, an eligible subgrantee shall update its project application by submitting to the State educational agency—

(1) Data showing that the agency has maintained fiscal effort in accordance with the requirements of § 302.52 if those data are not otherwise available to the State educational agency;

(2) A budget for the expenditure of funds under this part for that fiscal year;

(3) Any changes in policies or procedures that have occurred since the submission of the most recent application; and

(4) Any other programmatic or fiscal information that the State educational agency may require to perform its duties under this part.

(Approved by the Office of Management and Budget under control number 1820–0510)

(Authority: 20 U.S.C. 2794(a)–(b))

§ 302.31 What are the contents of an application for a subgrant?

An application for a subgrant under this part must include—

(a) Assurances that—

(1) All handicapped children age three through twenty-one who are participating in programs and projects funded under this part receive a free appropriate public education, and that they and their parents are provided all the rights and procedural safeguards under part B of the EHA and this part;

(2) All handicapped infants and toddlers from birth through age two who are participating in programs and projects under this part receive early intervention services, and that they and their families are provided all the rights and procedural safeguards under part H of the EHA and this part;

(3) Services, programs, and projects conducted under this part are of sufficient size, scope, and quality to give reasonable promise toward meeting the special education and early intervention needs of children to be served;

(4) Funds made available under this part will be used to supplement, not supplant, State and local funds in accordance with § 302.54;

(5) The agency will maintain its fiscal effort in accordance with § 302.52;

(6) The agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

(7) The parents of children to be served with funds under this part are provided an opportunity to participate in the development of the project application; and

(8) The agency will comply with all reporting requirements in a timely manner;

(b) Program information that—

(1) Indicates the projected number of handicapped infants, toddlers, and children to be served;

(2) Shows the projected number of handicapped infants and toddlers aged birth through two and handicapped children aged three through five by age category and the projected number of handicapped children aged six through twenty-one for each handicapping disability and age category as described in 34 CFR 300.5, 300.751, and 302.22;

(3) Describes the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or programs to be provided under this part;

(4) Specifies the types of services to be provided with the funds furnished under this part; and

(5) Describes the opportunities that parents have received to participate in the development of the project application; and

(c) Any other information the State educational agency may request.

(Approved by the Office of Management and Budget under control number 1820–0510)

(Authority: 20 U.S.C. 2794(b)–(c))

§ 302.32 What are the simplified application procedures for certain local educational agencies?

The State educational agency may accept, instead of a project application, a letter of request for payment from a local educational agency that serves handicapped children who have transferred from a State operated or supported program, if the local educational agency—

(a) Intends to serve with its payment fewer than five handicapped children who have transferred from a State operated or supported program; and

(b) Includes in its letter of request an assurance that the funds received under this part will be used to supplement the provision of the special education and related services provided to participating handicapped children.

(Approved by the Office of Management and Budget under control number 1820–0510)

(Authority: 20 U.S.C. 2794(d))

§§ 302.33–302.39 [Reserved]

Subpart E—How Does a State Make a Subgrant to an Applicant?

§ 302.40 How does the State educational agency determine the amount of a subgrant to a State agency?

(a) For each fiscal year, the State educational agency shall distribute the funds allocated under a grant to the State under this part to each eligible State agency on the basis of the December 1 child count.

(b) The State educational agency shall distribute to each eligible State agency an equal amount for each child counted.

(Authority: 20 U.S.C. 2791(c)–(d))

§ 302.41 How does the State educational agency determine the amount of a subgrant to a local educational agency?

A local educational agency receives the total amount of funds generated by each child who has transferred from a State operated or supported program if—

(a) The child was counted the previous December 1 according to the requirements in § 302.22(a)(1)–(2); and

(b) The local educational agency meets the requirements in §§ 302.30 and 302.31.

(Authority: 20 U.S.C. 2791(d))

§ 302.42 How are funds attributable to children who leave the local educational agency distributed?

(a) A local educational agency shall notify the State educational agency when a handicapped child counted under this part leaves that agency's program or project.

(b) If the State educational agency has distributed funds generated by any of those handicapped children to the local educational agency, the State educational agency shall require the local educational agency either to—

(1) Retain funds generated by those handicapped children under this part to serve other handicapped children in the project or program supported under this part; or

(2) Return all or a portion of those funds to the State educational agency.

(c) The State educational agency may not transfer funds to a local educational agency if all handicapped children counted under this part cease to be enrolled in that local educational agency.

(Authority: 20 U.S.C. 2791, 2831)

§ 302.43 How does the State educational agency redistribute excess funds under this part?

(a) *Reporting dates for estimated expenditures and redistribution.* (1) In any fiscal year, the State educational agency may set a date by which each State agency and local educational agency that receives an allocation under this part must report to the State the amount of funds that it estimates it will expend in carrying out the project described in its application.

(2) The State educational agency shall determine whether any of the amounts available to subgrantees as provided in §§ 302.40 and 302.41 will not be expended during the period of availability (excess funds).

(b) *Redistribution of excess funds.* The State educational agency shall make available any excess funds for allocation to other subgrantees, in the manner provided in §§ 302.41 (a) and (b) and 302.42, if the State educational agency determines that a subgrantee will be able to use additional funds to carry out the programs or projects described in an approved application.

(Authority: 20 U.S.C. 3831)

§§ 302.44-302.49 [Reserved]

Subpart F—What Fiscal Requirements Must Be Met by a State and Its Subgrantees?

§ 302.50 How must funds be used under this program?

Funds under this program must be used to supplement the provision of special education and related services to handicapped children or early intervention services to handicapped infants and toddlers, except in accordance with § 302.63(a).

(Authority: 20 U.S.C. 2792(b))

§ 302.51 What are allowable costs under this program?

(a) Funds provided under this part may be used for programs and projects including, but not limited to—

(1) Services provided in early intervention, preschool, elementary, secondary, and transition programs;

(2) Acquisition of equipment and instructional materials, and telecommunications, sensory, and other technological aids and devices;

(3) Employment of special personnel;

(4) Training and employment of educational aides;

(5) Training in the use and provision of assistive devices and other specialized equipment;

(6) Training of teachers and other personnel;

(7) Training of parents of handicapped infants, toddlers, and children;

(8) Training of nonhandicapped children to facilitate their participation with handicapped infants, toddlers, and children in joint activities;

(9) Training of employers and independent living personnel involved in assisting the transition of handicapped children from school to work and independent living;

(10) Outreach activities to involve handicapped infants, toddlers, and children and their families more fully in a wide range of educational and recreational activities in their communities;

(11) Planning for, evaluating, and disseminating information about the programs and projects funded under this part.

(b) Funds under this part may not be used for the payment of tuition and fees unless the tuition and fees are associated with activities and services other than—

(1) Special education and related services that are specified in a handicapped child's IEP under Part B of the EHA; or

(2) Early intervention services that are specified in a handicapped infant's or toddler's IFSP under part H of the EHA.

(Authority: 20 U.S.C. 2791(b), 2792(b), 2793)

§ 302.52 What maintenance of effort requirements apply to the programs and projects under this part?

(a)(1) *Basic standard.* A State educational agency, another State agency, or a local educational agency is eligible to receive its allocation of funds under this part for any fiscal year if the State educational agency finds that either the combined State and local fiscal effort per child or the aggregate expenditures of State and local funds with respect to the provision of required services to handicapped infants, toddlers, and children for the preceding fiscal year were maintained at a level not less than 90 percent of the combined fiscal effort per child or the aggregate expenditures of that agency and the State for the second preceding fiscal year.

(2) *Meaning of "preceding fiscal year."* For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year or the twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

Example: For funds first made available on July 1, 1989, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal fiscal year 1988 (which began on October 1, 1987) and the "second preceding fiscal year" is Federal fiscal year 1987 (which began on October 1, 1986). If a State is using a fiscal year that begins on July 1, 1989, the "preceding fiscal year" is the twelve-month period ending on June 30, 1988 and the "second preceding fiscal year" is the period ending on June 30, 1987.

(b) *Failure to maintain effort.* (1) If a State educational agency, another State agency, or a local educational agency fails to maintain effort and a waiver under § 302.53 is not granted, the State educational agency shall reduce that subgrantee's allocation of funds under this part in any fiscal year in the exact proportion to which the subgrantee fails to meet 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the subgrantee) for the second preceding fiscal year.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the subgrantee failed to maintain effort, the State educational agency shall consider the subgrantee's fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the subgrantee) for the third preceding fiscal year.

Example: For the fiscal year in which funds are first made available on July 1, 1989, a subgrantee fails to maintain effort because its fiscal effort in the preceding fiscal year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987). In assessing whether the subgrantee maintained effort during the next fiscal year (1991), the State educational agency may consider the subgrantee's expenditures for the second preceding fiscal year (1988) (the year that caused the subgrantee's failure to maintain effort) to be no less than 90 percent of the subgrantee's expenditures in the prior fiscal year (1987).

(Authority: 20 U.S.C. 2728(a)(1)–(2), 2794)

§ 302.53 Under what circumstances may a State educational agency waive the maintenance of effort requirement?

(a)(1) A State educational agency may waive, for one fiscal year only, the maintenance of effort requirement in § 302.52 if the State educational agency determines that a waiver would be equitable due to exceptional or uncontrollable circumstances. These circumstances include but are not limited to—

(i) A natural disaster; or

(ii) A precipitous and unforeseen decline in the financial resources of the subgrantee.

(2) A State educational agency may not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(b)(1) If the State educational agency grants a waiver under paragraph (a) of this section, the State educational agency may not reduce the amount of the funds the subgrantee is otherwise entitled to receive under this part.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the State educational agency shall consider the subgrantee's fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate (using the measure most favorable to the subgrantee) for the third preceding fiscal year.

Example: For the fiscal year in which funds are first made available on July 1, 1989, a subgrantee secures a waiver because its fiscal effort in the preceding year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987) due to exceptional or uncontrollable circumstances. In assessing whether the subgrantee maintained effort during the next fiscal year (1991), the State educational agency may consider the subgrantee's expenditures for

the second preceding fiscal year (1988) (the year for which the subgrantee needed a waiver) to be no less than 90 percent of the subgrantee's expenditures in the prior fiscal year (1987).

(Authority: 20 U.S.C. 2728(a)(3))

§ 302.54 What is the supplement, not supplant, requirement that applies to programs and projects under this part?

A State educational agency, another State agency, or a local educational agency may use funds received under this part only to supplement and, to the extent practical, increase the level of non-Federal funds that would, in the absence of such Federal funds, be made available for the provision of services to handicapped infants, toddlers, and children participating in programs and projects assisted under this part and in no case may funds under this part be used to supplant those non-Federal funds.

(Authority: 20 U.S.C. 2728(b), 2794))

§ 302.55 What is the prohibition against using Chapter 1 funds to provide general aid?

A State educational agency, another State agency or a local educational agency participating under this part may use chapter 1 funds provided under this part only for programs and projects that are designed to supplement the provision of special education and related services or early intervention services to handicapped infants, toddlers, and children who are eligible to be served in accordance with the provisions of this part.

(Authority: 20 U.S.C. 2792)

§ 302.56 What funds are available to a State educational agency to carry out its responsibilities under the Chapter 1 Handicapped program?

(a) *Funds for State administration.* (1) Except as provided in paragraph (a)(2) of this section, a State educational agency shall use funds received under section 1404(a) of the Act for the proper and efficient performance of its State administrative duties under the Chapter 1 Handicapped program.

(2) The State educational agency may not use more than 15 percent of the funds referred to in paragraph (a)(1) of this section of indirect costs.

(b) *Funds for programs and projects.* A State educational agency that meets the requirements of §§ 302.2 and 302.31, and receives a subgrant under §§ 302.40, may use those funds only in accordance with the fiscal requirements of subpart F of this part.

(Authority: 20 U.S.C. 2793, 2794, 2824)

§ 302.57 What is the prohibition against considering payments under this part in determining State aid?

A State may not take into consideration payments under this part in determining—

(a) The eligibility of a State agency or local educational agency for State aid; or

(b) The amount of State aid to be paid to a State agency or local educational agency for free public education.

(Authority: 20 U.S.C. 2854)

§ 302.58–302.59 [Reserved]

Subpart G—What Other Post-Award Conditions Must Be Met by a State and Its Subgrantees?

§ 302.60 May uncounted children be served in programs and projects under this part?

Handicapped infants, toddlers, and children who are not eligible to be counted, as described in § 302.23, are eligible for services under this part if the state educational agency has determined that all handicapped infants, toddlers, and children aged birth through twenty-one described in paragraphs (a) and (b) of § 302.1 are enrolled in programs or projects assisted under this part that are designed to supplement their special education or early intervention needs and, in the case of handicapped children, are receiving special education and related services in accordance with an IEP under Part B of the EHA or, in the case of handicapped infants and toddlers, are receiving early intervention services in accordance with an IFSP under part H of the EHA.

(Authority: 20 U.S.C. 2795(2))

§ 302.61 What evaluation and assessment requirements apply for a State and its subgrantees?

A State educational agency, another State agency, or a local educational agency that receives funds under this part shall collect and maintain evaluations and assessments needed to demonstrate the extent to which children benefitted from the services provided by those programs and projects.

(Approved by the Office of Management and Budget under control number 1820–0510)

(Authority: 20 U.S.C. 2792(c))

§ 302.62 What special requirements apply under this part?

A State educational agency, another State agency, or a local educational agency that provides services through contracts or other arrangements is responsible for ensuring that their requirements of this part, 34 CFR part 300, and 34 CFR part 303 are met in providing these services.

(Authority: 20 U.S.C. 2791(c))

Comment: One of the part B requirements that must be met for this part is that services must be provided at no cost to parents (see 34 CFR 300.4). This includes the cost of room and board and non-medical care that are provided in an institutional residential care facility in which a handicapped child is placed for educational reasons (see 34 CFR § 300.302).

§ 302.63 How does a State educational agency administer this program in a manner consistent with Part H of the EHA?

(a) If a State participates in part H of the EHA, during years one through four of its participation, the State can elect to provide handicapped infants and toddlers receiving services under this part either with a free appropriate public education and afford them and their parents the procedural protections required by part B of the EHA and 34 CFR part 300 or with early intervention services and afford them and their parents the procedural protections required by part H of the EHA and 34 CFR part 303.

(b) Except as provided in paragraph (a) of this section, a State shall ensure that all handicapped infants and toddlers participating under this part receive early intervention services and that they and their parents are afforded the procedural protections required by part H of the EHA and 34 CFR part 303.

(c) Early intervention services required under this part must be provided at no cost to parents.

(Authority: 20 U.S.C. 2792(a), 2831(a))

§ 302.64 What complaint procedures shall a State adopt?

A State shall adopt written procedures for—

(a) Receiving and resolving any complaint that the State or a subgrantee is violating a Federal statute or regulations that apply to the chapter 1 Handicapped program;

(b) Reviewing an appeal from a decision of a subgrantee with respect to a complaint; and

(c) Conducting an independent on-site investigation of a complaint if the State determines that an on-site investigation is necessary.

(Approved by the Office of Management and Budget under control number 1820–0510)

(Authority: 20 U.S.C. 2831(a))

§ 302.65 What minimum complaint procedures shall a State adopt?

A State shall include the following in its complaint procedures:

(a) A time limit of 60 calendar days after the State receives a complaint—

(1) If necessary, to carry out an independent on-site investigation; and

(2) To resolve the complaint.

(b) An extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint.

(c) The right to request the Secretary to review the final decision of the State.

(Authority: 20 U.S.C. 2831(a))

§ 302.66 How may an organization or individual file a complaint?

An organization or individual may file a written signed complaint with a State The complaint must include—

(a) A statement that the State or a subgrantee has violated a requirement of a Federal statute or regulations that apply to the Chapter 1 Handicapped program; and

(b) The facts on which the statement is based.

(Approved by the Office of Management and Budget under control number 1820-0510)

(Authority: 20 U.S.C. 2831(a))

§ 302.67 What requirements apply to State rulemaking and other State educational agency responsibilities?

(a)(1) Except as provided in paragraph (b) of this section, that Act does not preempt, prohibit, or encourage State rules, regulations, or policies issued pursuant to State law.

(2) If a State issues rules, regulations, or policies, they may not be inconsistent with the provisions of the following:

(i) The Act.

(ii) The regulations in this part.

(iii) Other applicable Federal statutes and regulations.

(b) A State may not issue rules, regulations, or policies that limit State agencies' or local educational agencies' decisions affecting funds received under this part regarding—

(1) Grade levels to be served;

(2) Basic skill areas to be addressed;

(3) Instructional settings, materials, or teaching techniques to be used;

(4) Instructional staff to be employed, so long as the staff meets State certification and licensing requirements for education personnel; or

(5) Other essential support services.

(c) Nothing in paragraph (b) of this section limits a State educational agency's—

(1) Authority to review and approve a State agency's or local educational agency's application; or

(2) Responsibility to ensure that a State agency or local educational agency uses funds under this part in accordance with all applicable requirements.

(d) The State shall identify any State rule, regulation, or policy relating to the administration and operation of Chapter 1 Handicapped programs funded under this part, including those based on State interpretation of any Federal law, regulation, or guideline, as a State-imposed requirement.

(e)(1)(i) Except as provided in paragraph (e)(1) (ii) and (iii) of this section, if a State issues major rules or regulations relating to the administration or operation of programs funded under this part, the State shall convene a State committee of practitioners to review before publishing any major proposed or final rule or regulation.

(ii) In an emergency situation in which a major rule or regulation must be issued within a very limited time to assist State agencies and local educational agencies with the operation of programs under this part, the State—

(A) May issue the regulation without consulting the committee of practitioners; but

(B) Shall immediately thereafter convene the State committee of practitioners to review the emergency rule or regulation prior to issuance in final form.

(iii) The State shall ensure that the committee of practitioners reviews non-major rules or regulations before publication.

(2) If a State does not issue rules or regulations relating to the administration or operation of programs funded under this part but issues policies that the State educational agency, other State agencies, and local educational agencies are required to follow, the State must comply with the requirements in this section for issuing rules and regulations.

(3)(i) The committee of practitioners must include—

(A) Administrators;

(B) Teachers;

(C) Parents;

(D) Members of local boards of education; and

(E) Representatives of private school children.

(ii) A majority of the committee must be representatives of State agencies and local educational agencies.

(iii) Members of the committee must be knowledgeable about the Chapter 1 Handicapped program.

(4) State educational agencies are encouraged to request from appropriate organizations recommendations for membership on the committee.

(Authority: 20 U.S.C. 2792, 2851)

§§ 302.68-302.69 [Reserved]

Note: This Appendix will not be codified in the Code of Federal Regulations.

Appendix—Analysis of Comments and Changes

Subpart A—General

Section 302.1 What is the Chapter 1 State Operated or Supported Programs for Handicapped Children Program?

Comment: Some commenters requested clarification of the phrase "have been fully served" in § 302.1(c) and questioned how the State educational agency could make this determination so that other handicapped infants, toddlers, and children could participate under this part.

Discussion: The Secretary agrees that the clarification requested by these commenters is needed. The phrase, "have been fully served," reflects a new statutory requirement and is taken directly from section 1225(b) of the Act, which describes eligible children under this part. Formerly, children could be served in this program on a space available basis if they were otherwise eligible to be counted but were not enrolled in a program or project on the count date. However, under the new statutory provision, priority for services is not given to children counted. Instead, priority for services under this part is given to all of the handicapped infants, toddlers, and children aged birth through twenty-one who are described in § 302.1(a) and (b), and who are receiving either special education and related services in accordance with an IEP under part B of the EHA or early intervention services in accordance with an IFSP under part H of the EHA. If the State educational agency determines that all of these infants, toddlers, and children are so served, then other handicapped infants, toddlers, and children who do not meet the description in § 302.1(a) and (b) also may participate in programs and projects assisted under this part.

Change: Paragraph (c) is changed to specify when other handicapped infants, toddlers, and children may be served.

Section 302.2 Who Is Eligible for an Award?

Comment: Some commenters requested that local educational agencies that serve children who have not transferred from State-operated or State-supported programs be allowed to qualify as eligible subgrantees under this part if:

(1) The local educational agency programs were programs providing special education and related services that were intended to facilitate the deinstitutionalization of handicapped children; or

(2) The local educational agency programs were programs providing early intervention services to handicapped infants and toddlers.

Discussion: The Secretary has no authority to expand the categories of local educational agencies that are public agencies eligible to receive subgrants under this part. Under section 1221(d) of the Act, the only local educational agencies that are eligible subgrantees under this part are local educational agencies that serve handicapped children who have transferred to a local

educational agency program from a program operated or supported by a State agency that was directly responsible for providing special education and related services, and if those children were receiving a free appropriate public education in the State agency program and continue to receive a free appropriate public education in the local educational agency program. Thus, the change requested by these commenters cannot be made.

Change: None.

Comment: One commenter asked for clarification as to whether the State agency that is the part H lead agency could be an eligible grantee under this part in States where the State educational agency is not the lead agency for the program under part H of the EHA.

Discussion: Under section 1221 of the Act, a State educational agency must submit an application to the Secretary in order to receive assistance under this part. Thus, the statute makes the State educational agency the sole eligible grantee in each State under this part, regardless of whether a State's lead agency for the part H program is the State educational agency or another State agency, as defined at 34 CFR 302.5(e). Therefore, the Secretary is without statutory authority to make the change suggested by this commenter. However, a State agency that is the State's lead agency for the program under part H of the EHA is eligible to receive a subgrant under this part if it meets the eligibility conditions in § 302.2(b)(1).

Change: None.

Section 302.4 What Regulations Apply?

Comment: One commenter requested that the Secretary make 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) applicable to this part in order to make this part consistent with parts B and H of the EHA.

Discussion: The Secretary has determined that the change requested by this commenter should not be made. The approach outlined in the proposed regulations made 34 CFR part 80 applicable to this part unless States chose to formally adopt their own written procedures for expending and accounting for funds received by the State educational agency, other State agencies, and local educational agencies. At the Education Summit, which took place in September 1989, the Department made a commitment to give States flexibility in Department regulations. Therefore, the Secretary has modified the applicability of EDGAR in these final regulations in ways that balance the important principle of minimum Federal interference in State and local affairs with the need for all States to have appropriate systems of financial accountability. Section 302.4(a)(4) of the proposed regulations has been deleted, and a new paragraph (b) has been added, which requires States to have fiscal and administrative requirements for expending and accounting for all funds received by the State educational agency, other State agencies, and local educational agencies. Under this revised requirement, States have the option of using fiscal and administrative requirements applicable to the use of their own funds, adopting new fiscal and administrative requirements, or applying part 80 requirements to satisfy their obligation to ensure fiscal and administrative accountability of funds expended by recipients of Chapter 1 Handicapped program funds.

