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Thursday
October 18, 1984

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Environmental Protection Agency

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Coast Guard

Aviation Safety
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Bridges
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Excise Taxes
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 5261 of October 15, 1984

Myasthenia Gravis Awareness Week, 1984

By the President of the United States of America

A Proclamation

For most of us, combing our hair or crossing the room to turn on the light are simple, routine tasks. But for more than 100,000 Americans who suffer from myasthenia gravis, these everyday activities are enough to exhaust them for hours.

Myasthenia gravis is a serious neuromuscular disease whose cause is not yet known. It can strike anyone at any time, draining people of their vitality, producing muscle weakness and abnormally rapid fatigue.

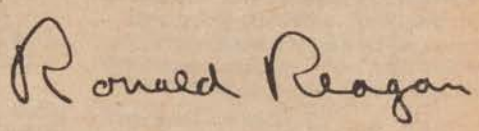
Though there is still much to be learned, scientists now know that myasthenia gravis depletes its victim of an essential chemical—without which nerve cells cannot tell muscles to work. Based on this knowledge, scientists have made important progress in managing this disorder. Today, several new forms of treatment are available, and myasthenia gravis patients can expect to lead nearly normal lives.

But because we still do not know how to prevent this disease, the quest for answers continues. Scientists supported by the Myasthenia Gravis Foundation and the Federal government's National Institute of Neurological and Communicative Disorders and Stroke remain dedicated to this crucial research effort. These investigators are inspired by the courage and tenacity shown by myasthenia gravis patients and their families.

In order that the public be made aware of myasthenia gravis and the need to conquer this debilitating disorder, the Congress, by Senate Joint Resolution 295, has designated the week of October 14 through October 20, 1984, as "Myasthenia Gravis Awareness Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 14, 1984, as Myasthenia Gravis Awareness Week. I call upon all government agencies, health organizations, communications media, and people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of October, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.



Ronald Reagan

[FR Doc. 84-27712

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 427

[Amdt. No. 2; Doc. No. 1339S]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years by: (1) Changing the end of insurance period in Alaska to September 25; (2) eliminating the "7-day residue" provision; (3) clarifying specific quality standards stated in the policy; (4) changing the term "mature production" back to "harvested production"; (5) dividing Virginia into fall (September 30) and spring (April 5) counties for insurance purposes; and (6) adding "failure of the irrigation water supply after planting due to unavoidable causes" as an insured cause of loss. The intended effect of this rule is to update the provisions of the contract for insuring oats, clarify terminology, add another cause of loss, and provide for a different insurance period in Alaska to conform with current farming practices.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 477–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512–1 (December 15, 1983). This action does not constitute a review as the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in (a) an annual effect on the economy of $100 million or more; (b) a major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

On Friday, June 8, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 23852, to amend the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years, as follows:

1. Section 1—add "failure of the water supply after planting due to unavoidable causes" as an insurable cause of loss.

2. Section 7—change the date for the end of insurance period in Alaska to September 25.

3. Section 8—eliminate the "7-day residue" provision.

4. Section 9e(2)—State specific quality standards, in place of the grade designation (e.g.; U.S. No. 4) contained in current polices.

5. Section 9e(3)—change "mature production" back to "harvested production."

6. Section 15d—split Virginia into fall (September 30) and spring (April 15) counties.

The public was given 30 days in which to submit written data, comments, and opinions, but none were received. Therefore, the proposed rule as published with minor non-substantive clerical changes is hereby made final. In order to provide continuity the proposed amendment herein contains the policy for insuring oats in its entirety and includes the changes itemized above.

List of Subjects in 7 CFR Part 427

Crop Insurance, Oats.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 427 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 427.7(d) is amended by revising the policy therein to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Oat—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Unavoidable failure of the irrigation water supply after planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good oat farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be oats planted for harvest as grain, oats planted in the same manner for harvest as silage or hay, and grain mixtures in which oats are the predominant grain; which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be oats planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured oats at the time of planting.

d. We do not insure any acreage:

(1) Planted with flax or vetch;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and it is practical to replant to oats but such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(6) Of volunteer oats; or

(7) Planted to a type or variety of oats not established as adapted to the area or excluded by the actuarial table.

e. Where insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good oat irrigation practice; and

(2) Any loss of production caused by failure to carry out a good oat irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of oats in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any oats planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300

PREMIUM ADJUSTMENT TABLE [1] —Continued

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract will be transferred to:

(1) The contract of your estate or surviving spouse if you die;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium will be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a will be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the oats are planted except that in counties with an April 15 cancellation date. Insurance on fall planted oats attached on April 16 following planting if there is an adequate stand on this date to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the oats;

(2) Combining, threshing, harvesting for silage or hay, or removal from the field;

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which oats are normally harvested:

(a) Alaska	Sept. 25.
(b) All other states	Oct. 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the oats on any unit are damaged and you decide not to further care for or harvest any part of them;

(b) You want our consent to put the acreage to another use;

(c) You want to harvest the oats for silage or hay (After such notice is given, we will appraise the potential grain production. *However*, if we are unable to do so before harvest, you may harvest the crop provided representative samples are left for appraisal purposes); or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the oats and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. A representative sample of the unharvested oats (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(3) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the oats on the unit;

(b) Harvest of the unit; or

(c) The date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the oats which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the oats on the unit;

(2) Harvest of the unit; or

(3) The date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of oats on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of oats to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity will be reduced proportionately.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Mature oat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(2) Mature oat production which, due to insurable causes, has a test weight of less than 27 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains less than 80 percent sound oats or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such oats by the price per bushel of U.S. No. 2 oats; and

(b) Multiplying the result by the number of bushels of such oats.

The applicable price for No. 2 oats will be the local market price on the earlier of the day the loss is adjusted or the day such oats were sold.

(3) Any harvested production from other crops growing in the oats will be counted as oats on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good oat farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage:

(a) Is not put to another use before harvest of oats becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested oats on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the oats are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request To Exclude Hail And Fire".

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You will not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We will pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the oats are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all oats produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both the payment under such other program and set off are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
New Mexico except Taos County, Oklahoma and Texas.	Aug. 31.
Alabama; Arkansas; Florida; Georgia; Louisiana; Mississippi; North Carolina; South Carolina; Tennessee and Patrick, Franklin, Pittsylvania, Campbell, Appomattox, Fluvanna, Buckingham, Louisa, Spotsylvania, Caroline, Essex and Westmoreland Counties, Virginia and all counties east thereof.	Sept. 30.
Arizona and California except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties.	Oct. 31.
Del Norte, Humboidt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; Taos County, New Mexico; all other Virginia counties and all other States.	Apr. 15

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of oat crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding oat insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the oats are normally grown and is designated by the calendar year in which the oats are normally harvested.

d. "Harvest" of oats on the unit means the completion of combining, threshing or cutting for hay or silage.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the oats or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of oats in the county on the date of planting for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the oats on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on July 11, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: October 1, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-28599 Filed 10-17-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 432

[Doc. No. 1288S; Amdt. No. 2]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends Appendix A to the Corn Crop Insurance Regulations (7 CFR Part 432) to include additional counties recently approved by FCIC's Board of Directors for corn crop insurance, to list counties inadvertently omitted from previous county listing publications, and to republish Appendix A in its entirety to reflect all counties currently designated for corn crop insurance. The intended effect of this rule is to update the list of counties wherein corn crop insurance is authorized to be offered under the provisions of the Corn Crop Insurance Regulations and to notify all interested parties in the additional affected counties that they are now eligible to participate in the program.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

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

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Thursday, June 14, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 24533, to amend Appendix A to the Corn Crop Insurance Regulations (7 CFR Part 432), listing counties wherein such insurance is otherwise authorized to be offered. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule is adopted as final.

Under the provisions of 7 CFR 432.1, before any insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which corn crop insurance shall be offered. The Board of Directors has approved additional counties for corn crop insurance and the Manager will make crop insurance available in those counties effective with the 1984 and succeeding crop years. The additional counties were listed and identified in Appendix A in the proposed rule by an asterisk ("*").

In reviewing the county listing for corn crop insurance, FCIC noted that several counties had been inadvertently omitted from previous regulations published in the **Federal Register**. These counties were included in Appendix A when published as a proposed rule and identified by two asterisks ("**").

Because of the number of changes to Appendix A, FCIC is republishing Appendix A in its entirety.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Final Rule

PART 432—[AMENDED]

Accordingly, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 432 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 432 is amended by revising and reissuing Appendix A thereto to read as follows:

APPENDIX A—Counties Designated for Corn Crop Insurance

The following counties are designated for Corn Crop Insurance under the provisions of 7 CFR 432.1.

Alabama

Autauga	Geneva
Baldwin	Greene
Barbour	Hale
Bibb	Henry
Blount	Houston
Bullock	Jackson
Butler	Jefferson
Calhoun	Lamar
Chambers	Lauderdale
Cherokee	Lawrence
Chilton	Lee
Choctaw	Limestone
Clarke	Lowndes
Clay	Macon
Cleburne	Madison
Coffee	Marengo
Colbert	Marion
Conecuh	Marshall
Coosa	Mobile
Covington	Monroe
Crenshaw	Montgomery
Cullman	Morgan
Dale	Perry
Dallas	Pickens
De Kalb	Pike
Elmore	Randolph
Escambia	Russell
Etowah	St. Clair
Fayette	Shelby
Franklin	Sumter

Talladega
Tallapoosa
Tuscaloosa
Walker
Washington
Wilcox
Winston

Arizona

Apache
Cochise
Coconino
Graham
Greenlee
Maricopa
Navajo
Pima
Pinal
Yavapai

Arkansas

Arkansas
Ashley
Benton
Boone
Bradley
Calhoun
Carroll
Chicot
Clark
Clay
Cleburne
Cleveland
Columbia
Conway
Craighead
Crawford
Crittenden
Cross
Dallas
Desha
Drew
Faulkner
Franklin
Fulton
Grant
Greene
Hempstead
Hot Spring
Howard
Independence
Izard
Jackson
Jefferson
Johnson
Lafayette
Lawrence
Lee
Lincoln
Little River
Logan
Lonoke
Madison
Marion
Miller
Mississippi
Monroe
Nevada
Ouachita
Perry
Phillips
Pike
Poinsett
Polk
Pope
Prairie
Pulaski
Randolph
St. Francis
Saline
Scott
Sebastian
Sevier
Sharp
Stone
Van Buren
Washington
White
Woodruff
Yell

California

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Humboldt
Kern
Kings
Lassen
Madera
Mendocino
Merced
Modoc
Monterey
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Joaquin
San Luis Obispo
Santa Barbara
Santa Cruz
Shasta
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
Tulare
Yolo
Yuba

Colorado

Adams
Arapahoe
Archuleta
Baca
Bent
Boulder
Cheyenne
Conejos
Crowley
Delta
Dolores
Douglas
Elbert
El Paso
Fremont
Garfield
Huerfano
Jefferson
Kiowa
Kit Carson
La Plata
Larimer
Las Animas
Lincoln
Logan
Mesa
Moffat
Montezuma
Montrose
Morgan
Otero
Ouray
Phillips
Prowers
Pueblo
Saguache
Sedgwick
Washington
Weld
Yuma