The changes in these final regulations conform to the parallel requirement contained in regulations for chapter 2 of title I of the Elementary and Secondary Education Act of 1965 in 34 CFR part 298 (Federal, State, and Local Partnership for Educational Improvement). For a description of the changes and the reasons for adopting them, see 55 FR 14810 (April 18, 1990). The Secretary does not believe that this approach need be inconsistent with parts B and H of the EHA, since part 80 requirements are applicable to those programs, and recipients of Chapter 1 Handicapped program funds have the option of applying Part 80 requirements in meeting their responsibilities to ensure financial accountability of Chapter 1 Handicapped program funds.

Change: Section 302.4(a)(4) of the proposed regulations is deleted. A new paragraph (b) has been added to § 302.4, which conforms to the parallel requirement in 34 CFR part 298, as discussed above.

Comment: Several commenters sought clarification of proposed § 302.4(d), redesignated as § 302.4(e) in these final regulations, and the extent to which the regulations for part H of the EHA in 34 CFR part 303 are applicable to this part. These commenters recommended that the part H regulations be made fully applicable to this part and requested that proposed § 302.4(d) be modified to read "public agencies receiving funds under part H [of the EHA]."

Discussion: Under section 1224(c)(1) of the Act, public agencies must assure, in their applications for subgrant funds under this part, that all handicapped infants and toddlers in the State participating under this part receive early intervention services, and these infants and toddlers and their families are provided the rights and procedural safeguards under part H of the EHA. Further, sections 1221(b)(1) of the Act requires the State educational agency to include a similar assurance in its application to the Secretary for grant funds under this part. Therefore, the Secretary has determined that the regulation in § 302.4(e) must provide that the assurances required by section 1221(b) and 1224(c) of the Act apply to all public agencies receiving assistance under this part that provide early intervention services and are not limited only to agencies receiving part H funds.

In addition, at section 1221(b)(2), the statute vests in the Secretary the discretion to determine the extent to which requirements in part H of the EHA will apply to this part. The Secretary has determined that the regulations in 34 CFR part 303 governing the rights and procedural safeguards afforded to handicapped infants and toddlers and their families are the appropriate provisions to be made applicable to public agencies receiving funds under this part regardless of whether a public agency receives part H funds.

Change: None.

Section 302.5 What Definitions Apply to the Program?

Comment: Several commenters asked that the definition of "handicapped children" in part B of the EHA at 34 CFR 300.5 be made fully applicable to this part.

Discussion: The Secretary agrees with these commenters that the definition of "handicapped children" used in the proposed regulations for this part also should have included 34 CFR 300.5(a) of the part B definition, which describes "handicapped children" as "children evaluated in accordance with 34 CFR 300.530–300.534 as having one or more of the specified physical or mental impairments defined in § 300.5(b)(1)–(11), which cause them to need special education and related services." However, the applicability of this definition to this part has been modified to exclude individuals from birth through age two to avoid potential confusion with the definition of handicapped infants and toddlers in § 302.5(e) of these regulations.

Change: The definition of "handicapped children" in 34 CFR 302.5(e) of the proposed regulations is deleted. Section 302.5(c) is changed by adding "Handicapped children (34 CFR 300.5) except for individuals from birth through age two" after "Free appropriate public education (34 CFR 300.4)".

Comment: Several commenters asked for clarification of the differences between the categories of infants and toddlers defined as "handicapped infants and toddlers" under § 302.5(e) and the population of infants and toddlers who are not handicapped but are at risk of becoming developmentally delayed if early intervention services are not provided. Some of these commenters stated that the definition of "handicapped infants and toddlers" in this part was too narrow and requested that it be broadened to permit States that include in their part H program infants and toddlers who are at risk of becoming developmentally delayed if early intervention services are not provided to count those children under this part.

Discussion: The Secretary has determined that no change can be made since the statute requires that all infants and toddlers participating under this part must be diagnosed as having physical or mental impairments that cause them to need early intervention services. While the Secretary recognizes that some confusion could arise in States participating under part H of the EHA, the Secretary has no authority under this part to broaden the definition of "handicapped infants and toddlers" to include infants and toddlers who are at risk of becoming developmentally delayed if early intervention services are not provided.

Change: None.

Comment: One commenter recommended that the definitions of "State agency" and "State-operated program" be broadened to include local educational agency programs, if those programs were established to serve handicapped children who, prior to the implementation of EHA–B's least restrictive environment requirements, would have been placed in programs that were formerly operated in State institutions.

Discussion: The Secretary has no statutory authority to make the change recommended by these commenters, since it would expand the categories of local educational agencies that are eligible for subgrants under this part. By statute, the only local educational agencies that are eligible for subgrants under this part are local educational agencies that serve transfer students (see discussion on § 302.2 regarding eligible public agencies under this part).

Change: None.

Comment: One commenter asked that the definition of "State agency" in § 302.5(e) be clarified to ensure that a State agency other than the State educational agency that is responsible for the provision of early intervention services to handicapped infants and toddlers could be eligible for a subgrant under this part.

Discussion: The Secretary does not believe that clarification is needed. The term "State agency," as defined in § 302.5(e) of these final regulations, includes any State agency that has direct responsibility established under State statute, State regulation, signed agreement between respective agency officials, or other documents, for providing free appropriate public education or early intervention services to handicapped infants, toddlers, or children enrolled in schools or programs operated or supported by the State agency. Under § 302.2(b)(1) of these regulations, State agencies that operate or support schools or programs for handicapped infants, toddlers, or children are eligible to receive subgrants under this part. Thus, regardless of whether the State educational agency is the State's lead agency for the part H program, a State agency that is directly responsible for the provision of early intervention services to handicapped infants and toddlers and that operates or supports a program providing early intervention services to those handicapped infants and toddlers is eligible for a subgrant under this part.

Change: None.

Subpart B—How does a State Apply for a Grant

Section 302.11 What Must Be Included in an Application for a Grant?

Comment: Many commenters stated that the provisions in § 302.11 (a)(1) and (a)(2), requiring a State educational agency to assure that it will exercise general supervision over programs and projects assisted under this part, would be difficult to implement for programs for handicapped infants and toddlers in States where the State educational agency is not the lead agency for the program under part H of the EHA. These commenters requested that the language in § 302.11(a)(2) "meets the education standards of the State educational agency" be supplemented with the language "and the part H lead agency (where the lead agency for the part H program is not the State educational agency)." The specific concerns of these commenters were:

(1) It is inappropriate for the State educational agency to develop standards for programs for handicapped infants and toddlers participating in programs and projects under this part; and

(2) The policies of the State educational agency that have formerly governed programs and projects assisted under this part for children aged birth through two were not written for the part H program and are, therefore, inapplicable to current programs and projects assisted under this part that are designed to supplement the provision of early intervention services to handicapped infants and toddlers.

Discussion: The Secretary agrees that the regulations should be clarified to provide that the appropriate standards for programs and projects that are designed to supplement the provision of early intervention services to handicapped infants and toddlers are the standards in 34 CFR part 303, which implement the part H Early Intervention Program. Under a new statutory requirement in section 1221(b)(2) of the Act, the State educational agency is responsible for general supervision of programs and projects assisted under this part providing both special education to handicapped children and early intervention services to handicapped infants and toddlers. Thus, the State educational agency applies the early intervention standards in 34 CFR part 303 to programs and projects providing early intervention services.

Change: Section 302.11(a)(2) is changed by adding a new paragraph (a)(2)(ii) which specifies that early intervention standards consistent with 34 CFR part 303 apply to early intervention program services.

Comment: A number of commenters were concerned that the requirement at § 302.11(e) that the State educational agency monitor compliance under this part would cause administrative burdens for State educational agencies and part H lead agencies and strongly recommended that this regulation be expanded to specify applicable procedures for compliance. These commenters believed that in States where the State educational agency is not the lead agency for the program authorized under part H of the EHA, it would not be necessary for the State educational agency to monitor programs and projects assisted under this part that are designed to supplement the provision of early intervention services to handicapped infants and toddlers and suggested that the part H lead agency could assume this responsibility.

Discussion: The Secretary agrees with these commenters that some clarification is needed. Under section 1221(b)(2) of the Act, the State educational agency is specifically required to monitor programs and projects assisted under this part for compliance with parts B and H of the EHA. The Secretary believes that one effective and efficient way of meeting the responsibility for monitoring early intervention programs would be for the State educational agency to conduct joint monitoring visits with the part H lead agency.

Change: A comment is added following § 302.11 regarding a State educational agency's responsibility to monitor programs and projects that are designed to supplement the provision of early intervention services to handicapped infants and toddlers.

Comment: One commenter requested that clarification be added to § 302.11(h) to indicate that section 618(b)(1) of the EHA does not require that handicapped infants and toddlers be counted according to disability category.

Discussion: The Secretary agrees with this commenter that clarification is needed. The requirement in § 302.11(h)(1)(i) of these final regulations is taken directly from section 1221(b)(5)(A) of the Act, which requires the State educational agency to report annually to the Secretary the number of children served under this part for each disability and age category as described in part B of the EHA. Under section 618(b)(1) of the EHA, the State educational agency is required to report annually to the Secretary only "the number of handicapped infants, toddlers, children and youth in each State receiving a free appropriate public education or early intervention services in age groups from birth through 2 and 3 through 5." However, unlike requirements that govern age groups six through twenty-one, which also provide that reporting be done by disability category, there is no reporting requirement in the EHA that the population of handicapped infants, toddlers, and children from birth through age five be counted by disability category. The Secretary is particularly concerned that this population of handicapped infants, toddlers, and children served under the EHA and the Chapter 1 Handicapped program not be unnecessarily labeled with specific handicapping conditions. Therefore, the Secretary has determined that changes are necessary.

Change: Section 302.11(h) is changed to clarify that States are not required to report data on handicapped infants, toddlers, and children from birth through age five by disability category.

Comment: Some commenters asked for clarification as to why reporting requirements for this part that are applicable to State educational agencies require only a description of handicapped children in educational placements and do not require a description of handicapped infants and toddlers in early intervention programs.

Discussion: The requirement in § 302.11(h)(2) of these final regulations is taken directly from section 1221(b)(5)(B) of the Act, which incorporates by reference section 618(b)(2) of the EHA. Section 618(b)(2) of the EHA does not require the collection of data on placements for handicapped infants and toddlers. However, section 1221(b)(6) of the Act also provides an assurance that the State educational agency will report to the Secretary such other information as the Secretary may reasonably request. This assurance is reflected in § 302.11(i) of these final regulations.

The Secretary is especially concerned that to the extent appropriate, all handicapped infants and toddlers receiving early intervention services under this part are provided those services in the types of settings in which infants and toddlers without handicaps would participate, in accordance with 34 CFR 303.12(b) of the regulations for part H of the EHA. Thus, pursuant to his authority under section 1221(b)(6) of the Act, the Secretary has determined that the State educational agency must report annually to the Secretary data on the locations of early intervention services provided to handicapped infants and toddlers participating in programs and projects assisted under this part. Therefore, the Secretary believes that no change is

necessary since this data collection is consistent with the Secretary's statutory authority to impose reasonable reporting requirements that apply to each State educational agency receiving assistance under this part.

Change: None.

Subpart C—How Does the Secretary Make a Grant to a State,

Section 302.22 Which Children Are To Be Counted?

Comment: One commenter requested that there be a requirement that infants and toddlers be counted under the definition of developmental delay rather than on the basis of category of handicapping condition.

Discussion: The definition of "handicapped infants and toddlers" in § 302.5(e) of these final regulations requires either that an individual from birth through age two experience a developmental delay as measured by appropriate diagnostic instruments in one of the specified areas or have a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay. The definition of "handicapped infants and toddlers" used in this part is consistent with the statutory definition of "handicapped children" in section 1221(a)(2)(B) of the Act and the Department's longstanding policy that all participants under this part must have diagnosed handicapped conditions. By contrast, the term "developmental delay," as defined in 34 CFR 303.300 in the regulations for part H of the EHA, does not require the existence of a diagnosed physical or mental condition "as measured by appropriate diagnostic instruments and procedures" in areas of cognitive, physical, language and speech, and psychosocial development or self-help skills. Therefore, the Secretary has determined that the change requested by this commenter cannot be made.

Change: None.

Comment: Several commenters objected to the requirement in § 302.22(a)(2)(i) prohibiting local educational agencies from counting a handicapped infant, toddler, or child under this part as a transfer student, unless that student had been enrolled in a State operated or supported program for at least one school year, as that period is defined under State law, prior to transfer to a local educational agency program. Some commenters requested that the one school year requirement be eliminated entirely since it would exclude infants and toddlers from being eligible to be counted under the transfer provision. One commenter requested that the time period be shortened to three months, since new techniques and more extensive therapy programs could expedite the transfer of children placed in institutions to local educational agency programs. One commenter also suggested that an exception to the one school year requirement be made for handicapped infants and toddlers who are served in early intervention programs for less than one school year and become eligible to receive special education and related services from a local educational agency program when they reach age three. One commenter requested that "early intervention services" be added following the words "was receiving and continues to receive a free appropriate public education" to clarify that the transfer provision includes students who were receiving early intervention services in a State agency program.

Discussion: The Secretary has determined that some clarification is needed, but that the changes requested by these commenters cannot be made. These final regulations retain the requirement in the prior regulations for this part, previously codified at 34 CFR 302.41(a)(3)(ii), that a transfer student must have been enrolled in a State operated or supported program for at least one school year, as that period is defined under State law for schools serving handicapped as well as nonhandicapped infants, toddlers, and children, in order to be counted for the purpose of generating funds under this part. Without this stipulation, the Secretary is concerned that students who are enrolled in programs under this part for shorter periods of time would be eligible to be counted and to generate funding under the transfer provision until they reached age twenty-two. Thus, the Secretary has determined that the one school year requirement should be retained in these final regulations.

In addition, the statute requires that in order for a local educational agency to count a handicapped child under the transfer provision, that child must have been enrolled in a school or program operated or supported by a State agency, including schools or programs under contract or other arrangement. By statute, such a child must have been receiving a free appropriate public education in the State operated or supported program and must continue to receive a free appropriate public education in a local educational agency program. Thus, the one school year enrollment requirement applies to educational programs providing free appropriate public education and not to programs providing early intervention services.

The Secretary believes, however, that some clarification is needed with respect to the eligibility of handicapped infants and toddlers to become transfer students. The only circumstance under which handicapped infants and toddlers can become eligible to be counted as transfer students is if they received a free appropriate public education from a State agency program in a State participating in the Part H program during the phase-in period for part H services, consistent with § 302.63 of these final regulations. In addition, during the previous fiscal year, the State must have received a Part H grant award, and must be receiving a Part H grant award for the first fiscal year in which the handicapped child is counted as a transfer student. Consequently, handicapped infants and toddlers, even those who enrolled in programs operated or supported by a State agency in which they were receiving early intervention services for one school year, as that period is defined by State law, are ineligible to be counted under the local educational agency transfer provision.

Changes: Section 302.22 has been changed by adding a new paragraph (a)(3) to clarify when handicapped infants and toddlers may become transfer students. A new paragraph (c) has also been added to § 302.22 to clarify that the only children who may be included in the count of children enrolled on December 1 are handicapped children who are receiving a free appropriate public education and except as provided in § 302.63(a) of these final regulations, handicapped infants and toddlers who are reciving early intervention services at no cost to parents, consistent with § 302.63(c) of these final regulations.

Comment: One commenter requested that § 302.22(b)(1) be clarified to provide that a duplicate count of neglected and delinquent handicapped children under this part and the chapter 1 program for neglected and delinquent children is permissible only when these handicapped children are served in State operated programs for neglected and delinquent children, and it is impermissible for handicapped children served in local institutions for neglected and delinquent children.

Discussion: The Secretary does not believe that the change suggested by this commenter is needed since local institutions for neglected and delinquent children are not public agencies that are eligible for subgrants under this part unless they are local educational agencies that serve transfer students. These final regulations retain the provision in the proposed regulations permitting handicapped children participating under this part to be counted under both this part and the Chapter 1 Programs for Neglected and Delinquent Children program, if they are eligible to be counted and served under both programs. This provision is derived from section 1292 of the Act and encompasses all eligible children enrolled in State operated or supported programs for neglected and delinquent children or in adult correctional institutions.

If the local institutions described by this commenter operate programs under contract or other arrangement with a State agency directly responsible for the provision of special education and related services to handicapped children, that State agency could receive a subgrant under this part and would be eligible to count the handicapped children enrolled in that local institution's program. Therefore, the Secretary has determined that no change is needed.

Change: None.

Section 302.23 Which Individuals May Not Be Counted?

Comment: One commenter asked for clarification as to whether it is permissible to count a handicapped infant or toddler under both this part and part H of the EHA.

Discussion: Funds under part H of the EHA are not distributed to State educational agencies based upon a child count of handicapped infants and toddlers who are being served. Nothing in part H or this part prohibits a State from both counting all handicapped infants and toddlers being served under this part and receiving its full part H grant award.

Change: None.

Comment: Several commenters expressed the view that under the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, all infants and toddlers eligible under part H of

the EHA are eligible to be counted under this part. Other commenters supported proposed § 302.23(d), redesignated as § 302.23(b) in these final regulations, which prohibits the counting of infants and toddlers who are at risk of becoming developmentally delayed if early intervention services are not provided. These commenters were concerned that the scope of the "at risk" population of infants and toddlers is so broad that their participation under this part would jeopardize the continuation of the Chapter 1 Handicapped program.

Discussion: The Secretary agrees with those commenters who endorse the prohibition against counting "at risk" infants and toddlers under this part. Further, the Secretary is without authority to expand the statutory criteria for children eligible to be counted or served under this part to include "at risk" infants and toddlers. The statute requires that all handicapped infants, toddlers, or children participating in programs or projects assisted under this part be diagnosed as having physical or mental impairments, who by reason of those impairments, in the case of handicapped children, require special education and related services or, in the case of handicapped infants and toddlers, require early intervention services. Thus, without the prohibition against counting "at risk" infants and toddlers, a broad population of "at risk" infants and toddlers, so designated under State definitions, could be incorrectly identified as handicapped and unnecessary labeled as having specified handicapping conditions. Therefore, the Secretary has determined that no change should be made.

Change: None.

Comment: One commenter recommended that proposed § 302.23(d) be changed to exclude only those infants and toddlers who are at environmental risk but to include infants and toddlers who have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Discussion: The Secretary believes that the change requested by this commenter is not needed since the entire population of "at risk" infants and toddlers, regardless of the etiology of the risk, is ineligible to be counted or served under this part. (see discussion of § 302.5(e) regarding the definition of "handicapped infants and toddlers".) Further, no change in this provision is warranted since under § 302.22(a) those infants and toddlers with diagnosed physical or mental conditions, with a high probability of resulting in developmental delay, are included within the definition of handicapped infants and toddlers in § 302.5(e) of these final regulations and are eligible to be counted and served under this part.

Change: None.

Section 302.24 Which Agency Must Count a Child Receiving Services From More Than One Agency?

Comment: One commenter asked that this regulation be clarified with respect to handicapped infants and toddlers who receive early intervention services from more than one agency.

Discussion: The Secretary agrees that the clarification requested by this commenter is needed. This regulation was taken from prior regulations for the Chapter 1 Handicapped program, previously codified at 34 CFR 302.42. However, under the new statutory requirement in section 1221(c)(1)(ii) of the Act, the State agency that is primarily responsible for the provision of early intervention services to handicapped infants and toddlers participating in programs or projects assisted under this part must count those handicapped infants and toddlers under this part, if they receive early intervention services from more than one State agency.

Change: Section 302.24 is revised to include early intervention services and to clarify which State agency must count a handicapped infant or toddler receiving early intervention services from more than one State agency.

Subpart D—How Does an Applicant Apply for a Subgrant?

Section 302.30 What Are the Requirements for a State Agency or Local Educational Agency To Recevie a Subgrant?

Comment: One commenter recommended that § 302.30(c)(2) be amended to require grantees to submit budgets for the three fiscal years covered by the grant application submitted under this part.

Discussion: The Secretary does not believe that the change recommended by this commenter is needed. Section 1224(b)(5) of the Act requires a subgrantee to include an assurance in its application for a subgrant that it will provide other information that the Secretary or State educational agency may reasonably request. Thus, the Secretary has determined that under § 302.30(c) of these final regulations, subgrantees must update, on an annual basis, certain categories of information in their applications, including data concerning a budget for the projected expenditure of funds under this part for the fiscal year for which funds are being awarded. The Secretary believes that an annual requirement is more appropriate than a triennial requirement since it would more accurately reflect current expenditures. Further, the Secretary does not believe that this requirement imposes an undue administrative burden on subgrantees.

Change: None.

Section 302.31 What are the Contents of an Application for a Subgrant?

Comment: One commenter asked that the term "infants and toddlers" referenced in subsection (b)(1) be used in conjunction with the term "children." A number of commenters also recommended the need to clarify whether § 302.31(b)(1) and § 302.31(b)(2) are separate and distinct requirements.

Discussion: The Secretary agrees that the change requested by this commenter is needed to clarify that the projected data required in an application for a subgrant under this part must include handicapped infants, toddlers, and children.

The Secretary also agrees that the clarification recommended by these commenters is needed to differentiate the data collection requirements for handicapped infants, toddlers, and children aged birth through five years and handicapped children aged six through twenty-one years. Although § 302.31(b)(1) is a data requirement for the total number of handicapped infants, toddlers, and children to be served, § 302.31(b)(2) requires that data on the total number of handicapped infants, toddlers, and children referenced in paragraph (b)(1) be divided by disability and age category. However, as previously discussed in § 302.11(h) of these final regulations, there is no requirement in this part or the EHA that data be collected on handicapped infants and toddlers or handicapped children aged birth through five by disability category. Data by disability category are to be reported only for handicapped children aged six through twenty-one. Therefore, to clarify these requirements, the Secretary has determined that changes are needed.

Change: Paragraphs (b)(1) and (b)(2) of § 302.31 are changed to clarify these data requirements.

Comment: A number of commenters asked that the reference in § 302.31(b)(2) to 34 CFR 300.751 of the regulations under part B of the EHA be deleted because it appears to exceed the statute.

Discussion: The Secretary does not agree that the reference to 34 CFR 300.751 of the regulations for part B of the EHA exceeds the statute. Under section 1221(b)(5) of the Act, the State educational agency must provide an assurance in its application for assistance under this part that it will report annually to the Secretary the number of children served under this part for each disability and age category as described in part B of the EHA. Further, sections 1224(b) (1) and (2) of the Act require a subgrantee to submit this information in its application for a subgrant under this part. Thus, the reference to 34 CFR 300.751, which describes annual reporting requirements for handicapped children served under part B of the EHA, is consistent with these statutory requirements. The Secretary is also especially concerned that similar data is collected on handicapped children served under this part and part B of the EHA, since it has been the Secretary's practice to aggregate the information for the EHA and this part in the annual report to Congress. In addition, the Secretary requires the State educational agency to use the same reporting format in reporting children served under this part and part B of the EHA. Therefore, the Secretary has determined that no change is needed.

Change: None.

Comment: Several commenters asked whether it is permissible to use the actual child count data in an application for a subgrant under this part in lieu of projected data on children to be served.

Discussion: The Secretary recognizes that subgrantees may use actual child count data if it is available at the time of their applications and would accurately reflect the number of handicapped infants, toddlers, and children to be served.

Change: None.

Comment: One commenter objected to § 302.31(b)(5), which requires that a description of the opportunities parents have to participate in the development of an application for a subgrant be included in a

subgrantee's application because this requirement exceeds the statute.

Discussion: Section 1224(c)(6) of the Act provides that a subgrantee include in its application an assurance that parents are provided an opportunity to participate in the development of the project application. In addition to this assurance, § 302.31(b)(5) of the proposed regulations also required a subgrant application to include a description of "the opportunities that parents will have to participate in the development of the project application." Contrary to the position of the commenter, the Secretary believes that under the Act, the Secretary has authority to require that project applications contain such information as is necessary to insure that the obligation to provide parents the opportunities to participate in the development of the project application is met. Since the project application is not submitted to the State until parents have had opportunities to participate in its development, the provision has been revised to require that this information be submitted with the project application.

Change: Section 302.31(b)(5) is changed to require a description of the opportunities that parents have received to participate in the development of the project application.

Section 302.32 What Are the Simplified Application Procedures for Certain Local Educational Agencies?

Comment: One commenter asked whether a local educational agency also may make a letter of request for payment to generate funds under this part to supplement the provision of early intervention services.

Discussion: Section 1224(d)(1) of the Act gives a State educational agency the option of accepting, in lieu of a project application, a letter of request for payment from a local educational agency if that local educational agency intends to serve fewer than five children. The statute requires that those letters of request include an assurance that the payment will be used to supplement the provision of special education and related services. However, the only local educational agencies eligible to receive subgrants under this part, whether they submit a project application or a letter or request, are local educational agencies that serve transfer students. In order for a handicapped infant or toddler to become eligible to be counted as a transfer student, that student must have transferred from an educational program for handicapped children operated or supported by a State agency in order to participate in a program operated or supported by a local educational agency. In addition, that student must have received a free appropriate public education in the State operated or supported program for at least one school year, as that period is defined by State law for schools serving handicapped as well as nonhandicapped infants, toddlers, and children, and must continue to receive a free appropriate public education in the local educational agency program. (See discussion under § 302.22(a)(3)). The term "free appropriate public education" is defined in section 602(18) of the EHA and 34 CFR 300.4 as including "special education and related services," and does not include "early intervention services," as defined in part H of the EHA. Therefore, the Secretary has determined that no change can be made.

Change: None.

Comment: One commenter requested that a local educational agency be allowed to submit a letter of request for payment to the State educational agency, in lieu of a project application for a subgrant, if it is serving fewer than five students enrolled in a program operated under contract or other arrangement with a State agency.

Discussion: As discussed under the previous comment, the option of making a letter of request for payment, in lieu of a project application, is available only to local educational agencies that intend to serve fewer than five transfer students. The statute does not extend the letter of request option to local educational agencies that serve handicapped infants, toddlers, or children under contract or other arrangement with a State agency since it is the State agency, not the local educational agency, that is the public agency eligible to receive a subgrant under this part. (See discussion of § 302.2). Therefore, the Secretary has no statutory authority to make the change requested by this commenter.

Change: None.

Subpart E—How Does a State Make a Subgrant to an Applicant?

Section 302.40 How Does the State Educational Agency Determine the Amount of a Subgrant to a State Agency?

Comment: One commenter asked that proposed §§ 302.41 and 302.42 be changed to provide that a local educational agency is eligible for funds under this part if it serves any eligible children, not just those who transfer from a State supported or State operated program to a local educational agency program.

Discussion: Section 1224(a) of the Act provides that local educational agencies may apply for subgrnats under this part only to serve transfer students who were previously enrolled in State operated or supported programs under this part and were receiving a free appropriate public education from a State agency program and continue to receive a free appropriate public education from the local educational agency program. There is no other statutory provision authorizing the State educational agency to make subgrants to local educational agencies who serve other handicapped infants, toddlers, or children. (See discussion under § 302.2). The Secretary emphasizes that under section 1225(2) of the Act, other handicapped children may participate in programs and programs funded under this part if all the handicapped children who have transferred are fully served. However, the local educational agencies cannot count those handicapped children for the purpose of receiving a subgrant under this part.

Change: None.

Section 302.41 How Does the State Educational Agency Determine the Amount of a Subgrant to a Local Educational Agency?

Comment: One commenter requested clarification of whether proposed § 302.42(a) would make it permissible for local educational agencies to count under the transfer provision eligible children who were served but were not counted by the responsible State agency on the previous December 1.

Discussion: Section 1221(d)(1) of the Act provides that if a handicapped infant, toddler, or child leaves an educational program operated or supported by a State agency to participate in a program operated or supported by a local educational agency and was receiving and continues to receive a free appropriate public education, that child shall be counted under the local educational agency transfer provision. Further, § 302.22(a)(2) of these final regulations provides that in order for a handicapped child to be counted by a local educational agency as a transfer student, that student must have been enrolled in a State operated or supported program for at least one school year, as that period is defined by State law. Thus, under § 302.42(a) of these final regulations, a local educational agency may receive the total amount of funds generated by a transfer student only if that transfer student had been counted the previous December 1 according to the requirements in § 302.22(a)(1) and (a)(2).

Change: Section 302.41, previously § 302.42 in the proposed regulations, is changed by adding "§ 302.22(a)(1) and" before the references to § 302.22(a)(2).

Section 302.42 How Are Funds Attributable to Children Who Leave the Local Educational Agency Distributed?

Comment: Several commenters were concerned that proposed § 302.43 does not address the option of the State educational agency to determine whether a State agency may retain funds or must transfer those funds to local educational agencies.

Discussion: The Secretary believes that the change requested by these commenters is not authorized under the Act. Therefore, the Secretary has determined that no change is needed.

Change: None.

Comment: One commenter objected to the provision in proposed § 302.43 requiring a local educational agency to notify the State educational agency when any child counted as a transfer student leaves the local educational agency's program. This commenter believed that under the Chapter 1 Handicapped program, the funds do not have to follow each child, and requested that the requirement be deleted or be made optional on the part of the State educational agency.

Discussion: The Secretary does not agree with the changes requested by this commenter since this requirement is necessary to enable the State educational agency to determine that the transfer of funds to a local educational agency is permissible. Under section 1221(d) of the Act, a local educational agency may count a handicapped student under the transfer provision if that handicapped student leaves a State operated or supported program which provides a free appropriate public education and is participating in a local educational agency program that continues to provide a free appropriate public education. Further, under

section 1221(d)(2) of the Act, a State educational agency may transfer funds to a local educational agency only for those children participating in a local educational agency program. Thus, to ensure that these statutory requirements are satisfied, §302.42 of these final regulations provides that a local educational agency must notify the State educational agency when a handicapped child counted under the transfer provision leaves a local educational agency program or project. This requirement is consistent with the statutory requirement that a handicapped child must participate in a local educational agency program in order to be counted under the transfer provision. Upon receipt of this notice from the local educational agency, the State educational agency then has the option under §302.42 of these final regulations of determining whether the funds attributable to that transfer student, which were distributed to that local educational agency, may be retained by the local educational agency, or whether all or a portion of those funds must be returned to the State educational agency. The Secretary believes that this requirement should be retained to ensure that a local educational agency receives funds under the transfer provision for handicapped children actually participating in its programs or projects. Therefore, the Secretary has determined that no change should be made.

Change: None.

Section 302.43 How Does the State Educational Agency Redistribute Excess Funds Under This Part?

Comment: Several commenters objected to the provision in proposed § 302.44 that State educational agencies could only redistribute excess funds on a per capita basis as described in § 302.42 (a) and (b) and requested that this section be modified to give each State the discretion to ensure that funds can be used to meet the greatest need within the State.

Discussion: The Secretary does not believe that additional clarification is needed. Section 302.43 of these final regulations authorizes the State educational agency to redistribute excess funds to other subgrantees when funds received by a subgrantee that were attributable to children counted under this part cannot be expended by that subgrantee during the period of availability. A State educational agency's allocation of excess funds to other subgrantees is based on the distribution procedure set out in § 302.40 (a) and (b) of these final regulations, under which the amount of a State agency's subgrant is determined on a per capita basis. Under § 302.43(b), however, the State educational agency may redistribute excess funds to subgrantees only when it determines that the subgrantee will be able to use the excess funds to carry out approved programs or projects under this part. Before the excess funds can be redistributed, the State educational agency must determine where there is a need for these excess funds and whether a subgrantee is able to use the additional funds for programs or projects assisted under this part. If the State educational agency determines that a subgrantee cannot use the excess funds for approved programs or projects, no excess funds can be redistributed to that subgrantee. Therefore, since the procedures for redistribution of excess funds in this regulation give States the flexibility to redistribute excess funds to those subgrantees who can use additional funds for approved programs or projects the Secretary has determined that the change requested by this commenter is not needed.

Change: None.

Subpart F—What Fiscal Requirements Must Be Met by a State and Its Subgrantees?

Section 302.51 What Are Allowable Costs Under This Program?

Comment: One commenter asked for clarification of the language "including, but not limited to," as used in § 302.51(a) of the proposed regulations.

Discussion: The Secretary does not believe that the clarification requested by this commenter is needed, since the language "including, but not limited to" is taken directly from section 1223(a) of the Act. The Secretary interprets the statutory language "including, but not limited to" as affording State educational agencies the flexibility to use funds under this part for programs and projects not listed in the statute or these final regulations, provided those programs and projects would satisfy sections 1222 and 1223 of the Act and are included in a subgrantee's application in accordance with section 1224 of the Act and § 302.31 of these final regulations. Therefore, the Secretary has determined that no change is needed.

Change: None.

Comment: One commenter asked whether student transportation is an allowable expenditure under this part.

Discussion: The Secretary recognizes that 34 CFR 302.63 of prior regulations for the Chapter 1 Handicapped program specified the circumstances under which program funds could be used for transportation. However, the Secretary has determined that a similar requirement is not needed in these final regulations. Since transportation is an allowable expenditure under this part, the Secretary wishes to give States as much flexibility as possible in using funds under this part for allowable costs. The Secretary has decided not to impose any additional restrictions that were contained in prior regulations on the expenditure of funds under this part for transportation. Section 1222(a) of the Act provides that a State educational agency shall use payments under this part to support programs and projects that are designed to supplement the provision of special education and related services or early intervention services to handicapped infants, toddlers, and children. Section 1221(b) of the Act further requires that the State educational agency assure that all handicapped children participating in programs or projects funded under this part receive a free appropriate public education and such children and their parents are provided all the rights and procedural safeguards under part B of the EHA. Such an assurance must also provide that all handicapped infants and toddlers participating under this part receive early intervention services and that they and their families receive all the rights and procedural safeguards in part H of the EHA. Under section 602(18) of the EHA and 34 CFR 300.4 of the regulations for part B of the EHA, a free appropriate public education includes the provision of special education and related services provided without charge and in conformity with an IEP. Further, the definition of related services at 34 CFR 300.13 of the regulations for part B of the EHA, which includes transportation at 34 CFR 300.13(b)(13), has been made applicable to this part by 34 CFR 302.5(c) of these final regulations. Transportation is defined as including travel to and from school and between school, as well as travel in and around school, that is required to assist a handicapped child to benefit from special education. In order for transportation to qualify as a related service, it must be included in the IEP of a handicapped child participating in programs and projects assisted under this part. As an element of free appropriate public education, it must be provided at no cost to parents. Similarly, the definition of "early intervention services" in 34 CFR 303.12(d)(14) made applicable to this part by § 302.5(d) of these final regulations, also includes transportation to and from and in and around, early intervention programs. The Secretary emphasizes that where transportation is included in the IFSP of a handicapped infant or toddler participating in programs or projects assisted under this part, the transportation must be provided at no cost to parents in accordance with § 302.63(c) of these final regulations.

The Secretary also believes that transportation is an allowable expenditure under this part for a handicapped infant, toddler, or child who is participating in an approved program or project under this part. Section 1223 of the Act provides examples of programs and projects for which funds under this part may be used, and this list of programs and projects is reflected in § 302.51(a)(1)–(11) of these final regulations. Under § 302.51(a)(1), transportation could be considered "[s]ervices included in early intervention, preschool, elementary, secondary, and transition programs." Further, under § 302.51(a)(10), transportation could be considered an allowable cost as one of the "[o]utreach activities to involve handicapped infants, toddlers, and children and their families more fully in a wide range of educational and recreational activities in their communities." Therefore, the Secretary has determined that no change should be made.

Change: None.

Comment: One commenter suggested that § 302.51(a)(8), which makes it permissible for funds awarded under this part to be used for training of nonhandicapped children to facilitate their participation with handicapped infants, toddlers, and children in joint activities, be clarified to ensure that funds are not used for unauthorized purposes.

Discussion: The requirement in § 302.51(a)(8) is taken directly from section 1223(a)(8) of the Act, which makes it permissible for funds under this part to be used for programs and projects for the training of nonhandicapped children. The

Secretary does not believe that the clarification sought by this commenter is needed since under section 1224(a) of the Act, programs and projects funded under this part, described in a subgrantee's application, must be reviewed and approved by the State educational agency before funds can be awarded to a subgrantee. Thus, the State educational agency has responsibility for determining whether a program or project for training nonhandicapped children, described in a subgrantee's application, complies with the requirements of this part.

Change: None.

Comment: One commenter requested clarification of whether § 302.51(b) requires that parents cannot be charged for the cost of special education and related services provided only in connection with residential placement. Another commenter requested that § 302.51(b) be clarified to provide that charges for early intervention services required under this part for handicapped infants and toddlers and their families are unallowable costs under this part.

Discussion: Section 1221(b) of the Act requires each State educational agency receiving assistance under this part to assure that all handicapped children participating in programs and projects under this part receive a free appropriate public education and that those children and their parents are afforded all the rights and procedural safeguards under part B of the EHA. Section 300.302 of the part B regulations specifically requires that where a public agency places a handicapped child in a public or private residential program in order to receive special education and related services, the program, including non-medical care and room and board, must be at no cost to parents. Because this provision along with the other part B requirements already applies to this part, it is not necessary to include it as a specific requirement at § 302.51(b). Section 302.4(d) of these final regulations specifically provides that the requirements in part B of the EHA at 34 CFR part 300 are applicable to this part with respect to the rights and procedural safeguards under part B of the EHA. The Secretary has determined based upon these two comments that the inclusion of § 302.51(b) in the list of allowable expenditures by States is unnecessary and confusing. In response to the second commenter, the Secretary believes that it is unnecessary, and would be inappropriate, to include the language in § 302.63(c) in § 302.51.

Change: The requirement in § 302.51(b) of the NPRM that parents cannot be charged for room and board is deleted from the list of allowable expenditures and incorporated as a comment following § 302.62.

Comment: One commenter objected to the requirement in proposed § 302.51(c) that funds awarded under this part not be used for the payment of tuition and fees and requested clarification regarding the intent of this prohibition. This commenter believed that in the past, funds awarded under this program have been used for the payment of tuition and fees related to summer school and recreation programs.

Discussion: The Secretary agrees with this commenter that a change is needed. Funds distributed under this part may not be used for the payment of tuition and fees for special education and related services included in a handicapped child's IEP or for early intervention services included in a handicapped infant's or toddler's IFSP. However, the Secretary believes that it is permissible to expend Chapter 1 Handicapped program funds for tuition and fees only if such tuition and fees are associated with activities other than the special education and related services specified in a handicapped child's IEP or the early intervention services specified in a handicapped infant's or toddler's IFSP.

Change: Section 302.51(c) of the NPRM, redesignated as § 302.51(b), is changed to clarify that Chapter 1 Handicapped program funds may be expended for tuition and fees under certain circumstances.

Comment: One commenter requested that § 302.51 include a requirement that funds awarded under this part may not be used for construction.

Discussion: The Secretary does not agree that the clarification suggested by this commenter is needed here, as this provision is addressed elsewhere in these final regulations. Although construction costs were allowable expenses under the Chapter 1 Handicapped program in the past, section 1223(b) of the Act prohibits the use of Chapter 1 Handicapped program funds for construction costs. This prohibition is reflected in these final regulations at 34 CFR 302.4(a)(1)(iv), which incorporates by reference 34 CFR 76.533 of EDGAR. Section 76.533 provides that no State or subgrantee may use its grant or subgrant for construction unless specifically permitted by the authorizing statute or the implementing regulations for the program. Since the statute expressly prohibits the use of funds under this part for construction, the expenditure of Chapter 1 Handicapped grant or subgrant funds for construction is impermissible.

Change: None.

Section 302.52 What Maintenance of Effort Requirements Apply to the Programs and Projects Under This Part?

Comment: One commenter requested clarification of evidence of compliance with maintenance of effort requirements for expenditures of State and local funds for the provision of required services to handicapped infants and toddlers.

Discussion: The standard for compliance with the maintenance of effort requirement in §302.52 for handicapped infants and toddlers who participate under this part is the same standard used for determining compliance with the maintenance of effort requirement for agencies serving handicapped children participating under this part. The Secretary recognizes that some confusion may arise in situations where State educational agencies, other State agencies, or local educational agencies previously have not provided services to handicapped infants and toddlers since these agencies would have no data on which to demonstrate maintenance of effort. In these situations, while the maintenance of effort requirement applies, such agencies need not demonstrate compliance with this requirement until the third fiscal year in which they apply for funds under this part for programs and projects for handicapped infants and toddlers.

Change: None.

Comment: One commenter stated that in the past, maintenance of effort was figured in the same manner for all chapter 1 programs. In this commenter's view, § 302.52(a)(1) could be interpreted to require that maintenance of effort for the chapter 1 Handicapped program be based only on the fiscal effort for special education and early intervention services.

Discussion: The statute provides that maintenance of effort under this part must be in accordance with section 1018(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Admendments of 1988, which refers to basic requirements for all chapter 1 programs. The maintenance of effort requirement is basically the same for all chapter 1 programs and is based on the provision of free appropriate public education, which includes the special education and related services and early intervention services provided to handicapped infants, toddlers, and children. Therefore, the Secretary does not believe that further clarification of this requirement is needed.

Change: None.

Section 302.56 What Funds Are Available to a State Educational Agency To Carry Out Its Responsibilities Under the Chapter 1 Handicapped Program?

Comment: One commenter requested that § 302.56 by changed to increase from one percent to five percent of a State educational agency's total grant award the amount that State educational agencies could expand for State administration under this part. This commenter believed that one percent was not a sufficient amount to enable the State educational agency to administer the Chapter 1 Handicapped program effectively.

Discussion: The Secretary has no authority to make the change requested by this commenter, since the one percent administrative cost allowance in prescribed in section 1404(a)(1) of the Act and applies to all chapter 1 programs. By statute, State educational agencies receiving one percent of their total grant award for all chapter 1 programs for State administration. Further, the Secretary believes that the one percent State administrative cost allowance is necessary to ensure that most of a State educational agency's total grant award for all chapter 1 programs in which that State educational agency participates is expended to provide supplemental services to children eligible for services under this part.

Change: None.

Comment: One commenter asked whether it would be appropriate for States whose lead agency for the part H program is not the State educational agency to reduce the flow through allowance by imposing an administering charge, and if so, what are the limitations for the percentage of this charge.

Discussion: Section 1222(a) of the Act requires that all payments made to a subgrantee under this part must be used for programs and projects that are designed to supplement the provision of special education

and related services or early intervention services to handicapped infants, toddlers, and children. Under section 1221(c)(1) of the statute, the State educational agency must distribute, on the basis of the December 1 child count, to each eligible State agency or local educational agency an equal amount for each child counted. There is no statutory authority authorizing a State educational agency to give preference to one subgrantee over other subgrantees in the distribution of funds. Therefore, the Secretary is without authority to make the change requested by this commenter.

Change: None.

Section 302.57 What Is the Prohibition Against Considering Payments Under This Part in Determining State Aid?

Comment: One commenter requested clarification of the purpose of § 302.57, which prohibits a State from considering payments under this part in determining State aid.

Discussion: The Secretary believes that the clarification requested by this commenter is not needed. The requirement that Chapter 1 Handicapped program funds not be considered in determining State aid is statutory and is taken directly from section 1454 of the Act. This requirement was intended to ensure that amounts of grant awards received by agencies participating in chapter 1 programs not be considered in allocating available State aid to such agencies. Therefore, the Secretary has determined that no change is needed.

Change: None.

Subpart G—What Other Post-Award Conditions Must be Met by a State and Its Subgrantees?

Section 302.60 May Uncounted Children Be Served in Programs and Projects Under This Part?

Comment: One comment recommended that criteria be added for determining when children described in paragraphs (a) and (b) have been fully served. This commenter also suggested that this section be combined with § 302.51.

Discussion: The Secretary agrees with this commenter that additional guidance is needed on criteria for determining which children have been fully served. The language "have been fully served" is taken directly from Section 1225(2) of the Act and was also used in § 302.1 of the proposed regulations under this part, which describes the Chapter 1 Handicapped program. In responding to a comment on § 302.1, the Secretary has determined that a change was necessary and has amended § 302.1 of this part to replace the statutory language. Similarly, the Secretary has determined that a change is also needed in § 302.60 to ensure consistent interpretation of statutory language in these final regulations. However, the Secretary does not agree with this commenter that combining § 302.60 with § 302.51 of these final regulations would be helpful, since criteria for eligibility of children for services under this part are separate from allowable cost criteria.

Change: Section 302.60 is changed to replace the language "have been fully served" with language to specify when other handicapped children can be served with funds under this part.

Section 302.61 What Evaluation and Assessment Requirements Apply for a State and Its Subgrantees?

Comments: One commenter asked what data grantees will be expected to maintain to demonstrate that children benefit from this program and asked whether the State educational agency will be expected to collect this information from subgrantees. This commenter recommended that the data be maintained at the local level and that an assurance be included in a subgrantee's application to the State educational agency that services provided under this part have been reviewed and evaluated and determined to be beneficial to students.

Discussion: The Secretary has determined that the changes suggested by this commenter are not needed. This requirement is statutory and is taken from section 1222(c) of the Act. Similarly, section 1224(c)(5) of the Act, as reflected in § 302.31(a)(6) of these final regulations, requires an assurance in an application that a subgrantee will conduct those evaluations and assessments necessary to demonstrate that programs and projects assisted under this part are beneficial to the children served. However, the statute does not prescribe the methods for meeting this statutory requirement and does not impose any specific data collection requirements on recipients, as suggested by this commenter. The Secretary has determined that each recipient should have the flexibility to develop its own procedures to ensure compliance with this requirement. Therefore, the Secretary has determined that no change is needed.