Connecticut

Fairfield
Hartford
Litchfield
Middlesex
New Haven
New London
Tolland
Windham

Delaware

Kent
New Castle
Sussex

Florida

Alachua
Baker
Bay
Bradford
Calhoun
Citrus
Collier
Columbia
Dade
Desoto
Dixie
Duval
Escambia
Flagler
Gadsden
Gilchrist
Glades
Gulf
Hamilton
Hendry
Hernando
Highlands
Holmes
Indian River
Jackson
Jefferson
Lafayette
Lake
Leon
Levy
Liberty
Madison
Manatee
Marion
Nassau
Okaloosa
Orange
Osceola
Palm Beach
Polk
Putnam
St. Johns
Santa Rosa
Seminole
Sumter
Suwannee
Taylor
Union
Volusia
Wakulla
Walton
Washington

Georgia

Appling
Atkinson
Bacon
Baker
Baldwin
Banks
Barrow
Bartow
Ben Hill
Berrien
Bibb
Bleckley
Brantley
Brooks
Bryan
Bulloch
Burke
Butts
Calhoun
Camden
Candler
Carroll
Catoosa
Charlton
Chatham
Chattooga
Cherokee
Clark
Clay
Clayton
Clinch
Coffee
Colquitt
Columbia
Cook
Coweta
Crawford
Crisp
Dade
Dawson
Decatur
De Kalb
Dodge
Dooly
Dougherty
Douglas
Early
Echols
Effingham
Elbert
Emanuel
Evans
Fannin
Fayette
Floyd
Forsyth
Franklin
Fulton
Gilmer
Glascock
Glynn
Gordon
Grady
Greene
Gwinnett
Habersham
Hall
Hancock
Haralson
Harris
Hart
Heard
Henry
Houston
Irwin
Jackson
Jasper
Jeff Davis
Jefferson
Jenkins
Johnson
Jones
Lamar
Lanier
Laurens
Lee
Liberty
Lincoln
Long
Lowndes
Lumpkin
McDuffie
McIntosh
Macon
Madison
Marion
Meriwether
Miller
Mitchell
Monroe
Montgomery
Morgan
Murray
Muscogee
Newton
Oconee
Oglethorpe
Paulding
Peach
Pickens
Pierce
Pike
Polk
Pulaski
Putnam
Quitman
Rabun
Randolph
Richmond
Rockdale
Schley
Screven
Seminole
Spalding
Stephens
Stewart
Sumter
Talbot
Taliaferro
Tattnall
Taylor
Telfair
Terrell
Thomas
Tift
Toombs
Towns
Treutlen
Troup
Turner
Twigs
Union
Upson
Walker
Walton
Ware
Warren
Washington
Wayne
Webster
Wheeler
White
Whitfield
Wilcox
Wilkes
Wilkinson
Worth

Idaho

Ada
Adams
Bannock
Bingham
Blaine
Bonner
Bonneville
Canyon
Caribou
Cassia
Clark
Elmore
Franklin
Fremont
Gem
Gooding
Jefferson
Jerome
Kootenai
Lemhi
Lincoln
Madison
Minidoka
Oneida
Owyhee
Payette
Power
Teton
Twin Falls
Washington

Illinois

Adams
Alexander
Bond
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Clay
Clinton
Coles
Cook
Crawford
Cumberland
De Kalb
De Witt
Douglas
Du Page
Edgar
Edwards
Effingham
Fayette
Ford
Franklin
Fulton
Gallatin
Greene
Grundy
Hamilton
Hancock
Hardin
Henderson
Henry
Iroquois
Jackson
Jasper
Jefferson
Jersey
Jo Daviess
Johnson
Kane
Kankakee
Kendall
Knox

Lake
La Salle
Lawrence
Lee
Livingston
Logan
McDonough
McHenry
McLean
Macon
Macoupin
Madison
Marion
Marshall
Mason
Massac
Menard
Mercer
Monroe
Montgomery
Morgan
Moultrie
Ogle
Peoria
Perry
Piatt
Pike
Pope
Pulaski
Putnam
Randolph
Richland
Rock Island
St. Clair
Saline
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Union
Vermilion
Wabash
Warren
Washington
Wayne
White
Whiteside
Will
Williamson
Winnebago
Woodford

Indiana

Adams
Allen
Bartholomew
Benton
Blackford
Boone
Brown
Carroll
Cass
Clark
Clay
Clinton
Crawford
Daviess
Dearborn
Decatur
De Kalb
Delaware
Dubois
Elkhart
Fayette
Floyd
Fountain
Franklin
Fulton
Gibson
Grant
Greene
Hamilton
Hancock
Harrison
Hendricks
Henry
Howard
Huntington
Jackson
Jasper
Jay
Jefferson
Jennings
Johnson
Knox
Kosciusko
LaGrange
Lake
La Porte
Lawrence
Madison
Marion
Marshall
Martin
Miami
Monroe
Montgomery
Morgan
Newton
Noble
Ohio
Orange
Owen
Parke
Perry
Pike
Porter
Posey
Pulaski
Putnam
Randolph
Ripley
Rush
St. Joseph
Scott
Shelby
Spencer
Starke
Steuben
Sullivan
Switzerland
Tippecanoe
Tipton
Union
Vanderburgh
Vermillion
Vigo
Wabash
Warren
Warrick
Washington
Wayne
Wells
White
Whitley

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humboldt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
East Pottawattamie
West Pottawattamie
Poweshiek
Ringgold
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Wayne
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Kansas

Allen
Anderson
Atchison
Barber
Barton
Bourbon
Brown
Butler
Chase
Chautauqua
Cherokee
Cheyenne
Clark
Clay
Cloud
Coffey
Comanche
Cowley
Crawford
Decatur
Dickinson
Doniphan
Douglas
Ewards
Elk
Ellis
Ellsworth
Finney
Ford
Franklin
Geary
Gove
Graham
Grant
Gray
Greeley
Greenwood
Hamilton
Harper
Harvey
Haskell
Hodgeman
Jackson
Jefferson
Jewell
Johnson
Kearny
Kingman
Kiowa
Labette
Lane
Leavenworth
Lincoln
Linn
Logan
Lyon
McPherson
Marion
Marshall
Meade
Miami
Mitchell
Montgomery
Morris
Morton
Nemaha
Neosho
Ness
Norton
Osage
Osborne
Ottawa
Pawnee
Phillips
Pottawatomie
Pratt
Rawlins
Reno
Republic
Rice
Riley
Rooks
Rush
Russell
Saline
Scott
Sedgwick
Seward
Shawnee
Sheridan
Sherman
Smith
Stafford
Stanton
Stevens
Sumner
Thomas
Trego
Wabaunsee
Wallace
Washington
Wichita
Wilson
Woodson
Wyandotte

Kentucky

Adair
Allen
Anderson
Ballard
Barren
Bath
Bell
Boone
Bourbon
Boyd
Boyle
Bracken
Breathitt
Breckinridge
Bullitt
Butler
Caldwell
Calloway
Campbell
Carlisle
Carroll
Carter
Casey
Christian
Clark
Clay
Clinton
Crittenden
Cumberland
Daviess
Edmonson
Elliott
Estill
Fayette
Flemming
Floyd
Franklin
Fulton
Gallatin
Garrard
Grant
Graves
Grayson
Green
Greenup
Hancock
Hardin
Harlan
Harrison
Hart
Henderson
Henry
Hickman
Hopkins
Jackson
Jefferson
Jessamine
Johnson
Kenton
Knott
Knox
Larue
Laurel
Lawrence
Lee
Leslie
Letcher
Lewis
Lincoln
Livingston
Logan
Lyon
McCracken
McCreary
McLean
Madison
Magoffin
Marion
Marshall
Martin
Mason
Meade
Menifee
Mercer
Metcalfe
Monroe
Montgomery
Morgan
Muhlenberg
Nelson
Nicholas
Ohio
Oldham
Owen
Owsley
Pendleton
Perry
Pike
Powell
Pulaski
Robertson
Rockcastle
Rowan
Russell
Scott
Shelby
Simpson
Spencer
Taylor
Todd
Trigg
Trimble
Union
Warren
Washington
Wayne
Webster
Whitley
Wolfe
Woodford

Louisiana

Acadia
Allen
Ascension
Assumption
Avoyelles
Beauregard
Bienville
Bossier
Caddo
Calcasieu
Caldwell
Cameron
Catahoula
Claiborne

Concordia
De Soto
East Baton Rouge
East Carroll
East Feliciana
Evangeline
Franklin
Grant
Iberia
Iberville
Jackson
Jefferson Davis
Lafayette
Lafourche
La Salle
Lincoln
Livingston
Madison
Morehouse
Natchitoches
Ouachita
Pointe Coupee
Rapides
Red River
Richland
Sabine
Saint Helena
St. James
St. John the Baptist
St. Landry
St. Martin
St. Mary
Saint Tammany
Tangipahoa
Tensas
Terrebonne
Union
Vermilion
Vernon
Washington
Webster
West Baton Rouge
West Carroll
West Feliciana
Winn

Maine

Androscoggin
Aroostook
Cumberland
Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Penobscot
Piscataquis
Sagadahoc
Somerset
Waldo
Washington
York

Maryland

Allegany
Anne Arundel
Baltimore
Calvert
Caroline
Carroll
Cecil
Charles
Dorchester
Frederick
Garrett
Harford
Howard
Kent
Montgomery
Prince Georges
Queen Annes
St. Marys
Somerset
Talbot
Washington
Wicomico
Worcester

Massachusetts

Barnstable
Berkshire
Bristol
Dukes
Essex
Franklin
Hampden
Hampshire
Middlesex
Norfolk
Plymouth
Worchester

Michigan

Alcona
Alger
Allegan
Alpena
Antrim
Arenac
Baraga
Barry
Bay
Benzie
Berrien
Branch
Calhoun
Cass
Charlevoix
Cheboygan
Chippewa
Clare
Clinton
Crawford
Delta
Dickinson
Eaton
Emmet
Genesee
Gladwin
Gogebic
Grand Traverse
Gratiot
Hillsdale
Houghton
Huron
Ingham
Ionia
Iosco
Iron
Isabella
Jackson
Kalamazoo
Kalkaska
Kent
Keweenaw
Lake
Lapeer
Leelanau
Lenawee
Livingston
Luce
Mackinac
Macomb
Manistee
Marquette
Mason
Mecosta
Menominee
Midland
Missaukee
Monroe
Montcalm
Montmorency
Muskegon
Newaygo
Oakland
Oceana
Ogemaw
Ontonagon
Osceola
Oscoda
Otsego
Ottawa
Presque Isle
Roscommon
Saginaw
St. Clair
St. Joseph
Sanilac
Schoolcraft
Shiawassee
Tuscola
Van Buren
Washtenaw
Wayne
Wexford

Minnesota

Aitkin
Anoka
Becker
Beltrami
Benton
Big Stone
Blue Earth
Brown
Carlton
Carver
Cass
Chippewa
Chisago
Clay
Clearwater
Cook
Cottonwood
Crow Wing
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Hennepin
Houston
Hubbard
Isanti
Itasca
Jackson
Kanabec
Kandiyohi
Kittson
Koochiching
Lac qui Parle
Lake
Lake of the Woods
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
East Otter Tail
West Otter Tail
Pennington
Pine
Pipestone
East Polk
West Polk
Pope
Ramsey
Red Lake
Redwood
Renville
Rice
Rock
Roseau
St. Louis
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Mississippi

Adams
Alcorn
Amite
Attala
Benton
Bolivar
Calhoun
Carroll
Chickasaw
Choctaw
Claiborne
Clarke
Clay
Coahoma
Copiah
Covington
DeSoto
Forrest
Franklin
George
Greene
Grenada
Hancock
Harrison
Hinds
Holmes
Humphreys
Issaquena
Itawamba
Jackson
Jasper
Jefferson
Jefferson Davis
Jones
Kemper
Lafayette
Lamar
Lauderdale
Lawrence
Leake
Lee
Leflore
Lincoln
Lowndes
Madison
Marion
Marshall
Monroe
Montgomery
Neshoba
Newton
Noxubee
Oktibbeha
Panola
Pearl River
Perry
Pike
Pontotoc
Prentiss
Quitman
Rankin
Scott
Sharkey
Simpson
Smith
Stone
Sunflower
Tallahatchie
Tate
Tippah
Tishomingo
Tunica
Union
Walthall
Warren
Washington
Wayne
Webster
Wilkinson
Winston
Yalobusha
Yazoo

Missouri

Adair
Andrew
Atchison
Audrain
Barry
Barton
Bates
Benton
Bollinger
Boone
Buchanan
Butler
Caldwell
Callaway
Camden
Cape Girardeau
Carroll
Carter
Cass
Cedar
Chariton
Christian
Clark
Clay
Clinton
Cole
Cooper
Crawford
Dade
Dallas
Daviess
De Kalb
Dent
Douglas
Dunklin
Franklin
Gasconade
Gentry
Greene
Grundy
Harrison
Henry
Hickory
Holt
Howard
Howell
Iron
Jackson
Jasper
Jefferson
Johnson
Knox
Laclede
Lafayette
Lawrence
Lewis
Lincoln
Linn
Livingston
McDonald
Macon
Madison
Maries
Marion
Mercer
Miller
Mississippi
Moniteau
Monroe
Montgomery
Morgan
New Madrid
Newton
Nodaway
Oregon
Osage
Ozark
Pemiscot
Perry
Pettis
Phelps
Pike
Platte
Polk
Pulaski
Putnam
Ralls
Randolph
Ray
Reynolds
Ripley
St. Charles
St. Clair
St. Genevieve
St. Francois
St. Louis
Saline
Schuyler
Scotland
Scott
Shannon
Shelby
Stoddard
Stone
Sullivan
Taney
Texas
Vernon
Warren
Washington
Wayne
Webster
Worth
Wright

Montana

Big Horn
Blaine
Broadwater
Carbon

Carter
Cascade
Chouteau
Custer
Dawson
Fallon
Fergus
Flathead
Gallatin
Garfield
Glacier
Golden Valley
Hill
Judith Basin
Lake
Liberty
McCone
Missoula
Musselshell
Phillips
Powder River
Prairie
Ravalli
Richland
Roosevelt
Rosebud
Sanders
Sheridan
Stillwater
Toole
Treasure
Valley
Wibaux
Yellowstone

Nebraska

Adams
Antelope
Arthur
Banner
Blaine
Boone
Box Butte
Boyd
Brown
Buffalo
Burt
Butler
Cass
Cedar
Chase
Cherry
Cheyenne
Clay
Colfax
Cuming
Custer
Dakota
Dawes
Dawson
Deuel
Dixon
Dodge
Douglas
Dundy
Fillmore
Franklin
Frontier
Furnas
Gage
Garden
Garfield
Gosper
Grant
Greeley
Hall
Hamilton
Harlan
Hayes
Hitchcock
Holt
Hooker
Howard
Jefferson
Johnson
Kearney
Keith
Keya Paha
Kimball
Knox
Lancaster
Lincoln
Logan
Loup
McPherson
Madison
Merrick
Morrill
Nance
Nemaha
Nuckolls
Otoe
Pawnee
Perkins
Phelps
Pierce
Platte
Polk
Red Willow
Richardson
Rock
Saline
Sarpy
Saunders
Scotts Bluff
Seward
Sheridan
Sherman
Sioux
Stanton
Thayer
Thomas
Thurston
Valley
Washington
Wayne
Webster
Wheeler
York

Nevada

Churchill
Lincoln
Lyon
Nye
Washoe
White Pine

New Hampshire

Belknap
Carroll
Cheshire
Coos
Grafton
Hillsborough
Merrimack
Rockingham
Strafford
Sullivan

New Jersey

Atlantic
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Ocean
Salem
Somerset
Sussex
Warren

New Mexico

Bernalillo
Chaves
Colfax
Curry
De Baca
Dona Ana
Eddy
Grant
Guadalupe
Hidalgo
Lea
Lincoln
Luna
McKinley
Mora
Otero
Quay
Rio Arriba
Roosevelt
Sandoval
San Juan
San Miguel
Santa Fe
Sierra
Socorro
Torrance
Union
Valencia

New York

Albany
Allegany
Broome
Cattaraugus
Cayuga
Chautauqua
Chemung
Chenango
Clinton
Columbia
Cortland
Delaware
Dutchess
Erie
Essex
Franklin
Fulton
Genesee
Greene
Herkimer
Jefferson
Lewis
Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
Orange
Orleans
Oswego
Otsego
Rensselaer
St. Lawrence
Saratoga
Schenectady
Schoharie
Schuyler
Seneca
Steuben
Suffolk
Sullivan
Tioga
Tompkins
Ulster
Warren
Washington
Wayne
Wyoming
Yates

North Carolina

Alamance
Alexander
Alleghany
Anson
Ashe
Avery
Beaufort
Bertie
Bladen
Brunswick
Buncombe
Burke
Cabarrus
Caldwell
Camden
Carteret
Caswell
Catawba
Chatham
Cherokee
Chowan
Clay
Cleveland
Columbus
Craven
Cumberland
Currituck
Dare
Davidson
Davie
Duplin
Durham
Edgecombe
Forsyth
Franklin
Gaston
Gates
Graham
Granville
Greene
Guilford
Halifax
Harnett
Haywood
Henderson
Hertford
Hoke
Hyde
Iredell
Jackson
Johnston
Jones
Lee
Lenoir
Lincoln
McDowell
Macon
Madison
Martin
Mecklenburg
Mitchell
Montgomery
Moore
Nash
New Hanover
Northampton
Onslow
Orange
Pamlico
Pasquotank
Pender
Perquimans
Person
Pitt
Polk
Randolph
Richmond
Robeson
Rockingham
Rowan
Rutherford
Sampson
Scotland
Stanly
Stokes
Surry
Swain
Transylvania
Tyrrell
Union
Vance
Wake
Warren
Washington
Watauga
Wayne
Wilkes
Wilson
Yadkin
Yancey

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Hettinger
Kidder
Lamoure
Logan
McHenry
McIntosh
McKenzie
McClean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Ohio

Adams
Allen
Ashland
Ashtabula
Athens
Auglaize
Belmont
Brown
Butler
Carroll
Champaign
Clark
Clermont
Clinton
Columbiana
Coshocton
Crawford
Cuyahoga
Darke
Defiance
Delaware
Erie
Fairfield
Fayette
Franklin
Fulton
Gallia
Geauga
Greene
Guernsey
Hamilton
Hancock
Hardin
Harrison
Henry
Highland
Hocking
Holmes
Huron
Jackson
Jefferson
Knox
Lake
Lawrence
Licking
Logan
Lorain
Lucas
Madison
Mahoning
Marion
Medina
Meigs
Mercer
Miami
Monroe
Montgomery
Morgan
Morrow
Muskingum
Noble
Ottawa
Paulding
Perry
Pickaway
Pike
Portage
Preble
Putnam
Richland
Ross
Sandusky
Scioto
Seneca
Shelby
Stark

Summit
Trumbull
Tuscarawas
Union
Ven Wert
Vinton
Warren
Washington
Wayne
Williams
Wood
Wyandot

Oklahoma

Adair
Alfalfa
Atoka
Beaver
Beckham
Blaine
Bryan
Caddo
Canadian
Carter
Cherokee
Choctaw
Cimarron
Cleveland
Coal
Comanche
Craig
Creek
Custer
Delaware
Dewey
Ellis
Garfield
Garvin
Grady
Grant
Harmon
Harper
Haskell
Hughes
Jefferson
Johnston
Kingfisher
Kiowa
Latimer
Le Flore
Lincoln
Love
McClain
McCurtain
McIntosh
Major
Marshall
Mayes
Murray
Muskogee
Noble
Nowata
Okfuskee
Oklahoma
Okmulgee
Osage
Ottawa
Pawnee
Payne
Pittsburg
Pontotoc
Pottawatomie
Pushmataha
Roger Mills
Rogers
Seminole
Sequoyah
Stephens
Texas
Tillman
Tulsa
Wagoner
Washington
Washita
Woods
Woodward

Oregon

Baker
Benton
Clackamas
Columbia
Coos
Douglas
Gilliam
Jackson
Jefferson
Josephine
Lane
Linn
Malheur
Marion
Morrow
Multnomah
Polk
Umatilla
Washington
Yamhill

Pennsylvania

Adams
Allegheny
Armstrong
Beaver
Bedford
Berks
Blair
Bradford
Bucks
Butler
Cambria
Cameron
Carbon
Centre
Chester
Clarion
Clearfield
Clinton
Columbia
Crawford
Cumberland
Dauphin
Delaware
Elk
Erie
Fayette
Forest
Franklin
Fulton
Greene
Huntingdon
Indiana
Jefferson
Juniata
Lackawanna
Lancaster
Lawrence
Lebanon
Lehigh
Luzerne
Lycoming
McKean
Mercer
Mifflin
Monroe
Montgomery
Montour
Northampton
Northumberland
Perry
Pike
Potter
Schuylkill
Snyder
Somerset
Sullivan
Susquehanna
Tioga
Union
Venango
Warren
Washington
Wayne
Westmoreland
Wyoming
York

Rhode Island

Bristol
Kent
Newport
Providence
Washington

South Carolina

Abbeville
Aiken
Allendale
Anderson
Bamberg
Barnwell
Beaufort
Berkeley
Calhoun
Charleston
Cherokee
Chester
Chesterfield
Clarendon
Colleton
Darlington
Dillon
Dorchester
Edgefield
Fairfield
Florence
Georgetown
Greenville
Greenwood
Hampton
Horry
Jasper
Kershaw
Lancaster
Laurens
Lee
Lexington
McCormick
Marion
Marlboro
Newberry
Oconee
Orangeburg
Pickens
Richland
Saluda
Spartanburg
Sumter
Union
Williamsburg
York

South Dakota

Aurora
Beadle
Bennett
Bon Homme
Brookings
Brown
Brule
Buffalo
Butte
Campbell
Charles Mix
Clark
Clay
Codington
Corson
Custer
Davison
Day
Deuel
Dewey
Douglas
Edmunds
Fall River
Faulk
Grant
Gregory
Haakon
Hamlin
Hand
Hanson
Harding
Hughes
Hutchinson
Hyde
Jackson
Jerauld
Jones
Kingsbury
Lake
Lawrence
Lincoln
Lyman
McCook
McPherson
Marshall
Meade
Mellette
Miner
Minnehaha
Moody
Pennington
Perkins
Potter
Roberts
Sanborn
Shannon
Spink
Stanley
Sully
Todd
Tripp
Turner
Union
Walworth
Yankton
Ziebach