Change: None.

Section 302.62 What Special Requirements Apply Under This Part?

Comment: A number of commenters asked the Secretary to insert after the reference to part 303 the phrase, "for States participating in part H."

Discussion: References in this part to 34 CFR part 303 are to the regulations implementing Part H of the EHA in 34 CFR Part 303 (Early Intervention Program for Infants and Toddlers with Handicaps). In general, services for handicapped infants and toddlers under this part must meet the requirements of part H of the EHA. (see 34 CFR 302.63). States may only provide services to handicapped infants and toddlers under this part in accordance with 34 CFR part 300 if (1) They are participating in the part H program and (2) they are in the phase-in period for part H services. Therefore, the Secretary does not believe that the clarification requested by this commenter is needed. However, the Secretary has determined that it is necessary to clarify that when a handicapped child is placed in a public or private residential institutional facility for educational reasons, that child's program, including non-medical care and room and board, must be at no cost to the parents, in accordance with 34 CFR 300.302 of the regulations for part B of the EHA.

Change: A comment is added following § 302.62 to clarify the applicability of this part B requirement.

Section 302.63 How Does a State Educational Agency Administer This Program in a Manner Consistent With Part H of the EHA?

Comment: One commenter asked for clarification as to whether all handicapped infants and toddlers participating under this part must receive early intervention services or if special education may be provided to handicapped infants and toddlers participating in programs and projects assisted under this part.

Discussion: The Secretary agrees with this commenter that clarification is needed. Section 1221(b)(1) of the Act requires each State educational agency receiving assistance under this part to assure: (1) That all handicapped children in the State, other than handicapped infants and toddlers, participating in programs and projects assisted under this part receive a free appropriate public education; and (2) that those handicapped children and their parents are afforded all the rights and procedural safeguards under part B of the EHA. The statute also requires the State educational agency to assure that all handicapped infants and toddlers in the State participating under this part receive early intervention services and that they and their families are afforded all the rights and procedural safeguards in part H of the EHA. Section 1224(c)(1) of the Act also requires an assurance to this effect as a condition of assistance for any subgrantee under this part. Further, section 1222(a) of the Act provides that the State educational agency may use funds under this part for programs and projects that are designed to supplement the provision of special education and related services to handicapped children (other than handicapped infants and toddlers) and early intervention services to handicapped infants and toddlers. The Secretary believes that § 302.63(a) of the proposed regulations, which made it permissible for a State education agency to provide a free appropriate public education to handicapped infants and toddlers, instead of early intervention services, exceeded his statutory authority. Therefore, the Secretary has determined that proposed § 302.63(a) should be deleted. However, the Secretary has determined that proposed paragraph (b) should be retained because the legislative history of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 specifically expresses congressional intent that States be permitted to provide free appropriate public education to handicapped infants and toddlers participating in programs and projects assisted under this part until the fifth year of implementation of part H of the EHA (see H. Rept. No. 195, 100th Cong., 1st Sess., 43 (1987)). With the exception of this phase-in period under part H of the EHA, States are required to provide early intervention services to handicapped infants and toddlers participating under this part.

Change: Section 302.63 is changed to provide that except during the phase-in period for part H services, early intervention services must be provided to handicapped

infants and toddlers served under this part. Paragraphs (b), (c), and (d) of proposed § 302.63 are redesignated as paragraphs (a), (b), and (c) of § 302.63 of these final regulations.

Comment: One commenter requested clarification as to whether the phrase "under this part," as used in proposed § 302.63(d), refers to 34 CFR part 302 or 34 CFR part 303.

Discussion: Section 302.63(c) of these final regulations provides: "Early intervention services required under this part must be provided at no cost to parents." The phrase "under this part," as used in these final regulations, refers to 34 CFR Part 302—The Chapter 1 State Operated or Supported Programs for Handicapped Children program. Thus, § 302.63(c) of these final regulations encompasses all early intervention services that are required to be provided to handicapped infants and toddlers participating in programs or projects assisted under this part. Therefore, the Secretary has determined that no change is needed.

Change: None.

Comment: Many comments were received on the provision at §302.63(d) of these proposed regulations, which provides that required early intervention services under this part must be provided at no cost to parents. Many commenters requested clarification as to the breadth of this provision and asked whether only those services to which handicapped infants and toddlers participating under this part are entitled under part H of the EHA could be provided without charge or whether all early intervention services provided to handicapped infants and toddlers participating under this part must be provided at no cost. Generally, comments from State Departments of Education strongly urged that § 302.63(d) be retained since in the past, the chapter 1 Handicapped program has been closely linked to part B of the EHA and has always been free to parents of handicapped infants and toddlers. Other commenters objected that § 302.63(d) conflicted with § 303.521 of the regulations for part H of the EHA, under which parents may be charged for early intervention services on a sliding fee scale basis. Several commenters suggested that it be permissible to charge fees if the service is educational in nature and eligible for payment under the chapter 1 Handicapped program and impermissible if the service is not educational in nature and would not be eligible for payment under the chapter 1 Handicapped program. Other commenters objected to the requirement that early intervention services such as nutritional services and coordination of the IFSP be provided at no cost, as going beyond the intent of the chapter 1 Handicapped program or part B of the EHA.

Discussion: The Secretary agrees with commenters who urge that this requirement be retained. Section 1222(a) of the Act vests in the Secretary the policy discretion to determine the extent to which requirements in part H of the EHA are applicable to this part. The Secretary believes that the Department's longstanding interpretation that parents of participants in this program not be charged for required services should be reflected in its policy under the chapter 1 Handicapped program regarding fees for required early intervention services provided to handicapped infants and toddlers participating under this part because similar services under this program have traditionally been provided at no cost to parents. Further, the Secretary emphasizes that historically, State Departments of Education that have served handicapped infants and toddlers without charging fees have strongly urged the Secretary to continue this policy of not charging fees for early intervention services provided under this part. The Secretary believes that this experience is particularly relevant for the Department in formulating policy for the chapter 1 Handicapped program.

The Secretary does not agree with commenters who urge that the at no cost requirement be eliminated because it conflicts with part H of the EHA. The chapter 1 Handicapped program and part H of the EHA are derived from different statutes that are intended to address different needs, and the Secretary has determined that early intervention services required to be provided to handicapped infants and toddlers under this part must be provided at no cost, regardless of whether parents of infants and toddlers participating in part H of the EHA may be charged for early intervention services. While the chapter 1 Handicapped program is intended to support programs and projects that are designed to supplement the provision of special education and related services or early intervention services to handicapped infants, toddlers, and children, part H of the EHA is intended to assist each participating State in developing an effective early intervention program. The Secretary has determined that retaining the at no cost requirements under this part will not inhibit coordination between these two programs. Further, it is not necessary for the Secretary to provide guidance on which early intervention services must be provided at no cost to parents because the Secretary intends the at no cost requirement to encompass all early intervention services required to be provided to handicapped infants and toddlers participating under this part. The definition of early intervention services in part H of the EHA has been made applicable to this part by § 302.5(c) of these final regulations, and this definition includes such services as nutritional services and coordination of the individualized family service plan. The Secretary does not agree with some commenters who suggested that parents can be charged for early intervention services provided under this part that are not traditional educational services since the Secretary has determined that all required early intervention services under this part must be provided at no cost to parents. Thus, under these final regulations, the service need not be one to which the child is "entitled" under part H of the EHA for the service to be provided at no cost to parents of handicapped infants and toddlers participating under this part since all required early intervention services under this part must be provided at no cost to parents.

Change: None.

Comment: A few commenters were concerned that the requirement that early intervention services be provided at no cost to parents could jeopardize the use of insurance proceeds.

Discussion: Early intervention services, like special education and related services, provided to handicapped infants, toddlers, and children participating in programs or projects assisted under this part must be provided at no cost to parents. The Secretary does not interpret Part H of the EHA or this part as precluding agencies responsible for the provision of early intervention services from requiring parents to use their insurance proceeds to pay for the cost of required early intervention services in circumstances where the parents would suffer no financial loss. For examples of financial losses, see Notice of Interpretation on Use of Insurance Proceeds, published at 45 FR 86390 (December 30, 1980).

Change: None.

Comment: One commenter asked the Secretary to provide a single format for due process procedures under part H of the EHA and this part.

Discussion: The Secretary does not agree that a single format for due process procedures under part H of the EHA and this part can be implemented. Section 1221(b)(1) of the Act requires each State educational agency receiving a grant under this part to assure that all handicapped children participating in programs or projects assisted under this part and their parents are afforded all the rights and procedural safeguards in part B of the EHA. In addition, the State educational agency must assure that all handicapped infants and toddlers participating in programs and projects assisted under this part and their families are afforded all the rights and procedural safeguards under part H of the EHA. Thus, the due process procedures in part B of the EHA are applicable to parents of handicapped children, and the due process procedures in part H of the EHA are applicable to parents of handicapped infants and toddlers. However, 34 CFR 303.169 of the regulations for part H of the EHA states that the lead agency participating in part H of the EHA may elect either the due process procedures that are consistent with § 303.402(b) and §§ 303.421–303.425 of the regulations for part H of the EHA or the due process procedures in 34 CFR 303.506–300.513 of the regulations for part B of the EHA. Therefore, the Secretary has determined that no change can be made.

Change: None.

Section 302.64 What Complaint Procedures Shall a State Adopt?

Comment: One commenter suggested that the complaint procedures be deleted from this part or that provisions be made that complaint procedures for this part could be implemented through those in part B and part H of the EHA.

Discussion: The Secretary has elected to move the complaint procedures from 34 CFR 76.780–76.782 of EDGAR to the program

specific regulations to which they apply. Therefore, the Secretary has determined that compliant procedures requirements must be included in these final regulations. Sections 302.64–302.66 of this part incorporate and make applicable to this part the general complaint procedures in §§ 76.780–76.782 of EDGAR.

In implementing their complaint procedures for programs for handicapped infants, toddlers, and children, States have the discretion to apply similar procedures in resolving complaints alleging violations of the part B statute and regulations and the part H statute and regulations, as those they use in resolving complaints alleging violations of the Chapter 1 Handicapped program statute and the regulations in this part. Alternatively, States can elect to adopt separate complaint procedures for all three programs.

Change: None.

Section 302.67 What Requirements Apply to State Rulemaking and Other State Educational Agency Responsibilities?

Comment: Several commenters were concerned that § 302.67 (e)(1)(iii), (e)(2) and (e)(3) regarding responsibilities of the committee of practitioners exceeds the statute and recommended that they be removed.

Discussion: These subsections do not exceed the statutory requirements enacted in the Augustus F. Hawkins—Robert T Stafford Elementary and Secondary School Improvement Amendments of 1988. The requirements at § 302.67 (e)(1)(iii) and (e)(2) are taken directly from § 200.70 of the regulations for the Chapter 1—Local Educational Agency Program, and § 302.67(e)(3)(i) is taken directly from section 1451(b) of this Act. Therefore, the Secretary has determined that no change is needed.

Change: None.

Comment: Several commenters suggested that the requirement for a committee of practitioners under this part could be met either through use of the State advisory panel required under part B of the EHA at 34 CFR 300.570 or, alternatively, a joint committee including a State's advisory panel required under part B of the EHA and a State's interagency coordination council as required under part H of the EHA at 34 CFR 303.600.

Discussion: These regulations afford States the flexibility to satisfy the committee of practitioners requirement through use of existing advisory panels or interagency coordination councils. However, regardless of what resources States may elect to use to satisfy this requirement, the membership requirements of § 302.67(e)(3) must be fully met.

Change: None.

[FR Doc. 90–19953 Filed 8–23–90; 8:45 am]

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federal register

Friday
August 24, 1990

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 3
Federal Acquistion Regulation (FAR); Special Government Employees; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 3

[Federal Acquisition Circular 84-59]

Federal Acquisition Regulation (FAR); Special Government Employees

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: Federal Acquisition Circular (FAC) 84-59 amends the Federal Acquisition Regulation (FAR) to implement changes to § 3.601 to clarify that special Government employees performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees under subpart 3.6 unless (a) the contract arises directly out of the individual's activity as a special Government employee; (b) in the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or (c) another conflict of interest exists.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Edward C. Loeb, Office of Federal Aquisition Policy, GS Building, Washington, DC 20405, (202) 501-4547. Please cite FAC 84-59.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 3.601 states a general policy that contracting officers shall not knowingly award a contract to a Government employee, or to a business concern, or to other organization-owned, or substantially—owned, or controlled, by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between employees' interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.

Included in the category of Government employees are special Government employees, as defined in 18 U.S.C. 202; that is, individuals who can work not more than 130 days during any period of 365 days and who are not required by law to receive compensation. Consequently, individuals serving as special Government employees or organizations within their control may not be awarded contracts in accordance with current FAR 3.601.

This final rule eliminates the applicability of FAR 3.601 to special Government employees appointed committee, except where the contract would arise directly out of the activity of the special Government employee, the individual is in a position to influence award of the contract based upon the individual's capacity as a special Government employee, or another conflict or interest exists. The Councils believe that only in these cases is there the potential for an actual conflict or the appearance of a conflict of interest and, therefore, the need for a policy prohibition. Further, to assure that a conflict or appearance of a conflict does not exist, special Government employees are required, prior to assuming official responsibilities, to file a confidential or public financial disclosure form. Also, by virtue of an individual's position as a special Government employee, they are made subject to certain post-employment restrictions.

B. Regulatory Flexibility Act

This final rule is not expected to have a 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 it merely clarifies the applicability of conflict of interest policies to certain types of special Government employees.

C. Public Comments

A proposed rule to modify the applicability of § 3.601 to special Government employees appointed as advisors or consultants, or serving as members of advisory committees, was published in the **Federal Register** on December 15, 1989 (54 FR 51730). Public comments were received and considered in drafting this final rule.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to § 3.601 do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 3

Government procurement.

Dated: August 21, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

[Number 84-59]

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-59 is effective September 24, 1990.

Eleanor Spector,

Deputy Assistant Secretary of Defense for Procurement.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy, GSA.

S. J. Evans,

Assistant Administrator for Procurement, NASA.

Federal Acquisition Circular (FAC) 84-59 amends the Federal Acquisition Regulation as specified below:

Item I—Special Government Employees

FAR 3.601 is amended to clarify that special Government employees performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees under subpart 3.6 unless (a) the contract arises directly out of the individual's activity as a special Government employee; (b) in the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or (c) another conflict of interest exists.

Therefore, 48 CFR part 3 is amended as set forth below:

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for 48 CFR part 3 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 3.601 is revised to read as follows:

3.601 Policy.

(a) Except as specified in 3.602, a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees' interests and their Government duties, and to avoid the appearance of favoritism or

preferential treatment by the Government toward its employees.

(b) For purposes of this subpart, special Government employees (as defined in 18 U.S.C. 202) performing services as experts, advisors, or consultants, or as members of advisory committees, are not considered Government employees unless—

(1) The contract arises directly out of the individual's activity as a special Government employee;

(2) In the individual's capacity as a special Government employee, the individual is in a position to influence the award of the contract; or

(3) Another conflict of interest is determined to exist.

[FR Doc. 90–19985 Filed 8–23–90; 8:45 am]

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federal register

Friday
August 24, 1990

Part VI

Department of Labor

Employment and Training Administration

29 CFR Part 29

Labor Standards for the Registration of Apprenticeship Programs; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Part 29

Labor Standards for the Registration of Apprenticeship Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: Employment and Training Administration of the Department of Labor is proposing to revise the regulations for the registration of apprenticeship programs under the National Apprenticeship Act. The proposed rule simplifies the regulations and responds to comments received in response to focus papers and in public meetings under the Apprenticeship 2000 initiatives.

DATES: Interested persons are invited to submit written comments on the proposed rule. All comments must be received by October 23, 1990.

ADDRESSES: Send written comments on the proposed rule and the collection of information to: Assistant Secretary of Labor, Employment and Training Administration, U.S. Department of Labor, room N–4649, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Director, Bureau of Apprenticeship and Training. Written comments on the collection of information requirements also should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Minor R. Miller, Acting Director, Bureau of Apprenticeship and Training. Telephone: (202) 535–0540 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The National Apprenticeship Act (29 U.S.C. 50 et seq.) authorizes and directs the Secretary of Labor (Secretary).

> * * * to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, [and] to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship * * *. [29 U.S.C. 50.]

Through the Employment and Training Administration (ETA) of the Department of Labor (DOL), the Secretary of Labor, (Secretary) has issued regulations at 29 CFR part 29 setting registration standards for apprenticeship programs and standards for recognition of State apprenticeship agencies.

In 1987, DOL launched the Apprenticeship 2000 initiative. Publication of an issue paper exploring expansion of the apprenticeship concept began the review, 52 FR 45904 (December 2, 1987). The purpose of the review was to determine the role of the apprenticeship system in meeting America's future needs for a skilled work force. A short-term research effort to support the review was announced in the Federal Register on June 3, 1988, at 53 FR 20386.

The public response to the issue paper was analyzed, and the results were published in the Federal Register on September 2, 1988, at 53 FR 34250. The analysis of the public response found overwhelming support for the apprenticeship concept as a method of training skilled workers. There was also significant consensus that apprenticeship should be expanded, but within certain limits and without sacrificing quality. The first focus paper presented alternative models for apprenticeship and examined measures for defining quality in apprenticeship programs. See 53 FR 40326 (October 14, 1988). The second and third papers were discussed at 54 FR 3756 on January 25, 1989. The cited documents and public comments thereon form a basis for the rulemaking, as do three public forums conducted on the Apprenticeship 2000 Initiative and a series of selected short-term research projects funded by ETA.

The following is a summary of the more significant of the proposed revisions. First, these rules propose to increase the minimum term in registered apprenticeship from one to two years and redefine the criteria for determining the apprenticeability of an occupation. This change would restore the former two-year (4,000 hours) minimum. This change has been urged by many in the apprenticeship community to maintain the distinct longer term characteristic of apprenticeship and more clearly distinguish it from other on-the-job training. The longer term is supported by practitioners as necessary to achieve the broad skill level, and quality of performance objectives of apprenticeship. The criteria for determining apprenticeability are restated and made more explicit in support of this proposed change. The proposed change is one of significance and particular public input is sought on whether this 4,000 hours minimum restricts access to apprenticeship program. Specific public input is also requested as to any minimum number of hours being required for competency-based apprenticeship programs.

The revised rules provide for portability of registration for all industries. The current regulations limit portability, i.e., the acceptance without change of a program registered in State A by State B, to programs sponsored jointly by labor and management in other than the building and construction industry. The current limitation fails to accommodate the increasing number of construction contractors who operate on a regional and national basis, compounds needless paper work and administrative reviews for such sponors, and may impair the continuity of employment for some apprentices. The proposed rule change for program registration portability is consistent with Employment Standards Administration (ESA) requirements for Davis-Bacon and Related Acts (DBRA) in that ESA accepts the registration status at the home base of a contractor performing DBRA work in another location.

The revised rules provide for improved sponsor and registration agency accountability in program registration, denial, or withdrawal of registration. The rules provide for an expeditious, simplified appeal process. The changes proposed are intended to reduce subjectivity and the opportunity for bias in determining conditions for program registration and in the monitoring of programs, and eliminate the permissive use of additional State or other standards not set forth in these rules. For example, currently there are no requirements that a sponsor of a proposed apprenticeship program requesting its registration be advised promptly of a decision on the request, or to be furnished any particulars in event of a denial. A potential sponsor may be denied registration without knowing why and given no opportunity within the system for appeal. The changes proposed are intended to correct this lack of consistent application of the rules, provide for prompt appeal and disposition of complaints, and bring about greater fairness and equity in apprenticeship operations in States where registration is performed by the Bureau of Apprenticeship and Training and in States where registration is performed by State Apprenticeship Agencies (SAA).

The revised rules require periodic renewal of program Certificates of Registration and will improve program quality. This new requirement lends emphasis to the sponsor's obligation to maintain registration status and the registration agency's obligation to monitor and render assistance to the

sponsor in taking any remedial action through the conduct of periodic quality reviews. These reviews will be conducted annually during the first 3 years of a program's operation and every 5 years thereafter. The regulations also establish the foundation for issuing subsequent criteria designed to measure and improve the quality of programs. A quality handbook with specific guidelines and measurement criteria will be developed and provided to program sponsors to assist them in maintaining and improving a high quality program. These materials will be developed with public input through the Federal Register process. It removes from reporting records inactive programs and enhances the value of Federal and State credentialing.

The revised rules provide that ratios of apprentices to journeyworkers relate to the sponsor's capability and capacity to train. The current regulations require that a numeric ratio be stated in the program standards. The proposed revision neither precludes nor requires a ratio except for work performed at jobs sites under the DBRA and 29 CFR part 5, when a numeric ratio is necessary to determine compliance with such laws. The proposed changes do not prohibit the use of numeric ratios as frequently found in collective bargaining agreements and thus in joint labor-management sponsored apprenticeship programs, but they shift the emphasis from the use of traditional or area practice numeric ratios to those based more upon training requirements and the sponsor's ability and capacity to train.

The revised rules establish benchmarks for related instruction hours, granting of advanced standing, and awarding of completion certificates. The current regulations recommend 144 hours annually of supplemental related instruction or study in trade theory. The 144 hours had its roots in the classroom hours normally available for adult education, annually, some years ago. The requirement for supplemental instruction or study is continued with specific hours dropped and flexibility given to make such hours appropriate to the occupation. With respect to awarding of credit for previous applicable experience to an apprentice, the proposed revision makes clear when such credit may be allowed, by whom, and what redress is available. The changes proposed for the awarding of Certificates of Completion establish a minimum time which must be served in a bona fide registered program to be eligible for such a certificate and enhance the value of such credentialing.

The revised rules provide clear and concise procedures for the recognition or the derecognition of a State Apprenticeship Agency to act in behalf of the Secretary of Labor as a program registration authority. The present Federal/State structure is preserved in the proposed revised rules. States which elect to act as a registration authority in behalf of the Secretary are required to commit to adhere to the published Federal rules. One intent is to bring order and uniformity in all political jurisdictions as to the basic standards for apprenticeship program registration. Another intent is to bring equity in treatment to all sponsors without regard as to their union or non-union status.

The proposed changes require the identification of an organizational entity of State government having the capability of performing the functions of a registration agency, as appropriate for recognition by the Secretary of Labor. The proposed rules require annual recertification consistent with other similar DOL Federal-State programs.

The proposed rule provides for a simplified administrative appeal process for both denial of a recognition request or the withdrawal of recognition. It provides reasonable timeframes for such actions.

The proposed rule changes reserve to the Secretary of Labor and the BAT Director the right to register any apprenticeship program for sufficient reason or in the national interest. The revision will permit the Federal registration of a particular program when it is in the interest of the Department to do so without damage to the integrity of the system as a whole. Typically, programs where certain particular standards are not practical include apprenticeship programs for uniformed military personnel, for correctional institution programs, and those in certain civilian government agencies.

Regulatory Impact

The rule does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order 12291, 3 CFR, 1981 Comp., Page 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact of a substantial number of small entities.

Paperwork Reduction Act

The information collection requirements contained in the proposed rule have been submitted to the Office of Management and Budget for clearance under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). ETA is proposing the following collections of information:

Sponsor of apprenticeship program submits written plan (and any modification or renewal of plan) for program to registration agency. *Estimated likely respondents:* 4,500 sponsors/yr. *Estimated average hrs./response:* 4.

State apprenticeship agency issues Certificate of Registration to each approved apprenticeship program. *Estimated likely respondents:* 28 State agencies/yr. *Estimated average hrs./response:* 5.

State apprenticeship agency issues written notice of rejection to sponsor regarding rejected plan. *Estimated likely respondents:* 20 State agencies/yr. *Estimated average hrs./response:* 10.

State apprenticeship agency issues written notice of deregistration to sponsor regarding deregistration of apprenticeship programs. *Estimated likely respondents:* 18 State agencies/yr. *Estimated average hrs./response:* 16.

Where collective bargaining agent representing apprentices to be trained elects not to participate in administration of program, State apprenticeship agency requires from agent written ackowledgement of agreement to program or of "no objection" to registration. *Estimated likely respondents:* 10 agents/yr. *Estimated average hrs./response:* ½.

Sponsor supplies copy of written program to each apprentice. *Estimated likely respondents:* 7,000 sponsors/year provide 20,000 copies. *Estimated average hrs./response:* ⅓.

Sponsors supply to State apprenticeship agencies copies of apprenticeship agreement and notices of cancellations and terminations thereof, between sponsor and each apprentice. *Estimated likely respondents:* 15,000 sponsors/year provide 90,000 copies.

Sponsor issues Certificate of Completion of Apprenticeship to each registered apprentice who successfully completes apprenticeship in sponsor's registered program. *Estimated likely respondents:* 28 State agencies/yr. *Estimated average hrs./response:* ½.

State apprenticeship agency submits written request to ETA Bureau of Apprenticeship and Training to be recognized. *Estimated likely*

respondents: 27 State agencies/yr. *Estimated average hrs./response:* 32.

Estimates of time include time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing collection of information.

Send comments regarding these burden estimates or any other aspects of these collections of information, including suggestions for reducing the burden, to ETA at the address indicated in the **ADDRESSES** section of the preamble and to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance as No. 17.201, "Apprenticeship Training."

List of Subjects in 29 CFR Part 29

Apprenticeability criteria, program standards, registration and deregistration, portability, sponsor eligibility, State Apprenticeship Agency recognition and derecognition, apprentice agreement and complaints, exceptions and waivers.

Proposed rule

Accordingly, it is proposed that part 29 of title 29, Code of Federal Regulations, be revised to read as follows:

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

Sec.

29.1 Purpose and scope.
29.2 Definitions.
29.3 Criteria for apprenticeable occupations.
29.4 Standards for apprenticeship.
29.5 Program registration; denials; deregistration.
29.6 Registration portability.
29.7 Sponsor eligibility.
29.8 Apprenticeship committees.
29.9 Apprenticeship agreements.
29.10 Apprentice complaints.
29.11 Credit for previous experience.
29.12 Certificate of completion.
29.13 Recognition and derecognition of a State apprenticeship agency.
29.14 Transfer of registration status.
29.15 Exclusions and waivers.

Authority: 29 U.S.C. 50 et seq.

§ 29.1 Purpose and scope.

(a) The National Apprenticeship Act of 1937, section 1 (29 U.S.C. 50), authorizes and directs the Secretary of Labor "to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship". Section 2 of the Act authorizes the Secretary of Labor to "publish information relating to existing and proposed labor standards of apprenticeship". (29 U.S.C. 50a)

(b) The purpose of this part is to set forth labor standards to safeguard the welfare of apprentices and to extend the application of such standards by prescribing policies and procedures concerning the registration of acceptable apprenticeship programs. These labor standards, policies and procedures cover the registration and deregistration of apprenticeship programs by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training (BAT), or by an agency of State government which is recognized by the BAT as an appropriate agency to perform these functions.

(c) Eligibility for various Federal purposes such as Davis-Bacon Act and Related Act registration requirements, is conditioned upon a program's conformity with apprenticeship program standards published by the Secretary in this part. Registration of the program by the registration agency is such determination of conformity. Procedures for obtaining such recognition are set forth as well as for its denial or termination. Procedures for the registration of programs and individual apprentices, the determination of apprenticeability, sponsor eligibility, resolution of disputes, and other related matters are set forth as well.

§ 29.2 Definitions.

As used in this part:

(a) *Apprentice* means a person of legal working age who is employed to learn a skilled trade as defined in § 29.3 of this part, under standards of apprenticeship fulfilling the requirements of § 29.4 of this part, and under the terms of an agreement as specified in § 29.9 of this part.

(b) *Apprenticeship program* means a formal system of directed employment connected training and instruction in an apprenticeship occupation as determined by the criteria given in § 29.3 of this part.

(c) *Bureau (BAT)* means the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor.

(d) *Department* means the U.S. Department of Labor.

(e) *Director* means the Director of the Bureau or the Director's designee.

(f) *Recognized State apprenticeship agency (SAA)* means a specific organizational entity of State government having a capability to carry out the functions, and which has petitioned for, received, and maintains recognition and approval by the BAT Director to act as the appropriate registration authority.

(g) *Registered apprenticeship program* means a written plan for a system of training incorporating the basic standards of § 29.4 of this part and conducted in accordance with the requirements of this part, as evidenced by a registration certificate.

(h) *Registration* by the Bureau or a recognized State apprenticeship agency means:

(1) For programs, the acceptance and recording thereof by the registration agency as meeting the requirements of this part for the approval of such programs.

(2) For Apprenticeship agreements, the acceptance and recording thereof by the registration agency as evidence of the participation of the individual apprentice in a particular registered program.

(i) *Registration agency* means the Bureau or a recognized State apprenticeship agency.

(j) *Secretary* means the Secretary of the U.S. Department of Labor or the Secretary's designee.

(k) *Sponsor* (in whose name the program is registered), means an employer or a group of employers, with or without the participation of a labor union.

(l) *State* means any of the 50 States of the United States, the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau.

§ 29.3 Criteria for apprenticeship occupations.

An apprenticeable occupation is one which possesses all of the following characteristics:

(a) It involves mechanical, cognitive, literacy and technical skill and knowledge which customarily require a minimum of two years (approximately 4,000 hours) or longer of work, training, and learning experiences to learn the occupation. In the case of competency based programs the minimum may be reduced to 18 months (approximately 3,000 hours).

(b) It is customarily learned in a practical way through a structured, hands-on, systematic program of on-the-job supervised training and task rotation that involves the development of skills sufficiently broad as to be applicable in like occupations throughout an industry and not narrowly restricted to the tools, materials and processes or operations of a single employer.

(c) It is clearly identified and commonly recognized throughout an industry and it is not part of another apprenticeable occupation unless such part is commonly practiced throughout an industry as an identifiable and distinct occupation possessing all of the characteristics set forth in this section.

(d) It requires a measurable component, depending upon the complexity and demands of the occupation, of instruction or study in related and technical subjects to supplement work acquired skills. Because of the diversity in such requirements, the minimum hours for this component are not prescribed in this part. The Bureau considers a benchmark minimum for this element to be approximately one-twelfth of the on-the job training time. In its quality assurance program, the Bureau will seek industry guidance to establish appropriate minimums.

§ 29.4 Standards of apprenticeship.

To be eligible for registration, an apprenticeship program must be presented to the registration agency as an organized, written plan subscribed to by the sponsor covering the terms and conditions for employment and training in an apprenticeable occupation(s) of one or more apprentices. The standards specified in this section must all be met:

(a) The program in its description and in its operation shall be in conformity with all applicable equal employment opportunity requirements.

(b) To be registered, the apprenticeship program shall set forth requirements or contain provisions for all of the following:

(1) A term (length of time or duration) of the apprenticeship which will enable the apprentice to learn the skills of the trade, achieve an acceptable standard of quality and speed of performance, and develop a maturity of judgment, reasoning and learning ability customarily found at the journeyworker level.

(i) When the program is performance based with progression dependent upon demonstrated skills and knowledge acquired, a variable term of apprenticeship may be stated provided the hours of on-job training and work experience equals or exceeds two years (approximately 4,000 hours) which may include time spent in related instruction or study.

(ii) The term may be time-based and stated as a definite number of hours, months, or years but not less than the minimum required to achieve the objectives stated in the introductory language to paragraph (b)(1) of this section and not less than two years (approximately 4,000 hours).

(iii) A probationary period reasonable in relation to the anticipated full term of apprenticeship but in no event exceeding one-fourth of such term shall be stated; the probationary period shall be considered a part of the full term of apprenticeship.

(2) An outline of the major work processes in which the apprentice will receive supervised training and work experience arranged in an orderly sequence from lesser to more complex in degree of difficulty and skill content. For each segment or major division of related tasks and skills, a performance objective shall be stated. For fixed-term time-based programs, the anticipated hours of work and training for each major segment and wage progression interval shall be stated.

(3) A provision for organized related instruction or study in theoretical and technical subjects related to the trade including the development of literacy competencies necessary for successful performance. Such instruction or study may be on-site or off-site from the work station; it may be in a formal classroom setting, through computerized programmed learning, interactive video instruction, self-paced study, telephonic-fax instruction, or other means. The essential requirements are that it shall be described and shall be planned and directed.

(4) A progressively increasing wage schedule consistent with the level of skills required. The wage schedule shall be expressed in percentages of the journeyworker wage and how the journeyworker wage rate is determined shall be described. The entry wage for an inexperienced apprentice shall not be less than the minimum wage (or, as appropriate, the subminimum training wage) prescribed by the Fair Labor Standards Act, unless a higher wage is required by any other applicable Federal or State law. This standard shall not prohibit wage payments by the employer greater than that called for by the progressive schedule, nor shall this provision require a reduction of wages unless voluntarily elected, for a person transferred by the employer from another classification to that of apprentice.

(5) A provision for the regular review and evaluation by the sponsor of the apprentice's progress in both job performance and related instruction and the maintenance of appropriate records of such progress that are descriptive of the amount and type of work experience being gained by the apprentice. Self-appraisal by the apprentice will be encouraged and recorded. All progress records shall be available for review by the registration agency upon its request. Such records must be retained for a minimum of five years.

(6) A statement that the number of apprentices to be in the program at any one time shall not exceed the sponsor's capacity to train and to provide competent, personalized on-job instruction and supervision and shall not endanger or create an additional safety hazard for the apprentice and other workers:

(i) The number of apprentices in training at any one time is not expected to exceed the number the sponsor plans to employ on a reasonably continuous or permanent basis during the term of apprenticeship.

(ii) A numeric ratio is neither precluded nor required by this standard except for work performed at job sites under the Davis-Bacon Act and Related Acts and by 29 CFR part 5, when a numeric ratio is necessary to determine compliance with such laws. Numeric ratios must be specified in the apprenticeship program standards or as an addendum thereto and may be applicable only to such specific job sites. The numeric ratio will continue to be applicable for the entire duration of the sponsor's performance on the project unless the addendum provides for a specified variation. In determining the appropriate numeric ratio the provisions of paragraph (b)(6)(iii) of this section will be followed.

(iii) When the planned number of apprentices in any craft covered by the program will exceed the number of craftworkers normally employed by the sponsor in those crafts, the registration agency shall consider the program sponsor's request based on factors such as the nature of the training setting, the dispersion of training and work stations, closeness of supervision, cognitive versus manipulative skill content in the occupation, and may require a justification by the sponsor.

(7) The inclusion of a specific provision for safety training for apprentices both on the job and in related supplemental instruction. The emphasis given and time allocated for this purpose is expected to be directly

related to the hazards and risks normally found in the occupation.

(8) The identification by name and address of the appropriate authority to receive, process, and make disposition of apprentice complaints.

(9) The minimum qualifications required by the sponsor for persons entering the apprenticeship program.

(10) The placement of all apprentices employed in the crafts covered by the registered program under a written apprenticeship agreement as stipulated in § 29.9 of this part, and the registration of such agreements.

(11) The granting of advanced standing or credit, for previously acquired applicable experience as stipulated in § 29.11 of this part.

(12) Recognition for successful completion of apprenticeship as stipulated in § 29.12 of this part.

(13) Identification of the registration agency and provision for its prompt notification of all new indentures or enrollments of apprentices, terminations and completions of apprentices, deletions or additions to participant sponsors, receipt of complaints, the applicable journeyworker wage rate and any subsequent change in the rate or its method of determination, and for any proposed modifications in the program.

(14) A provision for the recording and maintenance of all essential records concerning the program as may be required by the registration agency and other applicable laws and regulations. The record must be retained for a minimum of five years.

(15) Such other standards as may be established by the Bureau in order to insure that registered programs provide quality training and instruction both on and off the work site. Any such standards shall be published for public notice and comment prior to adoption. Reasonable time periods shall be established prior to the effective date of any new standards.

(c) The registration agency shall not require standards or conditions in addition to those set forth in this part, or required by part 30 of this title, and shall not deny registration to an apprenticeship program meeting the standards set forth in this part and part 30 of this title.

§ 29.5 Program registration; denials; deregistration.

(a) No apprenticeship program shall be eligible for registration unless it is in conformity with the standards set forth at § 29.4 of this part, and the training is in an apprenticeable occupation as set forth at § 29.3 of this part, and further, it is found to be in conformity with all applicable regulations for equal employment opportunity in apprenticeship (see, e.g., part 30 of this title).

(b) Apprenticeship programs proposed for registration shall be submitted to the registration office in the State where the sponsor's principal place of business is located:

(1) An individual employer sponsor or a multiple-plant type program with the program centrally administered for all locations, shall be registered at the corporate headquarters location with the registration agency for that location. If the training programs are administered from a location which is different than the corporate office, the sponsor may decide where to register the program.

(2) An individual employer sponsor of a multiple-plant type program with substantially identical apprenticeship programs in all plants but administered independently of each other, shall be registered at each location either simultaneously if the sponsor so elects, or serially after initial registration in one location.

(3) Programs sponsored by an agency of the Federal Government and their enrolled apprentices shall be registered by BAT only.

(4) Programs sponsored by employers in the transportation industry subject to the Railway Labor Act, and programs directly sponsored by an American Indian Tribal Government, shall be registered by the BAT only.

(c) The submission for registration shall be in the format and shall include the documentation customarily required by the registration agency for all such proposals. Acknowledgement of the request shall be prompt and a substantive written response to the sponsor by the registration agency as to its disposition of the request for registration shall be made within thirty (30) calendar days of its receipt. An affirmative response will be in accordance with paragraphs (d) and (e) of this section; a negative response shall be in accordance with paragraph (g) of this section.

(d) Apprenticeship programs meeting the requirements of this part shall be accorded registration evidenced by a Certificate of Registration issued by the registration agency. Any modification proposed by a sponsor in his registered program shall be submitted to the registration agency and, if approved, recorded and acknowledged as a revision to the registered program. A notification of a change in the journeyworker wage rate as required in § 29.4(b) (4) and (13) of this part shall not be considered a modification to the program.

(e) The registration certificate for a newly registered program shall be valid for one year from the date of registration unless terminated at an earlier date at the sponsor's request, or by the registration agency for failure by the sponsor to conduct the program in accordance with the requirements of this part. The registration shall be renewed for one year in each of the succeeding two years upon request by the sponsor and approval by the registration agency upon its review and finding of conformity with the requirements of this part. Thereafter, the Certificate of Registration shall be valid for a period of five years. The registration agency shall, in monitoring the conduct of the program, promptly call to the attention of the sponsor in writing, any failures noted, suggest remedial action to be taken within a reasonable time period, and offer appropriate assistance to the sponsor.

(f) Registration shall be terminated when a program remains inactive with no apprentices in training for a period of three consecutive years. The registration agency shall give written notice to the sponsor of such terminations.

(g) In the event a proposed program (or any revision to a registered program) is found to be in conformity with this part and thus ineligible for registration, the registration agency shall give written notice to the potential sponsor of the rejection within thirty (30) calendar days of receipt of the request, giving the specific reasons and citing the applicable section(s) of this part, and the remedies required to effect registration. Such notification also shall include the name and address of the Bureau Director, as the reviewing official for any appeal of the rejection. A copy of the notice of denial of registration by the agency, either BAT or SAA shall be mailed to the BAT Director. A sponsor electing not to adopt or pursue the remedies proposed in the notice of denial, may request, within thirty (30) days of receipt of the notice a review by the BAT Director by mailing such request to him or her. The sponsor also shall notify the registration office where its program was initially submitted and rejected of its request for such a review. When the sponsor requests a review:

(1) The registration office issuing the notice of denial shall furnish the BAT Director, as the reviewing officer, copies of all records and correspondence relating to the matter.

(2) The BAT Director shall advise the sponsor of the manner in which evidence and arguments will be received, whether oral or written or

both. The Director shall specify a time limitation for their submission.

(3) The BAT Director shall render a final decision within thirty (30) calendar days of receipt of the sponsor's evidence and arguments and shall inform the sponsor and registration office of the decision. The Director's decision will indicate the basis or rationale on which the decision was made.

(4) Should the BAT Director's decision be to overturn the denial of registration a written instruction to immediately register the program shall be issued to the registration agency, with a copy to the sponsor.

(5) If the decision is to concur in the denial, that decision shall be communicated in writing to the registration agency and to the sponsor and the case shall be closed.

(6) The decision of the BAT Director shall be the final agency action and that decision shall be implemented no later than ten (10) calendar days from the date of the decision.

(7) The State may require the sponsor to request a review by an independent State official before a request for review is considered by the BAT Director. This review provison must be included in the State's request for recognition by the Secretary and must set forth the review procedures to be followed. In the event, the State's decision on the sponsor's request for a review is not issued within thirty (30) days of the date of the request, the sponsor then may request a review by the BAT Director following the procedures set forth in this part.

(h) Deregistration of a program may be at the request of the sponsor or may be instituted by the registration agency for reasonable cause, except that deregistration of a program for violation of equal employment opportunity requirements shall be in accordance with provisions of part 30 of this title.

(1) At the request of the sponsor, the registration agency shall deregister the program and notify the sponsor of the effective date. The acknowledgement and notice shall request the sponsor to advise each apprentice (if any) registered under the program that his or her individual registration is concurrently terminated. If the registration agency has no assurances that the sponsor will make such notification, the registration agency shall do so.

(2) As stipulated in paragraph (f) of this section, the registration shall be terminated automatically, with a notice to the sponsor, when no apprentices have been in training for a period of three consecutive years.

(3) Upon a finding by the registration agency that the program is not being conducted in accordance with the requirements of this part, deregistration proceedings shall be initiated.

(i) The registration agency shall send a written notice to the sponsor, stating the shortcomings and citing the specific provisions of this part apparently being violated. The notice shall state the remedy required. The notice shall advise the sponsor that a reasonable cause exists for terminating the program's registration and that such action will be initiated within thirty (30) calendar days from the date specified in the notice, unless an affirmative response is received from the sponsor stating those corrective actions planned to be undertaken. The notice also shall inform the sponsor of its right to request a review and/or informal hearing by the BAT Director and shall provide the name and address to which such request may be mailed. A sponsor electing not to respond or failing to respond in the thirty (30) calendar day period shall forfeit any review or appeal right.

(ii) If there is no response by the sponsor, or the sponsor does not take exception to the proposed deregistration, it shall be terminated and the sponsor notified of the effective date. The notice shall request the sponsor to advise each registered apprentice (if any) that the termination of the program's registration shall mean the concurrent loss of his or her registration status. If the registration agency has no assurance the sponsor will make such notifications, the registration agency shall do so. In addition, the registration agency shall make public the notice of the deregistration in a manner which shall be announced by the BAT Director.

(iii) If the sponsor acknowledges receipt of the notice of intent to register, and responds with the corrective actions it will undertake and those actions are satisfactory to the registration agency, the registration agency shall stay the action and assist the sponsor in every reasonable way to bring the program into conformity.

(iv) If the sponsor acknowledges receipt of the notice within the thirty (30) calendar day period and disputes or disagrees with the findings, it may elect to request a review by the BAT Director, by mailing such request to the BAT Director with a copy to the registration agency office issuing the notice of intent to deregister. Upon receipt of the request, the Director shall provide instructions to the sponsor as to the Director's requirements for written or oral arguments, or both. The registration agency issuing the notice shall forward to the BAT Director all relevant records and correspondence in the matter. The Director shall specify the time and place of any informal hearing the Director may conduct, or the date by which written arguments must be received; in either case, the date shall not be later than twenty (20) calendar days after issuance of the instructions to the sponsor. Within twenty (20) calendar days of receipt of the sponsor's evidence and arguments, the BAT Director shall inform the sponsor and the registration office in writing of the Director's decision. Should the Director's decision be to overturn or stay the deregistration action, the Director shall so direct the registration office and the registered status of the program shall continue uninterrupted. Should the Director's decision be to concur in the proposed deregistration, that decision shall be given in writing to the sponsor and to the registration agency. The decision shall be immediately followed by a notice to the sponsor of the effective date for this action and shall direct that any and all apprentices currently registered under the program be advised that the program deregistration concurrently terminates their individual registration. Should the registration agency have reason to believe the sponsor will not comply with this request, it shall undertake to inform the apprentices itself. In addition, the registration agency shall make public the notice of the deregistration in a manner announced by the BAT Director.

§ 29.6 Registration portability.

(a) An individual employer sponsor of a registered program, or a participating employer in a group-type multi-employer program, may make temporary use of the apprenticeship program in a State other than where initially registered. For this purpose, "temporary" means six (6) calendar months or less. Upon proper request, the sponsor shall provide the registration agency for the temporary location a copy of the sponsor's certificate of registration and a copy of the sponsor's certificate of registration and a copy of the apprenticeship agreement for each apprentice employed at the temporary location. Under this portability provision, registration of additional apprentices indigenous to the temporary work location shall not be afforded the sponsor until such time as the program is registered by the registration agency for that location. Should the duration of work at the temporary location be anticipated to exceed, or does exceed, six calendar months and the sponsor desires to continue use of its registered program, the sponsor shall present the program to the registration agency for that location

and the program shall be promptly registered.

(b) Sponsors making use of their existing registered program and apprentices in a temporary location as described in paragraph (a) of this section shall ensure that related supplemental instruction or study is available and that this requirement can be met with such instruction or study substantially uninterrupted by reason of the temporary work location of the apprentices.