Tennessee

Anderson
Bedford
Benton
Bledsoe
Blount
Bradley
Campbell
Cannon
Carroll
Carter
Cheatham
Chester
Claiborne
Clay
Cocke
Coffee
Crockett
Cumberland
Davidson
Decatur
DeKalb
Dickson
Dyer
Fayette
Fentress
Franklin
Gibson
Giles
Grainger
Greene
Grundy
Hamblen
Hamilton
Hancock
Hardeman
Hardin
Hawkins
Haywood
Henderson
Henry
Hickman
Houston
Humphreys
Jackson
Jefferson
Johnson
Knox
Lake
Lauderdale
Lawrence
Lewis
Lincoln
Loudon
McMinn
McNairy
Macon
Madison
Marion
Marshall
Maury
Meigs
Monroe
Montgomery
Moore
Morgan
Obion
Overton
Perry
Pickett
Polk
Putnam
Rhea
Roane
Robertson
Rutherford
Scott
Sequatchie
Sevier
Shelby
Smith
Stewart
Sullivan
Sumner
Tipton
Trousdale
Unicoi
Union
Van Buren
Warren
Washington
Wayne
Weakley
White
Williamson
Wilson

Texas

Anderson
Andrews
Angelina
Arkansas
Armstrong
Atascosa
Austin
Bailey
Bandera
Bastrop
Bee
Bell
Bexar
Blanco
Bosque
Bowie
Brazoria
Brazos
Briscoe
Brooks
Brown
Burleson
Burnet
Caldwell
Calhoun
Callahan
Cameron
Camp
Carson
Cass
Castro
Chambers
Cherokee
Cochran
Coke
Coleman
Collin
Colorado
Comal
Comanche
Cooke
Coryell
Cottle
Crosby
Culberson
Dallam
Dallas
Deaf Smith
Delta
Denton
De Witt
Dickens
Dimmit
Donley
Duval
Eastland
Ellis
El Paso
Erath
Falls
Fannin
Fayette
Floyd
Fort Bend
Franklin
Freestone
Frio
Gaines
Galveston
Gillespie
Glasscock
Goliad
Gonzales
Gray
Grayson
Grimes
Guadalupe
Hale
Hamilton
Hansford
Hardin
Harris
Harrison
Hartley
Haskell
Hays
Hemphill
Henderson
Hidalgo
Hill

Hockley
Hood
Hopkins
Houston
Hudspeth
Hunt
Hutchinson
Jack
Jackson
Jasper
Jeff Davis
Jefferson
Jim Wells
Johnson
Jones
Karnes
Kaufman
Kendall
Kenedy
Kerr
Kimble
King
Kinney
Kleberg
Knox
Lamar
Lamb
Lampasas
La Salle
Lavaca
Lee
Leon
Liberty
Limestone
Lipscomb
Live Oak
Llano
Lubbock
Lynn
McCulloch
McLennan
McMullen
Madison
Marion
Martin
Mason
Matagorda
Maverick
Medina
Menard
Milam
Mills
Montague
Montgomery
Moore
Morris
Motley
Nacogdoches
Navarro
Newton
Nolan
Nueces
Ochiltree
Oldham
Palo Pinto
Panola
Parker
Parmer
Polk
Potter
Presidio
Rains
Randall
Reagan
Red River
Reeves
Refugio
Roberts
Robertson
Rockwall
Runnels
Rusk
Sabine
San Augustine
San Jacinto
San Patricio
San Saba
Scurry
Shackelford
Shelby
Sherman
Smith
Somervell
Starr
Stephens
Stonewall
Sutton
Swisher
Tarrant
Taylor
Terry
Throckmorton
Titus
Tom Green
Travis
Trinity
Tyler
Upshur
Uvalde
Van Zandt
Victoria
Walker
Waller
Washington
Webb
Wharton
Wheeler
Wichita
Wilbarger
Willacy
Williamson
Wilson
Wise
Wood
Yoakum
Young
Zapata
Zavala

Utah

Beaver
Box Elder
Cache
Carbon
Davis
Duchesne
Emery
Garfield
Grand
Iron
Juab
Kane
Millard
Morgan
Piute
Salt Lake
San Juan
Sanpete
Sevier
Tooele
Uintah
Utah
Washington
Wayne
Weber

Vermont

Addison
Bennington
Caledonia
Chittenden
Essex
Franklin
Grand Isle
Lamoille
Orange
Orleans
Rutland
Washington
Windham
Windsor

Virginia

Accomack
Albemarle
Alleghany
Amelia
Amherst
Appomattox
Augusta
Bath
Bedford
Bland
Botetourt
Brunswick
Buchanan
Buckingham
Campbell
Caroline
Carroll
Charles City
Charlotte
Chesterfield
Clarke
Craig
Culpeper
Cumberland
Dickenson
Dinwiddie
Essex
Fairfax
Fauquier
Floyd
Fluvanna
Franklin
Frederick
Giles
Gloucester
Goochland
Grayson
Greene
Greensville
Halifax
Hanover
Henrico
Henry
Highland
Isle of Wight
James City
King and Queen
King George
King William
Lancaster
Lee
Loudoun
Louisa
Lunenburg
Madison
Mathews
Mecklenburg
Middlesex
Montgomery
Nelson
New Kent
Northampton
Northumberland
Nottoway
Orange
Page
Patrick
Pittsylvania
Powhatan
Prince Edward
Prince George
Prince William
Pulaski
Rappahannock
Richmond
Roanoke
Rockbridge
Rockingham
Russell
Scott
Shenandoah
Smyth
Southampton
Spotsylvania
Stafford
Surry
Sussex
Tazewell
Warren
Washington
Westmoreland
Wise
Wythe
York
Chesapeake City
Hampton
Newport News
Suffolk City
Virginia Beach

Washington

Adams
Benton
Clark
Columbia
Cowlitz
Douglas
Ferry
Franklin
Grant
Grays Harbor
Island
Jefferson
King
Kitsap
Kittitas
Klickitat
Lewis
Lincoln
Okanogan
Pend Oreille
Pierce
Skagit
Snohomish
Stevens
Thurston
Wahkiakum
Walla Walla
Whatcom
Whitman
Yakima

West Virginia

Barbour
Berkeley
Boone
Braxton
Brooke
Cabell
Calhoun
Clay
Doddridge
Fayette
Gilmer
Grant
Greenbrier
Hampshire
Hancock
Hardy
Harrison
Jackson
Jefferson
Kanawha
Lewis
Lincoln
Logan
McDowell
Marion
Marshall
Mason
Mercer
Mineral
Mingo
Monongalia
Monroe
Morgan
Nicholas
Ohio
Pendleton
Pleasants
Pocahontas
Preston
Putnam
Raleigh
Randolph
Ritchie
Roane
Summers
Taylor
Tucker
Tyler
Upshur
Wayne
Webster
Wetzel
Wirt
Wood
Wyoming

Wisconsin

Adams
Ashland
Barron
Bayfield
Brown
Buffalo
Burnett
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Door
Douglas
Dunn
Eau Claire
Florence
Fond du Lac
Forest
Grant
Green
Green Lake
Iowa
Iron
Jackson
Jefferson
Juneau
Kenosha
Kewaunee
La Crosse
Lafayette
Langlade
Lincoln
Manitowoc
Marathon
Marinette
Marquette
Menominee
Milwaukee
Monroe
Oconto
Oneida
Outagamie
Ozaukee
Pepin
Pierce
Polk
Portage
Price
Racine
Richland
Rock
Rusk
St. Croix
Sauk
Sawyer
Shawano
Sheboygan
Taylor
Trempealeau
Vernon
Vilas
Walworth
Washburn
Washington
Waukesha
Waupaca
Waushara
Winnebago
Wood

Wyoming

Big Horn
Campbell
Converse
Crook
Fremont
Goshen
Hot Springs
Laramie
Natrona
Niobrara
Park
Platte
Sheridan
Washakie
Weston

Done in Washington, D.C., on July 17, 1984.

Diana Moslak,

Acting Secretary, Federal Crop Insurance Corporation.

Dated: October 1, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-27520 Filed 10-17-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Changes in Administrative Rules and Regulations Concerning The Definition of "Inedible Kernel" and Quality Control

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds a new section to the administrative rules and regulations established under the Federal marketing order for California almonds to modify the definition of "inedible kernel" contained in the order. It also lowers the tolerance for inedible almonds specified in those regulations from one percent to zero percent. Both of these changes are designed to improve the quality of California almond shipments.

EFFECTIVE DATE: Effective with the 1984–85 crop year, which began July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

Eddie F. Kimbrell, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The changes made by this action should apply to 1984 crop almonds, which handlers now are receiving, processing, and marketing in volume; (2) handlers are aware of this action and need no additional time to comply; and (3) no useful purpose would be served by delaying the effective date of this action.

Notice of this action was published in the September 7, 1984, issue of the **Federal Register** (49 FR 35382), and interested persons were afforded an opportunity to submit written comments. No comments were received.

This final rule adds § 981.408 to Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) and amends § 981.442(a)(4) of that subpart. Section 981.408 is issued pursuant to § 981.8 of the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order." The amendment to § 981.442(a)(4) is issued pursuant to § 981.42(a) of the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions taken herein are based on recommendations of the Almond Board of California, hereinafter referred to as the "Board," which works with USDA in administering the order.

Section 981.8 of the order defines "inedible kernel" as a "kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt not easily removed by washing."

The term "inedible kernel" is used in connection with the implementation of the order's quality control provisions. The purpose of these provisions is to separate "inedible kernels" from "edible kernels," and require the disposal of the inedible kernels in non-normal markets such as almond oil and animal feed.

Section 981.8 also provides that the definition of "inedible kernel" "may be modified by the Board with the approval of the Secretary: *Provided,* That the Board shall submit any recommendation for modification to the Secretary not later than August 1." The Board recommended two changes in the definition of "inedible kernel."

This action makes those changes by adding a new § 981.408 to the administrative rules and regulations established under the order. The first change adds the words "or other foreign material" after "embedded dirt" so almonds with embedded shell will not be eligible for disposition in normal market channels. The second change adds the words "or has internal discoloration" after "not easily removed by washing." Discoloration is a darkening of an almond kernel's interior and usually results when almond lots have excessive moisture or are subjected to high temperatures during storage or drying. The interior of an almond kernel normally is cream-colored, whereas a discolored kernel is yellowish-brown or, in serious cases, brown. Hence, discolored almonds are unsuitable for normal market uses and should be classed as "inedible almonds."

The Board also recommended that § 981.442(a)(4) of the administrative rules and regulations be amended to lower the tolerance for calculating a handlers inedible disposition obligation. Section 981.442(a)(4) currently requires the weight of inedible almond kernels in each variety in excess of one percent of the kernel weight received by handlers to be reported to the Board. This weight must be accumulated during processing and delivered to the Board or Board-accepted crushers, feed manufacturers, or feeders.

To further tighten quality requirements, § 981.442(a)(4) is revised by lowering the tolerance for calculating a handler's disposition obligation from one percent to zero percent. Therefore, a handler's disposition obligation will be equal to the weight of inedible kernels in each variety of almonds received by such handler.

The industry has the capability of implementing the stricter quality control required by this action due to improvements over recent years in crop quality and in almond processing equipment.

After consideration of all relevant matter presented, including that in the notice, the Board's recommendations, and other available information, it is further found that to change Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) by adding a new § 981.408 and by amending § 981.442(a)(4) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, and California.

PART 981—[AMENDED]

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 49 FR 19798) is changed as follows:

1. A new § 981.408 is added to read as follows:

§ 981.408 Inedible kernel.

Pursuant to § 981.8, the definition of "inedible kernel" is modified to mean a kernel, piece, or particle of almond kernel with any defect scored as serious damage, or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Shelled Almonds, or which has embedded dirt or other foreign material not easily removed by washing, or has internal discoloration.