(c) Apprentices will continue to be registered under the initially registered apprenticeship program pending completion of the final action on the program sponsor's request for registration in the state of temporary location.

§ 29.7 Sponsor eligibility.

(a) A registered apprenticeship program may be sponsored by an individual employer, or by an association of employers, with or without joint participation of a collective bargaining agent representing the apprentices to be trained.

(b) The sponsor shall be expressly identified:

(1) In the case of an individual employer, by company legal title and address, and the name of the official responsible for the program. If a collective bargaining agent is jointly participating in the program, it shall be identified by name and address with the name of the person(s) responsible for the program. If it is a multiple-plant company and the same program will be operative in each plant under central administration and control, the name and location for each facility and the bargaining agent, if any, shall be given. If the same program, substantially unchanged, is to be operated in each facility of a multiple plant employer, but administered independent of each other, each facility's program shall be considered an individual program responsible to the registration agency for each particular location.

(2) If two or more employers join to sponsor a program, each employer shall be identified by company title and address with the name of the official(s) authorized to act in program matters. The collective bargaining agent, if any, which is jointly participating in the program, shall be identified by name and address and the person(s) authorized to act with respect to the program, identified by name and address.

(3) In multi-employer programs described in paragraph (b)(2) of this section, the sponsor shall inform the registration agency in a timely manner of any change in individual employer participants. Participants may be identified in lists attached to the program submitted for registration and updated as changes occur.

(c) To be eligible, the sponsor, whether individual employer or group type, shall have the capability and capacity to provide the required on-the-job training, i.e., there shall be sufficient diversity in the work experience available for an apprentice to develop the full range of skill required by the trade and a sufficient number of persons qualified to provide the training. The sponsor shall insure the availability of related instruction. The sponsor shall provide some assurances of employment continuity that would that will accommodate the logner term characteristic of apprenticeship. Further, a history of past experiences including, but not limited to excessive turnover in apprentices previously employed that is well above the normal experience in that industry, occupation, and locale, or repeated violations of minimum wage, occupational safety and health, or civil rights laws and regulations or labor strife, shall be sufficient reason for rejection of a program registration request.

§ 29.8 Apprenticeship committees.

The sponsor of an apprenticeship program may elect to provide direction and administration of the program through a committee authorized to act as the employer's agent for this purpose. In a multi-employer sponsored program, as described in § 29.7(b)(2) of this part, if a union(s) does not participate in the administration of the program, the participating employers shall designate the committee members, including, if so desired, persons designated to represent the apprentice employees. Where a collective bargaining agent represents the apprentices to be trained, the committee shall be composed equally of employer and union representatives and the program shall be jointly adminstered. For this purpose, "union" means a bona fide labor union within the meaning of the Labor Management Relations Act of 1947. Where the collective bargaining agent representing the apprentices to be trained elects not to participate in the administration of the program, a written acknowledgement of agreement to the program or of "no objection" to registration shall be required by the registration agency. If, for any reason, such acknowledgement is not forthcoming, the registration agency shall make inquiry as to the union's position and provide a reasonable time of not less than 30 calendar days nor more than 45 calendar days for receipt of a response. The response, or lack of response, shall be considered in making the registration determination.

§ 29.9 Apprenticeship agreements.

The program sponsor or employer shall enter into a written agreement with each apprentice (the parent or guardian of the apprentice also shall sign the agreement if the apprentice is a minor) in the registered program. The agreement shall, among other things, state, for the apprentice, the wage schedule as a percentage of the journeyworker rate; credit granted, if any, for previous experience; and the entrance rate as a percentage of the journeyworker wage rate. The agreement shall explicitly or by reference incorporate the apprenticeship program standards as a part of the agreement including complaint procedures. The apprentice shall be provided a copy of the written program standards before entering into the agreement. The agreement, properly executed, shall be registered as evidenced by the dated signature of an authorized representative of the registration agency. An apprenticeship agreement form shall be supplied by the Bureau, or a similar Bureau approved form shall be provided by the State apprenticeship agency, as appropriate. The sponsor shall place all apprentices employed by the sponsor under registered apprenticeship agreements. The sponsor shall submit promptly executed agreements for new apprentices to the registration agency and shall notify the registration agency promptly of all cancellations or terminations of apprenticeship agreements.

§ 29.10 Apprentice complaints.

(a) This section shall not be applicable to any complaint concerning discrimination or any other equal employment opportunity matter; such complaints shall be submitted, processed, and resolved in accordance with applicable provisions of part 30 of this title or applicable provisions of a State plan for equal opportunity in apprenticeship adopted pursuant to part 30 of this title.

(b) Except for matters precluded pursuant to paragraph (a) of this section, any controversy or difference alleging violation of the labor standards of this part or of an apprenticeship agreement which cannot be adjusted between the parties to the agreement and which is not covered by a collective bargaining agreement, may be submitted by an apprentice or his/her authorized

representatives, to the registration agency which has registered the program and in which the apprentice is registered, with a request for a review.

(c) The apprentice shall first seek resolution of the complaint with the sponsor. Failing in that effort, the apprentice may submit the complaint in writing to the registration agency setting forth the specific matters complained of together with all relevant facts and circumstances, and state the relief sought.

(d) The registration agency shall, upon receipt of the complaint, promptly make such investigation as it finds necessary and make reasonable efforts to effect a satisfactory resolution of the complaint. If resolved, the parties shall be notified and the case closed. If not resolved, the registration agency shall no later than 30 calendar days after its receipt of the complaint, render its opinion on the matter in writing, with copies to all interested parties.

(e) A recognized State apprenticeship agency may adopt a complaint review procedure differing in detail from that described in this section, provided that such procedure is approved in advance by the BAT Director.

§ 29.11 Credit for previous experience.

(a) An apprentice shall be granted advanced standing or credit for previously acquired experience, training, or skills, and enter the program at the wage level to which such credit advances him or her, with the duration or term of apprenticeship reduced. The sponsor shall determine the credit to be allowed, verifying the claim in such manner as specified in the program standards.

(b) Credit granted and corollary wage advancement and reduced term shall not exceed more than 60 percent of the usual full term of apprenticeship, except that:

(1) Apprenticeship served in the craft in another registered program in which such service was satisfactory, shall be fully creditable; the registration agency will verify the claim upon request; and

(2) For the registration of a new program, current employees selected as apprentices may be "grandfathered in" and credit granted may exceed the 60 percent limitation; the requirement as to issuance of a Certificate of Completion, (see § 29.12 of this part) remains applicable.

(c) Credit for previous experience shall be established upon the apprentice's entrance into the program. Should a question arise by either party as to the amount, or lack, of credit granted, the credit granted, if any, shall be considered provisional and may be adjusted by mutual agreement of the parties on or before the conclusion of the probationary period and the apprenticeship agreement corrected accordingly. The granting of additional credit at that time or a reduction in credit initially granted, shall not require a retroactive adjustment in wages paid, by either the sponsor or the apprentice.

§ 29.12 Certificate of completion.

(a) Upon due notice to the registration agency by the sponsor, a registered apprentice who has successfully completed his/her apprenticeship in a registered program shall be awarded an appropriate Certificate of Completion of Apprenticeship attested to and issued by the registration agency.

(b) To be eligible for a Certificate of Completion of Apprenticeship, an apprentice shall have served at least the last one-fourth or more of his/her term of apprenticeship in a registered program.

§ 29.13 Recognition and derecognition of a State apprenticeship agency.

(a) Recognition of a State apprenticeship agency as a program and apprentice registration authority shall be granted by the BAT Director upon submission of a request by the Governor or his/her designated representative and approval of all of the following:

(1) The identification of the specific organizational entity within the State government having specific responsibility and the capability of performance of those functions required of a registration agency as stipulated in this part. In establishing performance capability, not less than one full-time professional (not equivalent person years) assigned exclusively to these functions, is required. The discrete, identifiable unit of State government responsible for apprenticeship functions, must be organizationally located in the State Labor Department or in that component of State government responsible for administering laws and regulations governing wages, hours, labor standards, working conditions, and worker skills development.

(2) A declaration that programs and apprentices registered by the State agency shall be registered in conformity with all provisions of this part, including occupational definition, program standards, reciprocity, and other applicable provisions, and that no additional requirements for registration shall be imposed.

(3) A statement of acceptance of reciprocity of program and apprentice registration as set forth in this part and of agreement to the interchange of program and apprentice data among registration agencies.

(4) The adoption of procedures for program and apprentice registration, certification of registration status, certification of completion, registration renewal, deregistration, adjudication of disputes, and related processes that are consistent with this part.

(5) The adoption of a State plan for equality of opportunity in apprenticeship which is consistent with and implements the requirements of part 30 of this title.

(b) A denial by the Director of a State agency's application for recognition shall be in writing and shall set forth the reasons for the denial. The notice of denial shall be sent by certified mail, return receipt requested. In addition to the particulars of the denial, the notice shall specify what remedies must be undertaken before a resubmitted request will be entertained.

(c) A request for a review by the Secretary of a denial of recognition may be made within 30 calendar days of issuance of the notice of denial by the Director, BAT. Such request should be made by mail and addressed to the Chief Administrative Law Judge for the Department. Within 30 calendar days of the filing of the request for review, the Director shall prepare an administrative record for submission to an Administrative Law Judge designated by the Chief Administrative Law Judge.

(d) The procedures contained in part 18 of this title shall apply to disposition of the request for review except that:

(1) The administrative law judge shall receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof shall be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied, where reasonably necessary, by the administrative law judge conducting the hearing. The administrative law judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(3) The administrative law judge's decision shall be rendered within thirty (30) calendar days after the hearing.

(e) The decision of the administrative law judge shall constitute final action by the Secretary, unless, within 20 calendar days after receipt of the decision of the administrative law judge, a party

dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter, the decision of the administrative law judge shall become the final decision of the Secretary.

(f) The denial of recognition, if appealed, shall not take effect until final action of the Secretary pursuant to paragraph (e) of this section.

(g) Recognition of a State apprenticeship agency as the appropriate registration authority shall be for a period of one (1) calendar year from the date of recognition. Unless notified at least 90 calendar days prior to its annual anniversary, renewal of the recognition of a SAA as the appropriate registration authority will be automatic without need for application by the State. Renewals shall likewise be for a period of one-calendar-year period. Renewal and maintenance of recognition shall be conditioned by performance adherence to the requirements of this part.

(h) Recognition of a SAA may be withdrawn for the failure to fulfill and operate in conformity with the requirements of this part. Withdrawal of recognition or derecognition proceedings for failure to adopt or properly implement a State Plan for Equal Employment Opportunity in Apprenticeship shall be processed in accordance with the procedures prescribed in 29 CFR 30.15. For other cause, derecognition proceedings may be instituted by the Director:

(1) By written notice to the SAA that reasonable cause exists to believe the State apprenticeship agency has failed to fulfill or operate in conformity with the requirements of this part. The notice shall state:

(i) The specific areas of nonconformity;

(ii) The needed remedial actions; and

(iii) That the Director proposes to withdraw recognition unless corrective action is taken, or an appeal of this finding is made within thirty (30) calendar days of the notice of intent to withdraw recognition. If corrective action is taken by the State, the action shall be acknowledged by the Director and the proceeding may be terminated. If the State apprenticeship agency disputes the finding and elects to seek a review by the Chief Administrative Law Judge for the Department or a subsequent appeal to the Secretary, if necessary, the steps set forth in paragraphs (e) and (f) of this section for the denial of recognition shall be followed.

(2) If upon final action, the Secretary determines to deny or to withdraw recognition of a State apprenticeship agency, in addition to the notifications given above, the Secretary shall effect public notice of such action. Further, where sponsor addresses are made available, the Bureau shall mail individual sponsors a copy of the Secretary's order. The order or notice shall state that within thirty (30) calendar days of the final action denying or withdrawing recognition of a State agency, the Department shall cease to recognize each apprenticeship program registered with the State agency unless within that time the affected sponsor requests registration with the Bureau. The notice shall provide the name and address of the registration office where a request for federal registration may be sent. The Bureau shall grant a 60 calendar day contingent registration in writing to the sponsor, upon receipt of such registration request; and instructions will be provided by the Bureau to the sponsors, as to the requirements and manner for requesting permanent registration. The contingent Bureau registration may be revoked for failure to submit required documentation and other requirements of this part and of applicable equal employment opportunity regulations, (see, e.g., part 30 of this title). A denial of registration shall be treated in the same manner and subject to the same review procedures as for denial of registration of a program not previously registered as set forth at § 29.5 of this part.

(i) The Governor and other appropriate State official shall be notified of actions taken by the U.S. Department of Labor under this Section.

§ 29.14 Transfer of registration status.

(a) If a review by the BAT Director of a SAA's denial of program registration results in overturning of such denial, and the SAA fails to comply with the BAT Director's instructions to immediately register the program, the program shall be registered by the Bureau.

(b) If, as a result of a review by the BAT Director of a SAA program deregistration action, the BAT Director overturns the deregistration, and the SAA fails to comply with the BAT Director's instructions to the SAA to reregister the program, and enrolled apprentices (if any) shall be registered by the Bureau.

§ 29.15 Exclusions and waivers.

(a) State Apprenticeship Agencies previously recognized by the Secretary under part 29 prior to this revision and not currently under a derecognition proceeding must request recognition under this revised part 29.

(1) The State Apprenticeship Agency shall submit a request for recognition and required documentation to the BAT Director within 120 calendar days of the effective date of this revised part 29.

(2) A request for recognition shall be promptly acknowledged by the BAT Director and acted upon within sixty (60) calendar days of its receipt and verification.

(3) An extension of time to enable the State Apprenticeship Agency to comply with the requirements of this part may be granted by the BAT Director for good cause. The 120 calendar day time requirement for submission of the request for recognition and documentation required by this part shall not be extended.

(4) All current recognitions expire 120 calendar days from the effective date of this revised part 29.

(b) Programs of apprenticeship currently registered which fail to meet the particular criteria for the term of apprenticeship and/or occupational definition, shall continue that registration status for a period equal to the lesser of: (1) One (1) calendar year from the effective date of this part, or (2) until such time as all apprentices who were registered in such a program upon the effective date of this part have completed or otherwise left the program.

(c) Apprenticeship programs with a valid registration and any apprentices registered thereunder not in conformity with this part at its effective date, shall have their registration status continued for a reasonable time period, not to exceed six (6) calendar months, to affect necessary changes to achieve conformity. The revised program shall be submitted to the appropriate registration agency for registration renewal.

(d) The BAT Director may, in the national interest or as otherwise specified in this part, register any apprenticeship program. The sponsor of such nationally registered programs may operate the programs in such States as identified by the Director.

Signed at Washington, DC, this 21st day of August, 1990.

Elizabeth Dole,

Secretary of Labor.

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Friday
August 24, 1990

Part VII

Office of the United States Trade Representative

Generalized System of Preferences (GSP); Review of Product Petitions, Public Hearings, and List of Articles To Be Sent to the U.S. International Trade Commission (USITC) for Review; Notice

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Review of Product Petitions, Public Hearings, and List of Articles To Be Sent to the U.S. International Trade Commission (USITC) for Review

SUMMARY: The purpose of this notice on the 1990 GSP annual review is (1) to announce the acceptance for review of petitions to modify the list of articles eligible for duty-free treatment under the GSP and to modify the status of countries as GSP beneficiary countries in regard to their practices as specified in 15 CFR 2007.0 (a) and (b); (2) to announce the timetable for public hearings to consider petitions accepted for review; (3) to announce that the list of articles herein will be sent by the United States Trade Representative to the USITC to seek advice with respect to modification of the list of eligible articles for GSP; and (4) to announce a decision which had been deferred regarding a petition filed in the 1989 GSP annual review.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 414, Washington, DC 20506. The telephone number is (202) 395–6971. Public versions of all documents are also available for review by appointment with the USTR Public Reading Room. Documents will be available in the reading room shortly after the filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395–6186.

SUPPLEMENTARY INFORMATION:

I. Acceptance of Petitions for Review

Notice is hereby given of acceptance for review of the petitions listed in Annex I requesting modification of the list of articles eligible to receive duty-free treatment under the GSP, as provided for in Title V of the Trade Act of 1974 (the Act) (19 U.S.C. 2461–2465). These petitions were submitted, and will be reviewed, pursuant to regulations codified at 15 CFR part 2007.

1. Requests to Modify Product and Country Eligibility

Petitions have been submitted by interested parties or foreign governments (1) to designate additional articles as eligible for the GSP; or (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; or (3) to otherwise modify GSP coverage. In addition, petitions have been received requesting that the GSP status of certain beneficiary developing countries be reviewed with respect to the relevant criteria listed in subsection 502(b) or 502(c) of the Act.

As in previous reviews, requests to add products to or remove them from the list of articles eligible for GSP duty-free treatment will be evaluated in accordance with "graduation" policy. In considering GSP eligibility for products, limitations on GSP benefits will be considered for the more economically advanced beneficiary developing countries for specific products where it is determined that they have demonstrated sufficient competitiveness. Four criteria will be taken into account when any such graduation action is considered: The development level of individual beneficiary countries; their competitive position in the product concerned; the countries' practices relating to trade, investment and worker rights; and the overall economic interests of the United States. The GSP Subcommittee will review information for the relevant U.S. industry as enumerated in 15 CFR 2007.1(a)(5) when considering the removal of any beneficiary developing country from GSP eligibility.

Product designations announced at the conclusion of the review process, therefore, may be made on a differential basis. This means that certain beneficiary developing countries may not be designated for GSP benefits on certain products even though those countries are not excluded under the competitive need provisions set forth in section 504(c)(1) of the Act. It is also possible to withdraw GSP treatment on a product from certain beneficiary developing countries, or to reduce the competitive need limit applicable to the countries and product in question, rather than remove the product entirely from GSP coverage.

As is required under section 504(a), the eligibility factors set forth in sections 501 and 502(c) will be considered with respect to decisions to withdraw, suspend or limit duty-free treatment with respect to any article or with respect to any country.

2. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Briefs or statements must be submitted in twelve copies in English. If the document contains business confidential information, twelve copies of a nonconfidential version of the submission along with twelve copies of the confidential version must be submitted. In addition, the document containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

3. Communications

All communications with regard to these hearings should be addressed to: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 414, Washington, DC 20506. The telephone number of the Secretary of the GSP Subcommittee is (202) 395–6971. Questions may be directed to any member of the staff of the GSP Information Center.

Acceptance for review of the petitions listed herein does not indicate any opinion with respect to a disposition on the merits of the petitions. Acceptance indicates only that the listed petitions have been found to be eligible for review by the GSP Subcommittee and the Trade Policy Staff Committee (TPSC), and that such review will take place.

II. Deadline for Receipt of Requests To Participate in Public Hearings

The GSP Subcommittee of the TPSC invites submissions in support of or in opposition to any petition contained in this notice. All such submissions should conform to 15 CFR part 2007, particularly §§ 2007.0, 2007.1(a)(1), 2007.1(a)(2), and 2007.1(a)(3). All submissions should identify the product of interest in terms of the current Harmonized System tariff nonenclature.

Hearings are scheduled to be held on September 25–28 beginning at 10 a.m. at a location in Washington, DC to be announced. The hearings will be open to the public and a transcript of the hearings will be made available for public inspection or can be purchased from the reporting company. No electronic media coverage will be allowed.

Pre-hearing briefs and requests to present oral testimony in connection with public hearings should be accompanied by twelve copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than 5 p.m. Wednesday, September 12. Requests to make an oral

presentation at the hearings must submit the name, address, and telephone number of the witness(es) representing the requestor. Oral testimony before the GSP Subcommittee will be limited for each party submitting a brief to five-minute presentations that summarize or supplement information contained in briefs or statement submitted for the record. Substitution of witnesses will be permitted until 5 p.m. Wednesday, September 19. Post-hearing briefs or statements will be accepted only if they concern with the regulations cited above and are submitted in twelve copies, in English, no later than 5 p.m. Wednesday, October 17. Parties not wishing to appear at the public hearings may submit post-hearing written briefs or statements, also by October 17. Rebuttal briefs should be submitted in twelve copies, in English, by 5 p.m. Wednesday, November 14.

During 1990 and/or January 1991, an opportunity will be provided for the public to comment on nonconfidential USITC analysis. Notice of the availability of this analysis and the timeable for comment will be published in the **Federal Register.**

III. List of Articles Which May Be Considered for Designation as Eligible Articles for Purposes of the GSP or for Waiver of the Competitive Need Limit and on Which the USITC Will Be Asked To Provide Advice

1. In conformity with sections 502(a) and 131(a) of the Act (19 U.S.C. 2543(A) and 2151(A)), notice is hereby given that the articles listed herein may be considered for designation as eligible articles for purposes of the GSP, or for modification of their current GSP status.

An article which is determined to be import sensitive in the context of the GSP cannot be designated as an eligible article. Recommendations with respect to the eligibility of any listed article will be made after public hearings have been held and advice has been received from the USITC on the probable effects of the requested modification in the GSP on domestic industries producing like or directly competitive articles and on consumers.

2. On behalf of the President and in accordance with sections 503(A) and 131(A) of the Act, the USITC is being furnished with the list of articles published herein for the purpose of securing from the USITC its advice on the probable economic effect on U.S. industries producing like or directly competitive articles, and on consumers, of the modification of the list of articles eligible for GSP. Also, on behalf of the President and in accordance with section 504(c)(3)(A)(i) of the Act, the USITC is being asked to furnish economic advice on the probable economic effect on U.S. industries producing like or directly competitive articles, and on consumers, of the granting of a waiver of competitive need limits for the products identified in section C of the lists which follow.

IV. Cases Accepted for Review Regarding Country Practices, Pursuant to 15 CFR 2007.0(b)

Pursuant to 15 CFR 2007.0(b), the TPSC has accepted for review petitions to review the status of Bangladesh, El Salvador and Sudan as GSP beneficiary countries in relation to their practices regarding worker rights. These petitions are listed in Annex II. Interested parties can participate in the review process as described above in section II.

Because review of the 1989 worker rights cases of Haiti, Dominican Republic, Benin, Nepal, and Syria has been extended, comments on the worker rights practices of these five countries will also be welcomed during the public hearing and comment process described in section II.

The decision to accept for review a request filed by American International Group to review the GSP status of Peru concerning Peru's alleged expropriation of certain U.S. owned property without compensation is being deferred at this time.

V. Decision on a Petition Pending from 1989 Annual Review

A petition filed in the 1989 GSP annual review by Fitesa, S.A. to grant GSP eligibility for polypropylene staple fibers (Case No. 89–15) is hereby dismissed. The GSP Subcommittee has determined that the President does not have the statutory authority to grant this request, pursuant to section 503(c)(1)(A) of the Act.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

ANNEX I—U.S. GENERALIZED SYSTEM OF PREFERENCES; PRODUCT PETITIONS ACCEPTED FOR REVIEW; 1990 ANNUAL REVIEW

[The bracketed language in this list has been included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]

Case No.	HTS subheading [1]	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences	
90–1	0202.30.20	Meat of bovine animals, frozen: [Carcasses and half-carcasses; Other cuts with bone in]. Boneless: Processed: High-quality beef cuts	Company for Livestock and Meat Processing of County "Heves", Hungary.
90–2	0203.22.10	Meat of swine, fresh, chilled or frozen: Frozen: [Carcasses and half-carcasses] Hams, shoulders and cuts thereof, with bone in: Processed.	Do.
90–3	0203.29.20	Other: Processed	Do.
90–4	0403.90.80(pt.)	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavored or containing added fruit, nuts or cocoa: [yogurt]. Other: [Sour cream containing not over 45 percent by weight of butterfat; buttermilk; Sour cream containing over 45 percent by weight of butterfat]. Other: Chongos	Government of Mexico; Dulces Regionales Tres Reyes, Mexico.
90–5	0406.90.3040	Cheese and curd: [Articles provided for in subheadings 0406.10.00 through 0406.40.80]. Other cheese: Goya cheese: [Made from cow's milk and not in original loaves] Other	Duna Cheese Company, Wapakoneta, OH.
90–6	0701.90.00(pt.)	Potatoes, fresh or chilled: [Seed] Other: Yellow (Solano) potatoes	Government of Colombia.

ANNEX I—U.S. GENERALIZED SYSTEM OF PREFERENCES; PRODUCT PETITIONS ACCEPTED FOR REVIEW; 1990 ANNUAL REVIEW—Continued

[The bracketed language in this list has been included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]

Case No.	HTS subheading [1]	Article	Petitioner
90-7	0710.30.00	Vegetables (uncooked or cooked by steaming or boiling in water), frozen: Spinach, New Zealand spinach and orache spinach (garden spinach).	Government of Mexico; Congelados Don Jose, S.A. de C.V., Mexico; Covemex, S.A. de C.V., Mexico; Empacadora General Agricola de Bajio, S.P.R.R.L., Mexico; Expohort, S.A. de C.V., Mexico; MAR BRAN, S. de R.L. de C.V., Mexico; Vegetales Congelados S. de P.R., Mexico.
90-8	0710.80.95(pt.) [2]	Other vegetables Other: Reduced in size: Other: Broccoli	Government of Colombia; Government of Mexico; Congelados Don Jose, S.A. de C.V., Mexico; Covemex, S.A. de C.V., Mexico; Empacadora General Agricola de Bajio, S.P.R.R.L., Mexico; Expohort, S.A. de C.V., Mexico; MAR BRAN, S. de R.L. de C.V., Mexico; Vegetales Congelados S. de P.R., Mexico.
90-9	0710.80.9530 [3]	Cauliflower	Do.
90-10	0710.80.9540	Okra	Do.
90-11	0807.10.60	Melons (including watermelons) and papayas (papaws), fresh Melons (including watermelons): Ogen and Galia melons: [If entered during the period from December 1, in any year, to the following May 31, inclusive]. If entered at any other time	Government of Mexico; Asociacion Agricola Local de Productos de Nuez, Durazno y Manzana de Sonora, Mexico.
90-12	1602.41.20 [4]	Other prepared or preserved meat, meat offal or blood: [Homogenized preparations; Of liver of any animal] Of swine; Hams and cuts thereof: [Containing cereals or vegetables]. Other: Boned and cooked and packed in airtight containers	Animex Export-Import Limited, Poland.
90-13	1602.42.20	Shoulders and cuts thereof: Boned and cooked and packed in airtight containers	Do.
90-14	1602.49.20	Other, including mixtures: [Offal] Other: Not containing cereals or vegetables: Boned and cooked and packed in airtight containers.	Do.
90-15	1702.30.40	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavoring or coloring matter; artificial honey, whether or not mixed with natural honey; caramel: Glucose and glucose syrup, not containing fructose or containing in the dry state less than 20 percent by weight of fructose: [Blended with other sugars of chapter 17 of the HTS]. Other	Government of Mexico; Arancia, S.A. de C.V., Mexico.
90-16	2003.10.00	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid: Mushrooms.	The Pillsbury Company, Minneapolis, MN; Debrecen Canning Factory, Hungary.
90-17	2007.99.05	Jams, fruit jellies, marmalades, fruit or nut puree and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter: [Homogenized preparations] Other: [Citrus fruit] Other: Jams: Lingonberry and raspberry	Fructal p.o. Ajdovscina, Yugoslavia.
90-18	2007.99.10	Strawberry	Do.
90-19	2007.99.20	Apricot	Do.
90-20	2007.99.25	Cherry	Do.
90-21	2204.21.4030	Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009: [Sparkling wine]. Other wine; grape must with fermentation prevented or arrested by the addition of alcohol: In containers holding 2 liters or less: [Effervescent wine]. Other: Of an alcoholic strength by volume not over 14 percent vol: Valued over $1.05/liter: Red.	Association of Hungarian Wine Traders, Hungary; ERGERVIN Winery of Eger-Matra Region, Hungary.
90-22	2204.21.4045	White Of an alcoholic strength by volume over 14 percent vol: [If entitled under regulations of the United States Internal Revenue Service to a type designation which includes the name "Marsala" and if so designated on the approved label].	Association of Hungarian Wine Traders, Hungary.
90-23	2204.21.8060	Other: [Sherry] Other	Do.
90-24	2208.90.50	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent vol.; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages: Other: Tequila: In containers each holding not over 4 liters	Government of Mexico; Construexport, S.A. de C.V., Mexico: Satisfactores, S.A., Mexico.
90-25	2901.10.20(pt.)	Acyclic hydrocarbons: Saturated: [Ethane and butane] Other: Derived in whole or in part from petroleum, shale oil or natural gas: n-Pentane and isopentane.	Government of Mexico; International Commodities Export Corp., Purchase, NY; Productos Quimicos Coin, S.A. de C.V., Mexico.
90-26	2903.61.10	Halogenated derivatives of hydrocarbons: [Articles provided for in subheadings 2903.11.00 through 2903.59.50]. Halogenated derivatives of aromatic hydrocarbons: Chlorobenzene, o-dichlorobenzene and p-dichlorobenzene: Chlorobenzene.	Nitroclor Productos Quimicos, S.A., Brazil.
90-27	2903.61.30	p-Dichlorobenzene [Hexachlorobenzene and DDT (1,1,1-Tri-chloro-2,2-bis(p-chlorophenyl)ethane)].	Do.
90-28	2903.69.50(pt.)	Other: [Articles provided for in subheadings 2903.69.10 through 2903.69.25] Other: [Pesticides] Other: 3-Bromo-α,α,α-tri-fluorotoluene; 2-Chloro-5-bromo-α,α,α-tri-fluorotoluene and α-Chloro-3-methyltoluene.	Chemolimpex Hungarian Trading Co. for Chemicals, Hungary; Budapest Chemical Works, Hungary.

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Case No.	HTS subheading [1]	Article	Petitioner
90-29	2904.90.10(pt.)	Sulfonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated: [Articles provided for in subheadings 2904.10.10 through 2904.20.50]. Other: Monochloromononitrobenzenes: 0-Nitrochlorobenzene; and p-Nitrochlorobenzene.	Nitroclor Products Quimicos, S.A., Brazil.
90-30	2904.90.45 (pt.)	Syulfonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated (con.): Other (con.) [Articles provided for in subheadings 2904.90.20 through 2904.90.35]. Other: Aromatic: 4-Chloro-3-Nitro-α,α,α-trifluorotoluene; 2-Chloro-5-Nitro-α,α,α-trifluorotoluene; and 4-Chloro-3,5-dinitro-α,α,α-trifluorotoluene.	Chemolimpex Hungarian Trading Co. for Chemicals, Hungary; Budapest Chemical Works, Hungary.
90-31	2907.29.50 (pt.)	Phenols; phenol-alcohols: Polyphenols: [Articles provided for in subheadings 2907.21.00 through 2907.23.00]. Other: [Pyrogallic acid] Other: [Drugs] Other: 4,4'-Biphenol	Ameribrom, Inc., New York, NY.
90-32	2907.29.50 (pt.)	tert-Butylhydroquinone	Government of Mexico; Novaquim, S.A. de C.V., Mexico.
90-33	2908.10.30 (pt.)	Halogenated, sulfonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols: Derivatives containing only halogen substitutes and their salts: [Articles provided for in subheadings 2908.10.10 through 2908.10.25]. Other: 3-Hydroxy-α,α,α-trifluorotoluene.	Chemolimpex Hungarian Trading Co. for Chemicals, Hungary; Budapest Chemical Works, Hungary.
90-34	2908.90.10 (pt.)	[Derivatives containing only sulfo groups, their salts and esters] Other: Nitrophenols: p-Nitrophenol	Nitroclor Products Quimicos, S.A., Brazil.
90-35	2916.39.10 (pt.)	Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulfonated, nitrated or nitrosated derivatives [Articles provided for in subheadings 2916.11.00 through 2916.20.00]. Aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives: [Articles provided for in subheadings 2916.31.10 through 2916.33.50]. Other: 4-Chloro-3-nitrobenzoic acid	Chemolimpex Hungarian Trading Co. for Chemicals, Hungary; Budapest Chemical Works, Hungary.
90-36	2916.39.30 (pt.)	[Ibuprofen] Other: [Odoriferious or flavoring compounds] Other: 4-Chloro-3,5-dinitrobenzoic acid and its esters	Do.
90-37	2916.39.50 (pt.)	4-Chlorobenzoic acid Polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulfonated, nitrated or nitrosated derivatives: [Articles provided for in subheadings 2917.11.00 through 2917.20.00].	Do
90-38	2917.37.00 [5]	Aromatic polycarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives: Dimethyl terephthalate.	Government of Mexico; Petrocel, S.A., Mexico.
90-39	2921.42.50 (pt.)	Amine-function compounds: [Articles provided for in subheadings 2912.11.00 through 2921.30.50]. Aromatic monomines and their derivatives; salts thereof: Aniline derivatives and their salts: [Articles provided for in subheadings 2921.42.10 through 2921.42.20]. Other: [Fast color bases] Other: 3,4-Dichloroaniline	Nitroclor Products Quimicos, S.A., Brazil.
90-40	2921.42.50 (pt.)	Metanilic acid; and Sulfanilic acid	Nitrokemia Ipartelepek, Hungary.
90-41	2921.43.50 (pt.)	Toluidines and their derivatives; salts thereof: [Articles provided for in subheadings 2921.43.10 through 2912.43.15]. Other: α,α,α-Trifluro-m-toluidine; α,α,α-Trifluro-o-toluidine; and α,α,α-Trifluro-6-chloro-m-toluidine.	Chemolimpex Hungarian Trading Co. for Chemicals, Hungary; Budapest Chemical Works, Hungary.
90-42	2922.42.10 (pt.)	Oxygen-function amino-compounds: [Articles provided for in subheadings 2922.11.00 through 2922.30.50]. Amino-acids and their esters, other than those containing more than one kind of oxygen function; salts thereof: Glutamic acid and its salts: Monosodium glutamate.	Government of Peru.
90-43	2924.29.45(pt.)	Carboxyamide-function compounds; amide-function compounds of carbonic acid: Cyclic amides (including cyclic carbamates) and their derivatives; salts thereof:. [Ureines and their derivatives; salts thereof] Other: Aromatic: [Articles provided for in subheading 2924.29.05 through 2924.29.14] Other: [Pesticides; Fast color bases; Drugs] Other: [5-Bromoacetyl-2-salicylamide] Other: 2-Methoxy-5-acetamino-N,N-bis(2-acetoxyethyl)aniline	Government of Mexico; Ciba-Geigy Mexicana, S.A. de C.V., Mexico.
90-44	2924.29.45(pt.)	Acetanilide	Nitrokemia Ipartelepek, Hungary.
90-45	2929.10.15	Compounds with other nitrogen function: Isocyanates: [Toluenediisocyanates (unmixed)] Mixtures of 2,4- and 2,6-toluenediisocyanates.	Government of Mexico; Industrias Cydsa Bayer, S.A. de C.V., Mexico; Petroquimica Rio Tercero, S.A., Argentina.
90-46	2929.10.50(pt.)	[Articles provided for in subheading 2929.10.20] Other: 3,4-Dichlorophenylisocyanate	Nitroclor Productos Quimicos, S.A., Brazil.

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Case No.	HTS subheading [1]	Article	Petitioner
90–47	2934.20.40(pt.)	Other heterocyclic compounds; [Compounds containing an unfused thiazole ring (whether or not hydro-genated) in the structure]. Compounds containing a benzothiazole ring-system (whether or not hydrogenated), not further fused: [Articles provided for in subheadings 2934.20.10 through 2934.20.30]. Other: [Pesticides] Other: N-tert-Buyl-2-benzothiazole-sulfenamide	Government of Mexico; Quimica Organica de Mexico, S.A. de C.V., Mexico.
90–48	3205.00.10(pt.)	Color lakes; preparations as specified in note 3 to chapter 32 of the HTS based on color lakes: Products described in additional U.S. note 3 to section VI of the HTS: Carmine.	Government of Peru; Associacion Nacional de Cochinilla, Peru; Universal Foods Corporation, Milwaukee, WI; Biocon (U.S.), DE.
90–49	3606.90.60	Ferrocerium and other pyrophoric alloys in all forms; articles of combustible materials as specified in note 2 to chapter 36 of the HTS: [Liquid or liguefied-gas fuels in containers of a kind used for filling or refilling cigarette or similar lighters and of a capacity not exceeding 300 cm [3]]. Other: [Ferrocerium and other pyrophoric alloys] Other	Government of Columbia.
90–50	3823.90.29(pt.)	Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included: [Articles provided for in subheadings 3823.10.00 through 3823.60.00]. Other: [Cultured crystals (other than optical elements of chapter 90), weighing not less than 2.5 g each] Other: Mixtures containing 5 percent or more by weight of one or more aromatic or modified aromatic substances: Aqueous mixtures of triphenyl sulfonium chloride, diphenyl (4-phenylthio) phenyl sulfonium chloride and (thiodi-4,1-phenylene)bis(diphenyl sulfonium) dichloride	Government of Mexico; Aceto Corporation, Flushing, NY.
90–51	3906.90.50	Acrylic polymers in primary forms: [Polymethyl methacrylate] Other: [Elastomeric] Other: [Plastics] Other	Government of Colombia.
90–52	5608.90.2010	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials: [Of man-made textile materials]. Other: [Fish netting and fishing nets] Other: Of cotton: Hammocks	Government of Mexico; Hamacas "El Aguacate", Mexico.
90–53	6204.39.40(pt.)	Women's or girls' suits, ensembles, suit-type jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear): Suit-type jackets and blazers: [Of wool or fine animal hair; of cotton; of synthetic fibers]. Of other textile materials: [Of artificial fibers] Other: Containing 70 percent or more by weight of silk or silk waste	Government of Thailand.
90–54	6204.49.00(pt.)	Dresses: [Of wool or fine animal hair; of cotton; of synthetic fibers; of artifical fibers]. Of other textile materials; Containing 70 percent or more by weight of silk or silk waste.	Do.
90–55	6911.10.41	Tableware, kitchenware, other household articles and toilet articles of percelain or china: Tableware and kitchenware: [Hotel or restaurant ware and other ware not household ware]. Other: [Of bone chinaware] Other: [Available in specified sets] Other: Steins with permanently attached pewter lids, candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers and salt and pepper shaker sets	Consorcio dos Productores Exportadores Brasileiros de Ceramica, Brazil; Minex, Ltd., Poland.
90–56	6911.10.45	Mugs and other steins	Do.
90.57	6912.00.41	Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china: Tableware and kitchenware: [Articles provided for in subheading 6912.00.10]. Other: [Hotel or restaurant ware and other ware not household ware] Other: [Available in specified sets] Other: Steins with permanently attached pewter lids; candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers and salt and pepper shaker sets	Consorcio dos Produtores Exportadores Brasileiros de Ceramica, Brazil.
90.58	7013.21.50	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading 7010 or 7018): [Of glass-ceramics]. Drinking glasses, other than of glass-ceramics: Of lead crystal: Valued over $5 each.	Government of Mexico; Vitrocrisa Kristal, S.A. de C.V., Mexico; Crisa Corporation, Laredo, TX; Consorcio dos Produtores Exportadores Brasileiros de Ceramica, Brazil; Minex, Ltd., Poland; Turkiye Sise ve Cam Fab., S.A., Turkey.
90.59	7013.31.50	Glassware of a kind used for table (other than drinking glasses) or kitchen purposes other than that of glass-ceramics: Of lead crystal: Valued over $5 each	Do.
90.60	7013.91.50	Other glassware Of lead crystal: Valued over $5 each	Government of Mexico; Vitrocrisa Kristal, S.A. de C.V., Mexico; Crisa Corporation, Laredo, TX; Consorcio dos Produtores Exportadores Brasileiros de Ceramica, Brazil.

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Case No.	HTS subheading [1]	Article	Petitioner
90.61	7202.11.50	Ferroalloys: Ferromanganese: Containing by weight more than 2 percent of carbon: [Containing by weight more than 2 percent but not more than 4 percent of carbon]. Containing by weight more than 4 percent of carbon	Government of Peru.
90.62	7202.92.00	Other: Ferrovanadium	Government of Argentina.
90.63	7318.15.80(pt.)	Screws, bolts, nuts, coach screws, screw hooks, riverts, cotters, cotter pins, washers (including spring washers) and similar articles, of iron or steel: [coach screws; Other wood screws; screw hooks and screw rings; Self-tapping screws]. Other screws and bolts, whether or not with their nuts or washers: [Articles provided for in subheadings 7318.15.20 through 7318.15.50]. Other: Having shanks or threads with a diameter of 6 mm or more: Cap screws with hexagonal heads.	Universal Co., Ltd., Poland.
90.64	7801.10.00	Unwrought lead: Refined lead	Government of Mexico; Industrial Minera Mexico, S.A. de C.V., Mexico; Met-Mex Penoles, S.A. de C.V., Mexico.
90.65	7801.99.90	Other: [Containing by weight antimony as the principal other element] Other: [Lead bullion] Other	Do.
90.66	7901.11.00	Unwrought zinc: Zinc, not alloyed: Containing by weight 99.99 percent or more of zinc.	Do.
90.67	7901.12.50	Containing by weight less than 99.99 percent of zinc: [Casting-grade zinc] Other	Do.
90.68	8111.00.45	Manganese and articles thereof, including waste and scrap: [Waste and scrap] Other: Unwrought manganese	Sociedade Brasileira de Eletrolise, LTDA, Brazil.
90.69	8533.10.00	Electrical resistors (including rheostats and potentiometers), other than heating resistors; parts thereof: Fixed carbon resistors, composition or film types.	Government of Mexico; Cia. General de Electronica, S.A. de C.V. Mexico.
90.70	8703.10.00(pt.)	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars: Vehicles specially designed for traveling on snow; golf carts and similar vehicles: Golf carts.	Melex USA, Inc., Raleigh, NC.
90.71	8714.92.50	Parts and accessories of vehicles of headings 8711 to 8713: [Of motorcycles (including mopeds); Of invalid carriages]. Other: Wheel rims and spokes: Spoks	Government of Peru.
90.72	9608.10.00	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating styli; propelling or sliding pensils (for example, mechanical pencils); pen-holders, pencil-holders and similar holders; parts (including caps and clips) for the foregoing articles, other than those of heading 9609: Ball point pens.	Government of Mexico; Wearever de Mexico, S.A., Mexico.
		B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences	
90–73	2005.90.5510	Other vegetables prepard or preserved otherwise than by vineger or acetic acid, not frozen: [Homogenized vegetables]. Other vegetables and mixtures of vegetables: Fruits of the genus *Capsicum* (peppers) or of the genus *Pimenta* (e.g., allspice): [Pimientos (*Capsicum anuum*)]. Other: Sweet Capsicum peppers (*Capsicum frutescans grossum*)	Cherokee Products Company, Haddock, GA; Del Mar Food Products Corp., Watsonville, CA; Draper-King Cole, Inc., Milton, DE; Dunbar Foods Corp., Dunn, NC; Moody Dunbar, Inc., Limestone, TN; Furman Foods, Inc., Northumberland, PA; The Mancini Packing Co., Zolfo Springs, FL; G.L. Mezzetta, Inc., Sonoma, CA; Monticello Canning Co., Inc., Crossville, TN; Saticoy Foods Corp., Saticoy, CA.
90–74	2843.21.00	Colloidel precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals: [Colloidal precious metals]. Silver compounds: Silver nitrate	Ames Goldsmith Corp., Glen Falls, NY; Metz Metallurgical, Plainfield, NJ.
90–75	2916.39.15	Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulfonated, nitrated or nitrosated derivatives: [Articles provided for in subheading 2916.11.00 through 2916.20.00]. Aromatic monocarboxylic acids, their anhydrides, halides, peroxides, peroxyacids and their derivatives: [Articles provided for in subheadings 2916.31.10 through 2916.33.50]. Other: Ibuprofen	Ethyl Corporation, Richmond, VA.
90–76	3817.10.00(pt.)	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading 2707 or 2902: Mixed alkylbenzenes: Mixed linear alkylbenzens.	Vista Chemical Company, Houston, TX.
90–77	8481.80.10(pt.)	Taps, cocks, valves and similar appliances, for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves; parts thereof: [Articles provided for in subheadings 8481.10.00 through 8481.40.00]. Other appliances: Hand operated: Of copper: Valves for moter vehicle tires and inner tubes.	Bridgeport-Piedmont Manufacturing Co., Chicago, IL.
90–78	8481.80.90(pt.)	Other: Valves for motor vehicle tires and inner tubes	Do.
90–79	8481.90.10(pt.)	Parts: Of hand operated and check appliances: Of copper: Of valves for motor vehicles tires and inner tubes.	Do.
90–80	8481.90.90(pt.)	Other: Of valves for motor vehicle tires and inner tubes	Do.