§ 981.442 [Amended]

2. Section 981.442(a)(4) is amended by changing "one percent" to "zero percent."

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

Dated: October 15, 1984.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–27513 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1910 and 1944

Individual Credit Reports

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations for ordering and processing individual credit reports by requiring the collection of a $20.00 nonrefundable credit report fee from the applicant before a credit report is ordered rather than including the fee as part of the FmHA loan. The amendment is needed to reduce unnecessary costs to the Government for credit reports obtained in conducting the credit investigation of individual applicants, their partners, cosigner, or individual members of associations. The intended effect of this action is to establish a procedure which will reduce the costs to FmHA for credit reports without placing undue financial burden on the applicants.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mathias J. Felber, Branch Chief, Special Program Branch, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5340, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1543.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and was designated "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumer, individual industries, organizations, government agencies, or geographic regions. There will be no significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In the March 3, 1983, **Federal Register**, Volume 48, No. 43, pages 9016 through 9022, the Farmers Home Administration published a notice of proposed rulemaking soliciting written comments from the general public. All comments received were considered in the preparation of this final rule. Following is a summary of the comments received and our reasons for adopting or not adopting the changes recommended:

1. All commenters, including the National Association of County Supervisors, FmHA, USDA, agreed that a fee should be collected before a credit report is ordered. However, some suggested that the credit report fee be paid by the applicant when the loan application is filed. It is estimated that over 50 percent of the fees collected would be for nonessential credit reports or for reports that would never be ordered if this suggestion were adopted. In addition, if FmHA were to collect the fee and order the reports when the loan application would be filed, many credit reports would be too old to be of much value by the date of loan approval since many FmHA County Offices have a backlog of applications. It is estimated that updated reports would be needed in at least 25 percent of the cases if FmHA were to collect the fee and order the credit report at the time the application would be filed. The suggestion was not adopted because it is our intent to order credit reports only when the County Supervisor determines that a loan will probably be processed within six months. The handling of funds received from an applicant for a service that may not be performed could become awkward and cumbersome. The policy is to collect from the applicant when there is assurance that a credit report will be ordered, a loan will be processed within six months, and the fees collected from the applicant will be remitted to the Finance Office promptly.

2. Several commenters suggested that the amendment to collect a fee before the credit report is ordered should apply only to prospective applicants and should not include applicants on the waiting lists for FmHA loans. The suggestion was not adopted since two systems for handling the amount charged the applicant would be needed: (a) A system for when the fee is collected from the applicant prior to ordering the credit report, and; (b) a system for including the amount charged the applicant in the FmHA loan. Full implementation of the new system could not be completed until all applicants now on waiting lists were processed which could take more than a year.

3. It was suggested that a fee be collected not only to pay for the cost of the credit report but also to cover all the costs of application processing. All services needed to complete application processing other than credit reports and legal services are already available within the Agency and need not be purchased from the outside. The suggestion was not adopted since, in most cases, the lack of resources of the families we serve make such a fee prohibitive.

4. A commenter suggested that the credit report cover 3 years rather than 2 years as now provided for in the regulation. A 3-year coverage was previously tried and was soon discontinued since the additional information obtained did not change the content and quality of the report significantly, and the cost for the extra year was excessive. Therefore, the 2-year coverage for credit reports remains as prescribed in the current regulation.

5. It was suggested that the credit report fee collected from the applicant be mailed directly to the credit bureau by FmHA, accompanied by the credit report order ticket. This would save one step in the process by not involving the Finance Office in the handling of the payment. FmHA decided to continue the present practice of submitting payments collected to the Finance Office and to make payments from the Finance Office to the credit report contractor. The reasons for not adopting the suggestion are: (a) It would be difficult to keep accountability in the process since payments generally are not made to the reporting bureau but to the credit report contractor who may have numerous subcontracting bureaus throughout the country. Presently, payments are made on a monthly basis to the contractor for all credit reports received during the month after the services received are verified by the local FmHA office and the Finance Office; (b) lost payments would be difficult to trace as there would be a large number of payments made every day by employees from all county offices, and; (c) the monitoring by the FmHA Contracting Officer for compliance with all clauses of the various contracts let by the Agency, would be costly and complicated.

6. A comment regarding clarification of the proposed § 1910.53 of Subpart B of Part 1910, Chapter XVIII, Title 7, Code of Federal Regulations was adopted in part. The proposed rule could have been misinterpreted to suggest not using credit reports for section 504 loans. The language in this final rule indicates that a credit report may be ordered for 504 and 502 loan applicants requesting $7,500 or less, but it will be without charge to the applicant. It is our policy not to use credit reports for the above applicants except in rare cases.

7. It was suggested that the authority to order credit reports for servicing loan

accounts be reinstated. We agree that in some rare cases a credit report may be useful in processing liquidation cases. However, the use would be limited, and in those rare cases the credit investigation could be completed by FmHA personnel rather than by the use of credit reports.

8. Although no comments were received, we adopted a nonrefundable credit fee in this Final Rule. This was adopted because the cost of processing a refund of a credit report fee is almost equal to the fee, and; very few, if any, credit report fees will be collected from applicants for reports that are never ordered. We also adopted a one-time credit report fee in the Final Rule. This was adopted because the need for updated credit reports should be rare and in most cases would be caused by FmHA's failure to process a loan in a timely manner.

The Catalog of Federal Domestic Assistance programs affected are:

CFDA No.	Program title
10.404	Emergency Loans.
10.405	Farm Labor Housing Loans and Grants.
10.406	Farm Operating Loans.
10.407	Farm Ownership Loans.
10.410	Low-Income Housing Loans.
10.414	Resource Conservation and Development Loans.
10.415	Rural Rental Housing Loans.
10.416	Soil and Water Loans.
10.417	Very Low-Income Housing Repair Loans and Grants.
10.419	Watershed Protection and Flood Prevention Loans.

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

Intergovernmental consultation should be carried out in accordance with 7 CFR Part 3015 Subpart V, "Intergovernmental Review of Department of Agriculture Programs and Activities".

Credit reports will be ordered when the County Supervisor determines that a credit report is needed to determine the eligibility of a loan applicant. A nonrefundable $20.00 credit report fee will be collected from the applicants when it appears that the applicant is eligible based on information submitted on the application and when the requested loan will likely be processed within 6 months. Credit reports will not be ordered: when available information indicates that a loan will be not made; when the applicant lives in a remote area and the credit reporting company would not be able to provide sufficient credit information in connection with servicing a loan; for section 504 RH loan applicants and section 502 RH loan applicants if the requested loan will likely not exceed $7,500, unless the County Supervisor determines a report is necessary.

Applicants will not be charged the nonrefundable credit report fee when: A credit report is determined necessary for an applicant requesting a loan of $7,500 or less; an additional credit report is needed for undating provided the applicant already paid the fee to FmHA when the original credit report was ordered; a current and reliable credit report has been delivered directly to FmHA by a credit reporting company which was ordered by a packager of Section 502 Rural Housing loan application.

List of Subjects

7 CFR Part 1910

Administrative practice and procedure, Applications, Credit, Government contracts, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Marital status discrimination, Recordkeeping and Reporting requirements, Sex discrimination.

7 CFR Part 1944

Aged, Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural housing, Subsidies.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

1. Section 1910.3 is amended by adding a new paragraph (m) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(m) Fees for the total amount charged for individual credit reports as indicated in Exhibit A (available in any FmHA office) of Subpart B of Part 1910 of this chapter, will be collected from the loan applicants before credit reports are ordered, except in the case of section 504 and section 502 Rural Housing loan applicants, whose requested loan will likely not exceed $7,500. It is the policy not to order credit reports for rural housing loans of $7,500 or less, but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53(g) of Subpart B of Part 1910 of the chapter.

2. Subpart B of Part 1910 is revised to read as follows:

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1910—GENERAL

Subpart B—Credit Reports (Individual)

Sec.

1910.51 Purpose.
1910.52 General.
1910.53 Policy.
1910.54 Definitions
1910.55 Credit reporting company requirements.
1910.56–1910.58 [Reserved]
1910.59 Type of credit report to be ordered.
1910.60 Processing order tickets.
1910.61 Collecting fees, invoicing and payments.
1910.62 Loan documentation procedure.
1910.63 Unsatisfactory contractor performance.
1910.64 Confidential handling of credit information.
1910.65–1910.100 [Reserved]

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Credit Reports (Individual)

§ 1910.51 Purpose.

This subpart prescribes the policies and procedures for obtaining individual type credit reports. Credit reports will be ordered when needed to determine the eligibility of applicants requesting Farmers Home Administration (FmHA) loans.

§ 1910.52 General.

(a) FmHA obtains credit reports from credit reporting companies (contractors) listed in Exhibit A of this Subpart (available in any FmHA office) authorized by the Contracting Officer, National Office, FmHA. County Supervisors are cautioned to order only from those firms. Furthermore, special reports, supplemental employment reports, joint reports, commercial credit reports, and special services are not authorized.

(b) Whenever Exhibit A (available in any FmHA Office) does not list a contractor for a particular town or area, the local FmHA official should request, through the State Director, the address of other contractors from the Director,

Directives and Administrative Services Division, National Office. If the Director, Directives and Administrative Services Division, informs the State Director that there are no other contractors for that particular area, the local FmHA official should follow the procedures outlined in Exhibit A, *CREDIT REPORT CONTRACTS*, (a). In the meantime, § 1910.4 (a)(1), (2), (4), (5), (6) and (7) of Subpart A of Part 1910 of this Chapter will be followed in obtaining and verifying the applicants qualifications and credit needs.

(c) Credit reports may be ordered under the provisions of this subpart only by FmHA employees.

(d) Order tickets are printed by, and at the expense of, the contractor and supplied to County Offices. Order tickets of one contractor must not be used to order credit reports from another contractor. Only FmHA employees may use these order tickets. They will not be supplied to brokers, packagers, etc.

(e) Regardless of the amount of the fee charged the Government, the non-refundable cost charged the applicant for each credit report is as indicated in Exhibit A (available in any FmHA Office), *General*, (b). (This figure is not to be confused with the schedule of fees charged by credit reporting companies appearing in Exhibit A).

§ 1910.53 Policy.

(a) The County Supervisor will determine the need and be responsible for ordering credit reports. These will be obtained whenever the credit information from a credit report would be helpful or is needed to determine the eligibility of a loan applicant and when it appears that the credit report will not have to be updated before loan closing.

(b) If the applicant appears eligible based on the information submitted on the application form and a credit report is needed, a nonrefundable credit report fee will be collected when the application is received if the County Supervisor determines that the requested loan will likely be processed within 6 months. If the County Supervisor determines that the loan probably will not be processed within 6 months, the non-fundable credit report fee will be collected at the time the applicant is notified the County Supervisor is ready to process the loan application.

(c) Credit reports will not be ordered when: (1) The information available indicates that a loan will not be made. County Supervisors must train their staffs in the proper evaluation of loan applications, not only to preclude the ordering of unnecessary credit reports, but also to assure that adequate consideration is given to the application.

(2) An applicant resides in a remote area and the credit reporting company would not be able to provide sufficient or conclusive credit information; however, County Supervisors are cautioned that information relative to judgments, garnishment of wages, foreclosures and bankruptcies can be more efficiently obtained from credit reports than from searches conducted by the County Supervisor.

(3) A current and reliable credit report has been delivered directly to FmHA by the credit reporting company. Packagers of section 502 Rural Housing loan application *will not* be encouraged to provide credit reports. Packagers may, however, at their discretion, order a credit report to be mailed directly to the FmHA Office by the credit reporting company but FmHA will not pay for or collect a fee from an applicant to pay for the report ordered by a packager.

(d) "Individual" credit reports will be ordered instead of the more costly "joint reports" which are no longer authorized. County Supervisors will determine when "individual" credit reports will be ordered for both the applicant and co-applicant. Except as indicated in paragraph (g) of this section, two "individual" reports will always be ordered when the incomes of both applicant and co-applicant are needed to show repayment ability.

(e) A nonrefundable credit report fee of the amount shown in Exhibit A (available in any FmHA office), *GENERAL*, (b) of this subpart will be a one time charge for each initial credit report ordered. If a credit report is ordered for both the applicant and co-applicant, twice the amount shown will be collected.

(f) No credit reports will be ordered in connection with servicing loans. Any investigation needed to complete a servicing action will be conducted by the County Supervisor.

(g) A credit report will not be ordered for a section 504 RH loan applicant or a section 502 RH loan applicant if the requested loan will likely not exceed $7,500, unless the County Supervisor determines a report is necessary. Although it is the policy not to order a report for RH loans of $7,500 or less, a credit report may be necessary if the application indicates numerous debts or out of the area credit history. If a credit report is determined necessary, it will be ordered without charge to the applicant.

(h) An additional credit report to update the applicant's credit will not be ordered unless more than 6 months have elapsed since the last report, and the County Supervisor determines that the applicant's circumstances have substantially changed. If an unusual circumstance occurs and an additional credit report is needed, it will be ordered at no cost to the applicant, provided the applicant has already paid the fee to FmHA when the original credit report was ordered.

§ 1910.54 Definitions.

For the purpose of this subpart, the following definitions apply:

(a) "Antecedent Report" is a previous residence report required when the minimum 2 year up-to-date credit coverage is not available in the contractor's reporting territory. The report includes information obtained from another contractor which covers an area outside of the area covered by the reporting contractor.

(b) "Applicant" also includes coapplicant(s), spouse, cosigner(s), each individual in an association, and general partner(s) in a partnership.

(c) "Basic Report"is a report that does not include supplemental or antecedent information and which contains all credit and public record information available, covering no less than a 2 year period.

(d) "County Supervisor" also includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office). For Alaska it also includes Area Loan Specialist. For the Western Pacific Territories it also includes Area Supervisors.

(e) "Individual Report" is a report providing information on one person only. It may be supplemented by "antecedent" and/or "supplemental credit reference" reports to provide all the information required by the 2 year report period.

(f) "Order Ticket" is the format used for ordering a credit report.

(g) "Report Period" is the 2 year period before the date the credit report is prepared.

(h) "Repository" is an entity engaged in gathering, recording, and updating information relative to the credit history of individuals in an area. The area covered may encompass several towns, cities, counties, or parts of counties.

(i) "Special Services" are any services which are not included in § 1910.54 (a), (c), (e), and (j) of this subpart and which will result in additional cost. Special Services are not authorized under this Subpart.

(j) "Supplemental Credit Reference Report" is a report which is required when the applicant lives in the contractor's reporting area but credit references are located in another contractor's reporting area.

§ 1910.55 Credit reporting company requirements.

(a) The contractor must provide *ALL* credit and public record information available for the report period as defined in § 1910.54(g) of this subpart.

(b) The contractor must make appropriate certifications regarding the search and/or source of public records and credit record history.

(c) The trade or credit history portion of the report must cover the past 2 years brought up to date. Accounts must be rated to indicate past and current payment records, original amount of debt, monthly installment, and unpaid balance of the debt. All additional available account information must be furnished. The contractor must clear bank, savings and loan, and credit union accounts and clear all local references indicating the date the account was cleared.

(d) Public record information must be obtained by special check of public records or, as an equivalent, from accumulated and regularly filed records of a qualified legal reporting service. All items of public record information must be reported except that obsolete items are to be excluded as provided under section 605 of the Fair Credit Reporting Act, 15 U.S.C. 1681c. For purposes of these contracts, all adverse items which antedate the report by 7 years, may be excluded.

(e) Reports which do not require antecedent information shall be delivered by the contractor within 8 working days of receipt of the order or 12 working days when antecedent information is required.

§§ 1910.56–1910.58 [Reserved]

§ 1910.59 Type of credit report to be ordered.

Pursuant to the Equal Credit Opportunity Act (ECOA), credit reporting companies will maintain credit information in three different forms on a married couple: individual accounts on each spouse; joint accounts covering both spouses; and, undesignated accounts (those accounts not designated by the credit grantor as either individual or joint accounts). However, only "individual" reports as defined in § 1910.54(e) of this subpart may be ordered by FmHA. If credit report information is needed on other persons to complete the credit investigation, a separate "individual" report request, which will be paid by the applicant, is prepared for each person as opposed to the more costly "joint" or "special services" reports. See § 1910.53(d) of this subpart for requirements concerning when two "individual" credit reports must be ordered.

§ 1910.60 Processing order tickets.

Order tickets will be processed as follows:

(a) An original and 3 copies of the order ticket will be prepared, except that an extra copy will be furnished when requested by a contractor. A copy will be kept in the applicant's file. The original and the remaining copies will be sent to the contractor serving *the place of residence* of the applicant.

(b) All appropriate entries on the order ticket will be completed. Extra entries for "special services," which would result in additional costs, are not authorized.

(c) The "Subject's Former Name," "Previous Residence Address" and "Length of Residence" blocks must be completed. If an applicant has resided less than 2 years at the present address, the "Subject's Previous Residence Address" block must be completed so that the contractor will know where to obtain an antecedent report.

(d) USDA/FmHA should appear on the order ticket with State and County Office Code, applicant's social security number and loan fund code. Loan fund codes are listed in Exhibit A of FmHA Instruction 450.1 (available in any FmHA office). If an applicant is to receive more than one type of loan, use the loan fund code for the largest loan.

§ 1910.61 Collecting fees, invoicing and payments.

(a) When credit reports are needed, the total amount will (except as indicated in paragraph (g) of § 1910.53) be collected (preferably, in the form of a money order or check) from the loan applicant before credit reports are ordered, and:

(1) The County Supervisor will acknowledge receipt of cash for the credit report fee by using Form FmHA 451–1, "Acknowledgement of Cash Payment."

(2) Collected credit report fees will be recorded by the person who collected the fee:

(i) By stamping Form FmHA 410–4, "Application for Rural Housing Assistance (Non Farm Tract), credit report fee paid" and then entering the amount of the fee collected, the date collected, and the collecting official's name in the appropriate spaces on the stamp; and

(ii) By entering the date and amount of the credit report fee collected in column 8 of Form FmHA 1905–4, "Application and Processing Card-Individual."

(3) Collections for credit report fees will be promptly remitted to the Finance Office on a separate Form FmHA 451–2, "Schedule of Remittances," as Miscellaneous Collections, in accordance with the Forms Manual Insert (FMI) and FmHA Instruction 1951–B (available in any FmHA office).

(b) Invoicing and payments, Option 1: (1) Contractor returns a copy of the order ticket (with billing data completed) to the local FmHA office with each credit report. Contractor also sends a monthly statement to the Finance Office with one copy of each order ticket attached.

(2) The County Supervisor will review the report, verify the billing data against the schedule of charges in Exhibit A of this subpart, and, if acceptable, complete the "Verified Correct" certification on the order ticket and forward the order ticket to the Finance Office.

(3) The Finance Office will match order tickets received from contractor against those verified and received from the FmHA office, and make payment accordingly.

(c) Invoicing and payments Option 2: (1) Contractor sends a monthly invoice to the local FmHA office that ordered the credit report with a copy of the order ticket attached to support each credit report charge.

(2) The County Supervisor will review the report and verify the billing data against the schedule of charges shown in Exhibit A of this subpart or in other credit report contracts authorized by the Contracting Officer, FmHA. If acceptable, a stamp or handwritten certification and signature will be placed on the invoice to the effect that services were satisfactorily rendered and that it is approved for payment. The invoice with attachments, will then be sent to the Finance Office for payment to the contractor.

(d) In all cases: (1) When a credit report is received without an order ticket attached, the County Supervisor will contact the contractor to ensure that FmHA *is not* being billed for credit reports ordered by parties other than FmHA. Such reports are not encouraged as they frequently result in extra expenses to the loan applicant and extra work for the County Supervisor in verifying the authenticity of the information in the report.

(2) If a report is not acceptable and/or the billing data is incorrect, the County Supervisor will contact the contractor

for corrections. If no agreement is reached, the County Supervisor will submit to Director/SFH/PD, Farmers Home Administration, Room 5343, South Agriculture Building, 14th and Independence Avenue, Washington, D.C. 20250, for review and final determination, the following items:

(i) A memorandum stating the reasons for not accepting the credit report and/or for changing the billing data on the order ticket; and

(ii) The result of the County Supervisor's contact with the contractor; and

(iii) A copy of the order ticket with corrected billing data.

(3) At the same time the County Supervisor submits the information itemized in paragraph (d)(2) of this section to the National Office, a memorandum (with a copy of the memorandum sent to the National Office and a copy of the order ticket) should also be sent to the Finance Office (ATTN: FC–360–D1) informing them the payment should not be made for the attached order ticket until authorized by the National Office. A copy of the memorandum from the National Office authorizing Finance Office to make, readjust, or deny payment to the contractor will be sent to the County Supervisor.

(4) Order tickets received in the Finance Office which do not match those received from the contractor will be returned to the responsible FmHA field office for reconciliation.

(5) The credit report certification date and cost is posted to the order ticket copy kept in the appplicant's file.

§ 1910.62 Loan documentation procedure.

(a) When Form FmHA 1940–41, "Truth in Lending Disclosure Statement," Form FmHA 440–58, "Estimate of Settlement Costs," or Form FmHA 1940–59, "Settlement Statement," is required, the cost to the applicant of the credit report will be entered on these forms in accordance with the appropriate FMI.

(b) Any funds collected as payment for credit reports will not reduce the amount due on the applicant's future loan indebtedness.

§ 1910.63 Unsatisfactory contractor performance.

The County Supervisor will monitor credit reports received for promptness, completeness, and adequacy and discuss any deficiencies found with the credit reporting company for the correction of such deficiencies. In the case of recurring deficiencies, the County Supervisor will request the State Director to contact the credit reporting company's parent office in an attempt to improve the company's performance. If adequate response is not obtained, the State Director will report the problem to the Contracting Officer in the Directives and Administrative Services Division of the National Office.

§ 1910.64 Confidential handling of credit information.

The confidential information furnished to FmHA in a credit report shall be used only as an aid in conducting FmHA business. It is based on information obtained by the credit bureau from sources deemed reliable. Disclosure of information contained in the credit report to the subject of the report will be made by the credit reporting company as required by the Fair Credit Reporting Act, Pub. L. 91–508; except that FmHA must make credit reports available to the subject of the report in response to a request made under the Privacy Act of 1974. Requests from creditors and/or credit bureaus, for information about FmHA borrowers or applicants will be handled in accordance with the provisions of Subpart F of Part 2018 of this chapter.

§ 1910.65–1910.100 [Reserved]

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

§ 1944.3 [Amended]

3. Section 1944.3 (b) (9) is amended by removing the words "credit reports."

4. Section 1944.26 (b) is amended by changing the reference "Form FmHA 405–4 to read as "Form FmHA 1905–A.

5. Section 1944.26 is amended by revising paragraph (c)(1) to read as follows:

§ 1944.26 Application processing.