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Case No.	HTS subheading [1]	Article	Petitioner
90-81	8516.90.60(pt.).....	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric flatirons; other electrothermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 8545; parts thereof: Parts: [Of cooking stoves, ranges and ovens; Of heaters or heating apparatus of subheading 8516.10, 8516.21 or 8516.29]. Other: Glass pots for coffee makers	Kimble Glass, Inc., Vineland, NJ.
		C. Petitions for waiver of competitive need limit for a product on the list of eligible products for the Generalized System of Preferences	
90-82	0802.90.15 (Mexico).	Other nuts, fresh or dried, whether or not shelled or peeled: Other: Pecans: Shelled.	Government of Mexico; Industrializadora de Nuez, Mexico.
90-83	0804.50.40 (Mexico).	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried; Guavas, mangoes and mangosteens: Fresh: If entered during the period from September 1, in any year, to the following May 31, inclusive.	Government of Mexico; Confederacion Nacional de Productores de Hortalizas, Mexico.
90-84	2005.20.0020 (Mexico).	Other vegetables prepared or preserved otherwise than by vinegar to acetic acid, not frozen: [Homogenized vegetables]. Potatoes: Potato chips	Government of Mexico; PepsiCo, Inc., Purchase, NY.
90-85	2529.22.00 (Mexoco).	Feldspar; leucite, nepheline and nepheline syenite; fluorspar: Fluorspar: Containing by weight more than 97 percent of calcium fluoride.	Government of Mexico; Aimcor de Mexico, S.A. de C.V., Mexico.
90-86	2836.92.00 (Mexico).	Carbonates; peroxocarbonates (percarbonates); commercial ammonium carbonate containing ammonium carbamate: Other: Strontium carbonate.	Government of Mexico; Sales y Oxidos, S.A. de C.V., Mexico; Compania Minerva La Valencia, S.A. de C.V., Mexco.
90-87	2935.00.31 (Yugoslavia).	Sulfonamides: [Articles provided for in subheadings 2935.00.05 through 2935.00.15]. Other: Drugs: Anti-infective agents: Acetylsulfisoxazole; Sulfacetamide, sodium; Sulfamerazine, sodium; Sulfamethazine, sodium; Sulfamethoxazole; Sulfanilamide; Sulfaquinoxaline; and Sulfisoxazole.	Pliva, I.L, Yugoslavia.
90-88	390.60.00 (Mexico).	Polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, polyallyl esters and other polyesters, in primary forms: Polyethylene terephthalate.	Government of Mexico; Petrocel, S.A., Mexico.
90-89	4015.11.00 (Malaysia).	Articles of apparel and clothing accessories (including gloves), for all purposes, of vulcanized rubber other than hard rubber: Gloves: Surgical and medical.	Baxter International, Inc., Deerfield, IL.
90-90	4409.10.40 (Mexico).	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed: Coniferous: Wood moldings: Standard wood moldings: Pine (*Pinus* spp.).	Government of Mexico; Cal-State Lumber Sales, Inc., National City, CA.
90-90	4818.40.40 (Mexico).	Toilet paper, handkerchiefs, cleansing tissues, towels, tablecloths, table napkins, diapers, tampons, bed sheets and similar household, sanitary, or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibers: [Toilet paper; Handkerchiefs, cleansing or facial tissues and towels; Tablecloths and table napkins]. Sanitary napkins and tampons, diapers and diaper liners and similar sanitary articles: [Of paper pulp] Other.	Government of Mexico; Convertidora y Maquiladora de Papel, S.A. de C.V., Mexico.
90-92	7202.11.10 (Mexico).	Ferroalloys: Ferromanganese: Containing by weight more than 2 percent of carbon: Containing by weight more than 2 percent but not more than 4 percent of carbon.	Government of Mexico; Cia. Minera Autlan, S.A. de C.V., Mexico.
90-93	7202.19.50 (Mexico).	Other: [Containing by weight not more than 1 percent of carbon] Containing by weight more than 1 percent but not more than 2 percent of carbon.	Do.
90-94	8414.59.80 (Mexico).	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; parts thereof; Fans: [Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W]. Other: [Blowers for pipe organs] Other.	Government of Mexico; Comair Rotron de Mexico, S.A. de C.V., Mexico.
90-95	8418.10.00 (Mexico).	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps, other than the air conditioning machines of heading 8415; parts thereof; Combined refrigerator-freezers, fitted with separate external doors.	Goverment of Mexico; Whirlpool Corporation, Benton Harbor, MI; Vitromatic, S.A. de C.V., Mexico.
90-96	8414.21.00 (Mexico).	Refrigerators, household type: Compression type	Do.
90-97	8418.22.00 (Mexico).	Absorption type, electrical	Do.
90-98	8418.29.00 (Mexico).	Other	Do.
90-99	8418.30.00 (Mexico).	Freezers of the chest type, not exceeding 800 liters capacity	Do.
90-100	8418.40.00 (Mexico).	Freezers of the upright type, not exceeding 900 liters capacity	Do.
90-101	8475.20.00 (Mexico).	Machines for assembling electric or electronic lamps, tubes or flashbulbs, in glass envelopes; machines for manufacturing or hot working glass or glassware; parts thereof: Machines for manufacturing or hot working glass or glassware.	Government of Mexico; Anchor Glass Container Corporation, Tampa, FL; Fabricacion de Maquinas, S.A., Mexico.
90-102	8504.10.00 (Mexico).	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof: Ballasts for discharge lamps or tubes.	Government of Mexico; Electronic Ballast Technology, Inc., Torrance, CA.

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Case No.	HTS subheading [1]	Article	Petitioner
90-103	8504.32.00 (Mexico).	Electrical transformers, static converters (for example, rectifiers) and inductors; parts thereof (con.). [Liquid dielectric transformers]. Other transformers: Having a power handling capacity exceeding 1 kVA but not exceeding 16kVA.	Government of Mexico; Westinghouse Electric Corporation, Pittsburgh, PA; Operaciones de Maquila de Juarez, S.A. de C.V., Mexico
90-104	8505.19.00 (Mexico).	Electromagnets; permanent magnets and articles intended to become permanent magnets after magnetization; electromagnetic or permanent magnet chucks, clamps and similar holding devices; electromagnetic couplings, clutches and brakes; electromagnetic lifting heads; parts thereof; Permanent magnets and articles intended to become permanent magnets after magnetization: [Of metal] Other.	Government of Mexico; General Motors Corporation, Rochester, NY.
90-105	8507.90.40 (Mexico).	Electric storage batteries, including separators therefor, whether or not rectangular (including square); parts thereof: Parts: Of lead-acid storage batteries.	Government of Mexico; Aislantes Leon, S.A. de C.V., Mexico.
90-106	8511.10.00 (Mexico).	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines (for example, ignition magnetos, magneto-dynamos, ignition coils, spark plugs and glow plugs, starter motors); generator (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines; parts thereof: Spark plugs.	Government of Mexico; Bujias Mexicanas, Mexico.
90-107	8517.10.00 (Malaysia).	Electrical apparatus for line telephony or telegraphy, includiong such apparatus for carrier-current line systems; pats thereof: Telephone sets.	Thomson Consumer Electronics, Inc., Indianapolis, IN.
90-108	8520.20.00 (Malaysia).	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device: Telephone answering machines.	Do.
90-109	8527.11.11 (Malaysia).	Reception apparatus for radiotelephony, radiotelegraphy or radiobroadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock: Radiobroadcast receivers capable of operating without an external source of power, including apparatus capable of receiving also radiotelephony or radiotelegraphy: Combined with sound recording or reproducing apparatus: Combinations incorporating tape players which are incapable of recording.	Thomson Consumer Electronics, Inc., Indianapolis, IN.
90-110	8536.69.00 (Mexico).	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V: [Fuses; Automatic circuit breakers; Other apparatus for protecting electrical circuits; Relays; Other switches]. Lampholders, plugs and sockets: [Lampholders] Other	Government of Mexico; Labinal Electronica de Reynosa, S.A. de C.V., Mexico.
90-111	8536.90.00 (Mexico).	Other apparatus	Do.
90-112	8544.30.00 (Mexico, Philippines).	Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors: [Winding wire; Coaxial cable and other coaxial electric conductors] Ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships.	Government of Mexico; Government of the Philippines; Servicios Condumex, S.A. de C.V., Mexico; Conductores Monterrey, S.A. de C.V., Mexico.
90-113	8544.51.40 (Mexico).	Other electric conductors, for a voltage exceeding 80 V but not exceeding 1,000 V: Fitted with connectors: Fitted with modular telephone connectors.	Government of Mexico; ACS Industries, Inc., Woonsocket, RI.
90-114	8708.70.80 (Mexico).	Parts and accessories of the motor vehicles of headings 8701 to 8705: [Articles provided for in subheadings 8708.10.00 through 8708.60.80] Road wheels and parts and accessories thereof: [For tractors (except road tractors)] For other vehicles.	Government of Mexico; Kelsey Hayes de Mexico, S.A., Mexico.
90-115	8708.99.50 (Mexico).	[Suspension shock absorbers] Other parts and accessories: [Articles provided for in subheadings 8708.91.10 through 8708.94.50]. Other: [Articles provided for in subheadings 8708.99.10 and 8708.99.20] Other: [Of cast-iron] Other	Government of Mexico; Gabriel de Mexico, S.A. de C.V., Mexico.
90-116	9401.90.10 (Mexico).	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof: Parts: Of seats of a kind used for motor vehicles	Government of Mexico; General Motors Corporation, Warren, MI.
90-117	9503.70.80 (Mexico).	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof: [Articles provided for in subheadings 9503.10.00 through 9503.60.20]. Other toys, put up in sets or outfits, and parts and accessories thereof: [Toy tea sets of ceramic ware made to the approximate scale of 1 to 10 or larger]. Other: [Toy alphabet blocks] Other	Government of Mexico; Mattel Inc., Hawthorne, CA; Tonka Corporation, Minnetonka, MN.
90-118	9503.90.60 (Mexico).	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds; parts and accessories thereof (con.): [Other toys and models, incorporating a motor, and parts and accessories thereof]. Other: [Kites] Other: [Inflatable toy balls, balloons and punchballs] Other toys (except models), not having a spring mechanism.	Government of Mexico; Mattel Inc., Hawthorne, CA; Tonka Corporation, Minnetonka, MN.

[1] Harmonized Tariff Schedule of the United States.
[2] The TPSC requests advice on a waiver of competitive need for Mexico for articles provided for in HTS subheading 0710.80.95(pt.) (broccoli).
[3] The TPSC requests advice on a waiver of competitive need for Mexico for articles provided for in HTS subheading 0710.80.9530 (cauliflower).
[4] The TPSC requests advice on a waiver of competitive need for Poland for articles provided for in HTS subheading 1602.41.20.
[5] The petitioner also requests a waiver of competitive need for Mexico for articles provided for in HTS subheading 2917.37.00.
[6] The TPSC requests advice on a waiver of competitive need for Mexico for the articles provided for in HTS subheading 7901.11.00.

ANNEX II. U.S. GENERALIZED SYSTEM OF PREFERENCES; COUNTRY PRACTICE PETITIONS ACCEPTED FOR REVIEW; 1990 ANNUAL REVIEW

Document No.	Petitioner	Country	Action	Decision
001-CP-90	National Federation of Salvadoran Workers (FENASTRAS); & Labor Coalition on Central America.	El Salvador	WR	Accept.
002-CP-90	Int'l Union of Electronic, Electrical, Salaried, Machine & Furniture Workers, AFL-CIO; & United Food & Commercial Workers, AFL-CIO.	El Salvador	WR	Accept.
003-CP-90	Massachusetts Labor Committee, et al.	El Salvador	WR	Accept.
004-CP-90	New York Labor Comm.	El Salvador	WR	Accept.
005-CP-90	Int'l Labor Rights Education & Research Fund	Malaysia	WR	Reject.
006-CP-90	United Electrical, Radio & Machine Workers of America; Labor & Employment Committee of National Lawyers Guild; & Int'l Labor Rights Education & Research Fund.	Guatemala	WR	Reject.
007-CP-90	Africa Watch	Sudan	WR	Accept.
008-CP-90	Americas Watch	El Salvador	WR	Accept.
009-CP-90	Americas Watch, United Mine Workers of America	Colombia	WR	Reject.
010-CP-90	Americas Watch	Guatemala	WR	Reject.
011-CP-90	AFL-CIO	Bangladesh	WR	Accept.
		Benin	WR	[1]
		El Salvador	WR	Accept.
		Haiti	WR	[1]
		Malaysia	WR	Reject.
		Nepal	WR	[1]
		Sudan	WR	Accept.
		Syria	WR	[1]
		Turkey	WR	Reject.
012-CP-90	American Int'l Group, Inc.	Peru	EXP	Deferred.
013-CP-90	Charles A. Sayous	Uruguay	EXP	Reject.
014-CP-90	Dr. Theron Charles Claridge Ellsworth	Costa Rica	EXP	Withdrawn.
015-CP-90	Enterprise Development Inc.	Sri Lanka	EXP	Reject.
016-CP-90	Oil-Dri Corp. of America; & U.S.A. Poultry & Egg Export Council	Malaysia	MA	Withdrawn.
017-CP-90	International Brotherhood of Electrical Workers	Malaysia	WR	Reject.

[1] Review extended from 1989 Annual Review. The review of the Dominican Republic has also been extended.
WR=Worker Rights.
EXP=Expropriation without Compensation.
MA=Market Access.

[FR Doc. 90-20125 Filed 8-22-90; 1:21 pm]
BILLING CODE 3190-01-M

federal register

Friday
August 24, 1990

Part VIII

The President

Presidential Determination No. 90-34—Determination that Certain Import Fees are not in the National Economic Interest

Federal Register
Vol. 55, No. 165
Friday, August 24, 1990

Presidential Documents

Title 3—

The President

Presidential Determination No. 90–34 of August 23, 1990

Determination that Certain Import Fees are not in the National Economic Interest

Memorandum for the United States Trade Representative

Pursuant to section 1428(a)(4)(B) of the Omnibus Trade and Competitiveness Act of 1988, I determine that it is not in the national economic interest to impose the fee described under subsection (b) of that section.

I hereby authorize and direct the United States Trade Representative to submit to the Congress and publish in the **Federal Register** written notice of this determination.

George Bush

[FR Doc. 90–20228
Filed 8–23–90; 11:55 am]
Billing code 3195–01–M

federal register

Friday
August 24, 1990

Part IX

Office of the United States Trade Representative

Imposition of Small Import Fee; Notice of Presidential Determination

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Imposition of Small Import Fee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of Presidential Determination.

SUMMARY: Notice is hereby given that the President has determined, pursuant to section 1428(a)(4)(b) of the Omnibus Trade and Competitiveness Act of 1988 ("the Act"), that the imposition of a fee on imports as described in section 1428(b) of the Act is not in the national economic interest.

DATE: This action is effective August 23, 1990.

ADDRESS: 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION: Wendy Silberman, USTR, Director, Nontariff Measures, Office of GATT Affairs, (202) 395–5097.

W. Douglas Newkirk,

Assistant United States Trade Representative for GATT Affairs.

[FR Doc. 90–20213 Filed 8–23–90; 11:56 am]

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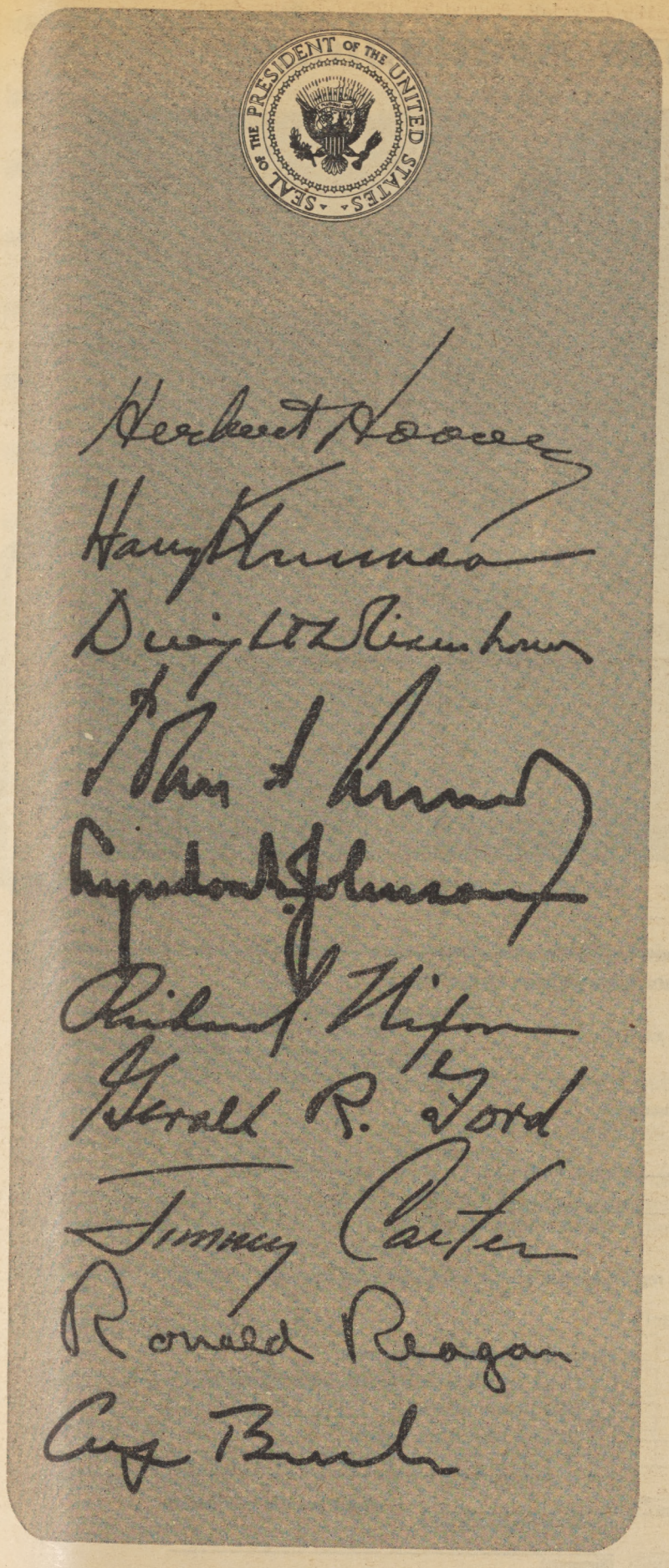
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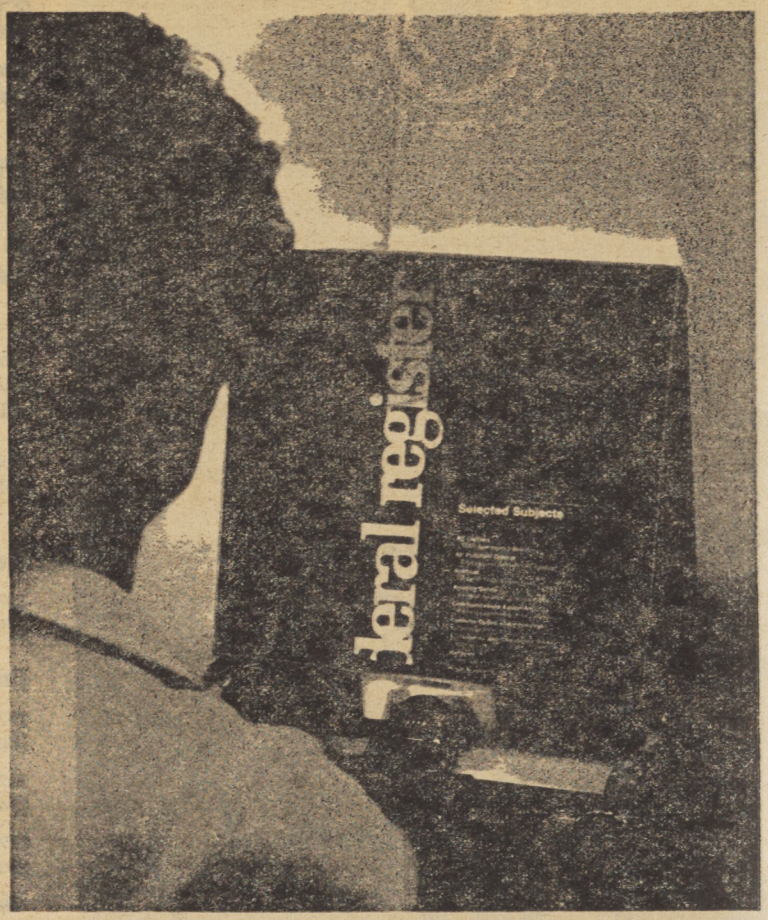
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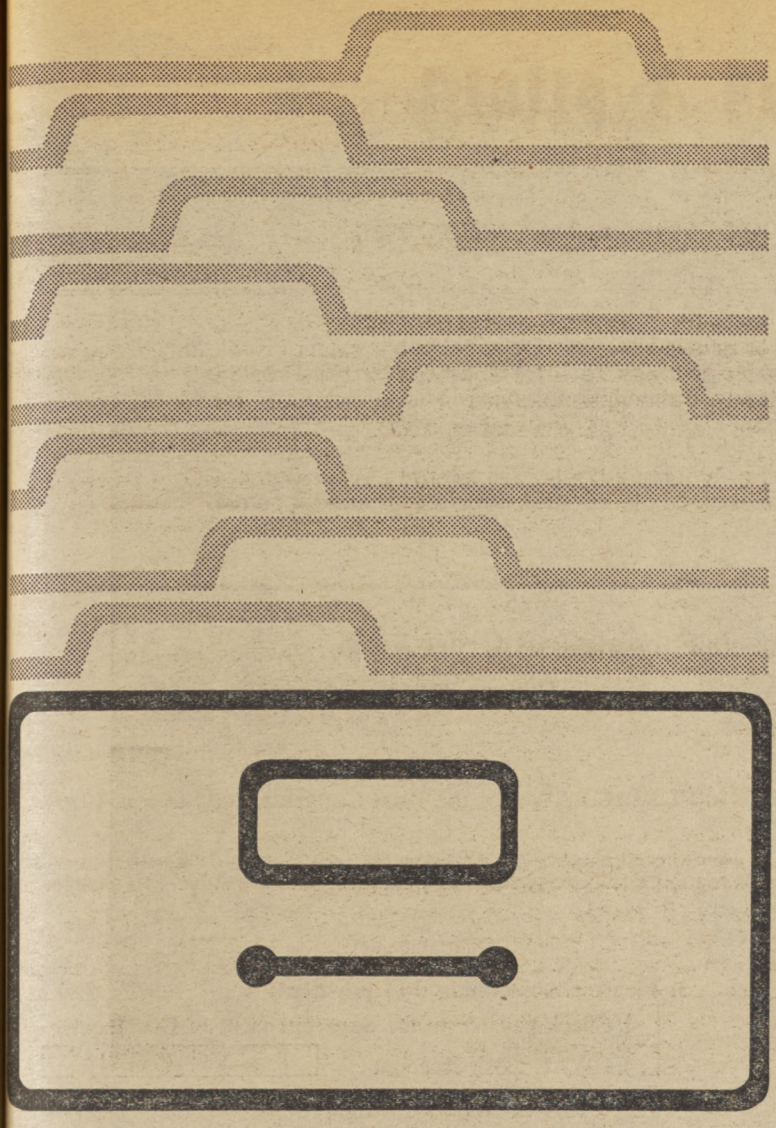
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