* * * * *

(c) * * *

(1) Selected applicants will be notified that they have not more than 30 days in which to submit the necessary material (including the amount the applicant must pay to FmHA for each credit report needed to complete the credit investigation) to continue the processing to the loan. It is the policy not to order a credit report for RH loan applicants whose requested loan will likely not exceed $7,500 , but if the County Supervisor determines that a credit report is necessary, it will be ordered at no cost to the loan applicant as provided for in § 1910.53 (g) of Subpart B of Part 1910 of this chapter. When credit reports will be ordered, the notification must also indicate that the credit report fee paid by the applicant is nonrefundable after credit reports have been ordered. The amount charged the applicant for each credit report is as prescribed in Exhibit A (available in any FmHA office) of Subpart B of Part 1910 of this chapter.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

§ 1944.456 [Amended]

6. Section 1944.456 (i) is amended by removing the words "credit reports."

7. Section 1944.467 is amended by revising paragraph (c) to read as follows:

§ 1944.467 Processing Applications.

* * * * *

(c) *Credit investigation.* Form FmHA 410–8, "Applicant Reference Letter," will be used for all applicants when it is believed by the County Supervisor that sufficient information can be obtained by use of Form FmHA 410–8 to establish the applicant's credit history and credit worthiness. Credit reports may be ordered at the discretion of the County Supervisor for loan applicants. If the County Supervisor determines a credit report is necessary, it will be ordered at no cost to the 504 loan applicant as provided for in § 1910.53 (g) of Subpart A of Part 1910 of this chapter. Credit reports will not be ordered in connection with the processing of section 504 grants.

* * * * *

8. Section 1944.500 is added to read as follows:

§ 1944.500 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0062.

(7 U.S.C 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10, Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70)

Dated: September 20, 1984.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84–27580 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0502]

Electronic Fund Transfers; Final Rule and Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule and official staff interpretation.

SUMMARY: The Board is adopting amendments to Regulation E (Electronic Fund Transfers) to: (1) Cover, within the definition of electronic fund transfer, all transfers resulting from debit card transactions, including transactions that do not involve an electronic terminal at the time of the transaction; (2) extend the time periods for error resolution with respect to transfers resulting from point-of-sale transactions; (3) provide an exception from the provisional recrediting requirement when a consumer asset account is subject to the Board's Regulation T; and (4) provide more flexibility for the disclosure of charges for electronic fund transfers on periodic statements. The notice also contains several changes to the official staff commentary to Regulation E.

EFFECTIVE DATES: October 16, 1984, for the amendments to: § 205.1(a) which adds the control number required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), § 205.9(b)(3) which extends the error resolution periods for point-of-sale transactions, § 205.11(c)(3) which excepts financial institutions from the provisional recrediting requirement when the alleged error involves a consumer asset account subject to Regulation T, and § 205.11(c)(4) which provides additional flexibility in the disclosure of charges for electronic fund transfers on periodic statements; and for the revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205).

The amended definition in § 205.2(g) is effective: (1) on November 16, 1984, for purposes of the limitations on consumer liability for unauthorized transfers (§ 205.6) resulting from debit card transactions not involving electronic terminals at the time of the transaction, and of the restrictions on the unsolicited issuance of debit cards (§ 205.5) for transactions not involving electronic terminals; and (2) on April 16, 1985, for purposes of all other requirements of the regulation that are applicable to transfers resulting from debit card transactions that do not involve electronic terminals at the time of the transaction.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation and commentary, contact: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3667 or (202) 452-2412. Regarding the economic impact analysis, contact: Frederick J. Schroeder, Staff Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2584.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds to or from a consumer's asset account that constitutes an electronic fund transfer (EFT) as defined in the Act. This statute is implemented by the Board's Regulation E (12 CFR Part 205).

In January 1984 (49 FR 2204) the Board proposed an amendment to Regulation E to cover fund transfers resulting from debit card transactions that do not involve electronic terminals but that are processed electronically. The Board also proposed to extend certain error resolution periods for these transfers. In addition, the Board proposed an amendment that would provide flexibility in the disclosure of electronic fund transfer charges on periodic statements by allowing disclosure of these charges as a total amount or on a transaction-by-transaction basis.

The Board has now adopted these amendments to Regulation E in final form, with the modifications discussed below.

(2) *Transfers resulting from transactions that do not involve electronic terminals.* Certain debit card transactions do not involve an electronic terminal but do involve the transmission of transaction information by electronic means to the account-holding institution. In January 1984, the Board published a proposed amendment to its EFT regulation to cover these transfers.

The Board based its proposal on the following findings:

- The authority granted to the Board by the Congress to carry out the purposes of the act and to define "electronic fund transfer," as set forth in the act and its legislative history, supports coverage so as to ensure that the basic purpose of the act is effectuated—that is, that the rights and responsibilities of all the parties to the transfers are established.
- The fund transfers resulting from the transactions can be viewed as electronically initiated and thus within the electronic fund transfer definition.
- The transactions, and the resultant transfers, are not excluded from the general definition of an electronic fund transfer by the exclusion for "transactions[s] originated by check, draft, or similar paper instrument."

The Board received 74 comments on the proposal; they were about evenly divided between those who supported and those who opposed the proposal.

The commenters supporting the proposal generally agreed with the Board's analysis and stated that the proposal would avoid confusion and provide consumer protection.

About twenty of the commenters opposing the proposal questioned the Board's authority to amend the regulation to cover these transfers, on the grounds that the transfers resulting from debit card transactions that do not involve electronic terminals cannot be viewed as initiated electronically and, as a result, cannot be viewed as EFTs. A number of them took the position that these transfers should not be covered because the EFT definition in the Act and the regulation excludes transactions "originated by check, draft, or similar paper instrument," and the debit card transactions involve a sales slip. Many of them cited the lack of evidence of consumer problems or financial institution abuse, and stated that absent such evidence the Board should not expand the regulation's coverage.

The purpose of the Electronic Fund Transfer Act, as stated in section 902(b) of the Act (15 U.S.C. 1693(b)), is "to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective, however, is the provision of individual consumer rights." The Board believes that this objective would be unfulfilled for an increasing number of consumers and transfers in the absence of coverage by Regulation E.[1] Absence of Regulation E coverage could be particularly troublesome for consumers who may be taking protections under federal law for granted because of the similarity between debit cards and credit cards, in both appearance and function, and because use of the card in some transactions clearly results in electronic

[1] In addition to the recent increase in the number of debit cards issued by financial institutions under the VISA and Mastercard tradenames for use in transactions that may not involve electronic terminals, there are pilot programs currently under way that could result in the issuance of many additional debit cards for such transactions.

fund transfers that are covered by the Act and regulation. Allowing a legal distinction to exist would result in a situation in which a consumer's rights would depend on whether the consumer (or the thief, in the case of a stolen debit card) used the debit card at an electronic or non-electronic terminal.

After consideration of the comments and further analysis, the Board concludes that coverage of the transfers resulting from these transactions under Regulation E would further the objectives of the Act in establishing the rights and responsibilities of the parties to these transfers, and is within the rulewriting authority that the Congress gave the Board to insure the Act's effectiveness in providing for consumer protections in this area. The Board believes that it has the responsibility, as well as the authority, to deal with questions of coverage and to prescribe regulations that will carry out the purposes of the Act.

The Board believes that the EFT definition in the Act is broad enough to include transfers resulting from debit card transactions that do not involve electronic terminals at the inception of the transactions.[2] In most cases, the sales slips in these transactions are truncated at the merchant's financial institution and the data are converted to an electronic form and transmitted to the account-holding financial institution, where debits are made to the consumers' asset accounts. As a result, the Board believes that the transfers can be viewed as electronically inititated and thus within the definition of an EFT.

To focus solely on whether an electronic terminal is used at the time of the transactions to determine coverage results in a narrow reading of the Act's coverage that would significantly undermine the legislative purpose. The Board has also concluded that the exclusion in the EFT definition for transactions "originated by check, draft, or similar paper instrument" does not apply to these fund transfers because the transactions are originated, for purposes of the Electronic Fund Transfer Act and Regulation E, with the card (or the card in combination with the sales slip), not by the sales slip alone; and although the transaction involves a paper sales slip, that sales slip is not a "similar paper instrument" as that term is used in the Act and regulation.

In some cases the merchant's financial institution may be the same as the account-holding financial institution. In these cases the transfers may involve electronic processing only within the account-holding institution. The Board had solicited comment in the proposal on whether transfers resulting from these transactions should also be covered. There was comment both for and against coverage. Some of the commenters believed that these transfers could not be covered as EFTs, while others favored coverage in order to provide uniform protection and avoid uncertainty for consumers and financial institutions.

The Board believes that coverage of all debit card transactions—including those in which the financial institution processing the transaction is the same as the institution maintaining the consumer asset account—is necessary to prevent confusion as to the protections available to consumers in this class of transactions. Coverage will avoid a situation in which a consumer's protections when using a debit card would depend upon whether a merchant and the consumer do business with the same institution.

(3) *Compliance burden and adjustments to regulatory provisions.* The Board has considered the extent of the compliance burden that might result from this amendment to Regulation E. Many financial institutions are already complying with the regulation for certain transfers because the debit cards are capable of being used at electronic point-of-sale terminals or at automated teller machines. As a result, these institutions have already provided intial disclosure statements, are furnishing periodic statements that comply with the regulation, and have established error resolution procedures. In addition, certain regulatory requirements do not apply to these transfers, and hence represent no compliance problem. For example, unless they capture data electronically, the terminals at the point of the transaction are not "electronic terminals" for purposes of the regulation, even though the resulting transfers are characterized as *electronic fund transfers.* Thus the requirement for terminal receipts does not apply. Similarly, in the absence of an electronic terminal, the periodic statement need not include a terminal location—a disclosure that, if applicable, might have represented a significant problem.

One regulatory provision that, without modification, could have imposed a significant compliance burden is error resolution. Regulation E permits the financial institution to take up to 45 calendar days to resolve an error, but requires in such cases that the financial institution provisionally recredit the consumer's account within 10 business days. When an error is alleged, it is often necessary to obtain documentation of the transaction in order to verify the date, amount, or other information. Obtaining documentation, usually in the form of a copy of the sales slip, often takes longer than 10 business days.

In the proposal the Board solicited comment on an amendment to allow longer periods for resolving error allegations related to point-of-sale transactions not involving an electronic terminal. The Board proposed to extend, from 10 business days to 20 business days, the time within which a financial institution must provisionally recredit the consumer's account with the amount of the alleged error. In addition, the Board proposed to increase the time allowed for final resolution of an error allegation from 45 calendar days to 90 calendar days.

Several commenters questioned whether any increase in the time periods for error resolution was necessary. The overwhelming majority of the comments, however, supported increased periods for error resolution if the Board were to adopt the proposed change in coverage. A number of the comments urged yet longer periods.

Some of the commenters also urged that the longer error resolution periods be made available for *all* point-of-sale debit card transactions. This change would avoid requiring financial institutions to distinguish between the transactions that involved electronic terminals at the point of sale, and those that did not involve electronic terminals.

The Board has adopted the longer error resolution periods that were proposed. The Board believes that periods longer than 20 business days and 90 calendar days are not necessary or appropriate. In light of the Board's desire to minimize confusion and uncertainty for everyone concerned, the Board is also amending the regulation to apply the longer time periods for error resolution to *all* transfers resulting from point-of-sale debit card transactions. This change seems especially appropriate since only a small portion of the point-of-sale debit card transactions currently involve electronic terminals. Thus the compliance savings to financial institutions in not having to distinguish between types of point-of-sale debit card transactions appears to exceed the slight loss of consumer protections.

(4) *Exception from the provisional recrediting requirement for certain consumer asset accounts.* Comments received from representatives of the securities industry expressed concern

[2] These debit card transactions include both transactions for the purchase of goods or services and transactions to obtain cash. For simplicity, the discussion, although applicable to both types, focuses on point-of-sale transactions for the purchase of goods or services.

that the provisional recrediting requirement might in some cases result in conflict with the margin and other requirements of the Board's Regulation T (12 CFR Part 220).[3]

The Board believes that it is important to avoid the possibility of any such conflict, which could result in increased compliance costs for financial institutions with little or no consumer benefit. As a result, the Board is amending Regulation E to provide an exception from the requirement for provisional recrediting when the consumer asset account is subject to the margin requirements or other aspects of Regulation T. The other Regulation E error resolution provisions, including the requirement for prompt investigation of alleged errors, continue to apply (subject to the extended time limits, where applicable).

(5) *Disclosure of EFT charges.* Regulation E currently requires that the periodic statement disclose, as a total sum, all charges assessed against the account during the statement period for electronic fund transfers (or for the right to make such transfers) or for account maintenance. Some financial institutions would like to itemize EFT charges on a transaction-by-transaction basis, rather than disclose a total charge. As a result the Board proposed in January to amend the regulation to allow for such disclosure, which is likely to be at least as informative to the consumer as the disclosure of a total figure. The comments supported this proposal and the Board is therefore amending the regulation to permit disclosure of charges on an itemized basis. Disclosure of a total amount continues to be permitted as an alternative, at the institution's option.

(6) *Effective dates of amendments.* Some of the amendments reduce the requirements of the regulation, or provide additional flexibility, and their applicability is not limited to transfers resulting from debit card transactions not involving electronic terminals at the time of the transaction; these amendments are effective on October 16, 1984. They are the amendments extending the error resolution periods for point-of-sale transactions, excepting financial institutions from having to provisionally recredit disputed amounts to consumer asset accounts that are subject to Regulation T, and providing additional flexibility in the disclosure of EFT charges on periodic statements.

No later than November 16, 1984, financial institutions must comply with the limitations on consumer liability for unauthorized transfers resulting from debit card transactions that do not involve electronic terminals, and follow the Regulation E procedures for issuance of access devices when issuing debit cards.

Financial institutions have unitl April 16, 1985, to comply with the other requirements of the regulation applicable to transfers resulting from debit card transactions that do not involve electronic terminals. Financial institutions that have provided Regulation E disclosures for certain transfers made with the debit card need not issue revised disclosures to their existing customers. Any disclosures given on or after April 16, 1985, must reflect that all transfers resulting from debit card transactions are now electronic fund transfers under the regulation.

(7) *Economic impact analysis.—Introduction.* The Board has amended Regulation E by extending its coverage to transfers resulting from debit card transactions that do not involve data capture by electronic terminals at the time of the transaction. In addition, the regulation has been amended to extend the time periods for the resolution of error allegations related to all point-of-sale debit card transactions, and to exempt accounts that are subject to the margin requirements or other aspects of Regulation T (12 CFR Part 220) from the provisional recrediting requirement applicable in some error resolution proceedings. The Board has also adopted an amendment to provide greater flexibility in the periodic statement disclosure requirements for the charges for electronic fund transfers.

Prior to the amendments, certain debit card transactions led to fund transfers that many financial institution did not treat as electronic fund transfers covered by Regulation E. For example, transactions initiated at point of sale when an embossed debit card is used to imprint a paper sales slip could result in electronic debits to the consumer's asset account. In most cases, such paper sales slips are truncated at the merchant's financial institution and the transaction data are converted to electronic form for transmission to the consumer's financial institution.

According to figures provided by industry sources, the number of debit cards outstanding has been increasing rapidly. As of the end of 1978, there were approximately 400,000 debit card accounts with 590,000 cardholders. Currently, the number of debit cardholders is estimated to be in excess of 6 million. The number and dollar volume of transactions made with these cards have also increased. Information from industry sources indicates that approximately 50 million transactions with a value of about $2.4 billion were made with debit cards at the point of sale in the past year. It is estimated that more than 90 percent of these debit card transactions were not covered by Regulation E because they did not involve electronic data capture at the time of the transaction.

Analysis. While representing only a small share of all transactions by consumers at point of sale, paper-based debit transactions have grown substantially in number since enactment of the Electronic Fund Transfer Act. The extension of Regulation E coverage to these transactions is expected to provide benefits through the definition of rights and responsibilities of parties involved in these transactions. The costs of implementing and complying with the amendments are not expected to be great for four reasons:

While all financial institutions will have to familiarize themselves with the rule changes, relatively few institutions currently issue debit cards that are not already covered by Regulation E. Regulation E applies to financial institutions, defined to include (1) depository institutions and any other person who, directly or indirectly, holds and EFT-accessible account belonging to a consumer; and (2) any person who issues an EFT access device and agrees with a consumer to provide EFT services. The amendments will primarily affect only the relatively few financial institutions not already covered by Regulation E and Offering point-of-sale debit cards that can be used in transactions not involving electronic terminals. The impact of the amendments is expected to be small because of the relatively narrow class of affected institutions and because most issuers of POS debit cards also provide other EFT services to consumers. For these reasons, these institutions will already have established the compliance procedures required by the amendments.

Even if compliance procedures are already in place, financial institutions are expected to incur some additional costs because of the amendments. This is because institutions will experience some growth in the volume of alleged EFT errors as the newly covered transactions become subject to the regulation's error resolution procedures.

[3] According to industry sources approximately two million debit cards have been issued in connection with various consumer asset management accounts involving securities. Transactions involving the purchase or sale of securities remain subject to the Board's margin requirements under Regulation T and other applicable securities regulations.

Based on evidence from consumer surveys conducted for the Federal Reserve Board, the incremental cost burden of this increased error resolution activity is not expected to be great because the incidence of errors is low relative to the volume of EFT transactions.

The large credit and debit card associations have existing operating systems in place that are available to facilitate compliance for most affected institutions.

It is anticipated that most of the issuers affected will belong to the major credit card associations. While a significant and growing number of transactions will be covered, the issuers and their associations have well-established systems and methods in place for resolving errors, providing documentation, and otherwise controlling credit card transactions. Member debit card issuers can make use of these systems. The amendments are unlikely to impose a significant additional burden on these systems.

The overall economic impact on small financial institutions is not expected to be significant. Relatively few small institutions issue debit cards, and the small institutions that do issue debit cards are likely to receive compliance guidance from third-party providers of EFT systems or from the large credit and debit card associations.

The terminal receipt requirements will not apply and an extension of error resolution procedure time limits will minimize the impact of the amendments.

An important feature of the amendments is the absence of any terminal receipt requirements. Because the terminals involved in paper-based debit card transactions are not electronic terminals for purposes of the act and regulation, no specific documentation at POS is required by the regulation. Consumers would, however, normally receive some form of documentation. Furthermore, because there is no required terminal receipt, there is no obligation to conform the information in periodic statements with the information on POS receipts. Periodic statements must identify third parties to whom funds were transferred by EFT, but this information would appear in any case as the merchant identification for each transaction.

The amendments also extend the time periods allowed for error resolution. It is important to note that the extended time periods will apply to *all* transfers resulting from point-of-sale debit card transactions, including those that *do* involve an electronic terminal. The modification allows 20 business days for error resolution before the provisional recrediting provisions of Regulation E take effect, with a maximum of 90 days for error resolution. Before the amendments, the existing regulation allowed 10 business days and 45 days, respectively, for error resolution, except that 20 business days and 90 days, respectively, are allowed for error resolution with respect to EFTs initiated in foreign countries. Most commenters and industry representatives have indicated that the proposed time limits appear adequate for resolving most errors. These changes substantially reduce or eliminate the compliance burden associated with these requirements of the regulation, without significantly reducing the consumer protections intended by the Act.

Accounts subject to the margin requirements or other aspects of Regulation T are exempted from the provisional recrediting rules.

This amendment will preclude a confusing and potentially costly conflict with the margin requirements of Regulation T, if a provisional recrediting to such an account later had to be reversed. It is estimated that approximately two million of the debit cards now in existence have been issued in connection with consumer asset accounts or asset management plans. No significant loss of consumer protection is expected to follow from this amendment.

In summary, the incremental compliance requirements of the amendments are not expected to be very burdensome. Nonetheless, many financial institutions are likely to incur some cost associated with familiarizing themselves with and interpreting these amendments to determine whether the specific provisions apply. Those institutions to which the amendments apply will have to incur the costs of revising operating manuals and procedures. The assistance that the large credit and debit card organizations make available to their members is expected to streamline compliance for most institutions and minimize the burden of compliance requirements.

Section 904(a)(2) of the EFT Act requires the Board to prepare an analysis of the economic impact of any regulations under the Act. In addition, section 604 of the Regulatory Flexibility Act (5 U.S.C. 604) requires that regulations be accompanied be a final regulatory flexibility analysis. The foregoing analysis satisfies both of these requirements.

(8) *Update to official staff commentary.* The Board is also publishing an update to the official staff commentary interpreting Regulation E (EFT–2, Supp. II to 12 CFR Part 205). The changes were published in proposed form on January 12, 1984 (49 FR 2204), and are now being adopted in final form. This represents the second periodic update; the first was published on April 6, 1983 (48 FR 14880).

The questions that have been added are self-explanatory. Some of the revisions relate to the regulatory amendments with respect to debit card transactions not involving electronic terminals.

The proposed change to Question 10–19 (regarding a consumer's stop payment order on a preauthorized debit) has not been adopted, due to the lack of support in the comments; existing Question 10–19 remains in effect. A change has been made to the commentary that was not contained in the proposal: Question 9–36 (regarding identification of the type of transfer) has been expanded to codify a longstanding staff position applicable to cases in which the amount of the transfer reflects the value of the goods purchased plus the sum of cash that the consumer received from the merchant.

The staff expects to publish the next proposed update to the official staff commentary in November 1984. The public is invited to identify issues that may warrant inclusion in that proposal; suggested items must be received by November 9, 1984, in order to assure consideration. It is contemplated that the final version of the next update will be published in March 1985.

List of Subjects in 12 CFR Part 205

Banks, Banking, Consumer protection, Electronic fund transfers, Penalties.

PART 205—[AMENDED]

(9) *Regulatory text.* Pursuant to the authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C. 1693b, the Board amends Regulation E, 12 CFR Part 205, by adding an OMB control number to § 205.1 and by revising §§ 205.1(a), 205.2(g), 205.9(b)(3), and 205.11(c)(3) and (c)(4), to read as follows:

§ 205.1 Authority, purpose, and scope.

(a) *Authority.* This regulation, issued by the Board of Governors of the Federal Reserve System, implements title IX (Electronic Fund Transfer Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*).

* * * * *

[Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB No. 7100-0200.]

§ 205.2 Definitions and rules of construction.

* * * * *

(g) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transfers, direct deposits or withdrawals of funds, and transfers initiated by telephone. It includes all transfers resulting from debit card transactions, including those that do not involve an electronic terminal at the time of the transaction. The term does not include payments made by check, draft, or similar paper instrument at an electronic terminal.

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§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statement.* * * *

(3) The amount of any fees or charges, other than a finance charge under 12 CFR 226.7(f), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

§ 205.11 Procedures for resolving errors.

* * * * *

(c) *Investigation of errors.* * * *

(3) A financial institution shall comply with all requirements of this section except that it need not provisionally recredit the consumer's account if—

(i) It requires but does not receive timely written confirmation of oral notice of an error; or

(ii) The notice of an error involves an account that is subject to the margin requirements or other aspects of Regulation T (12 CFR Part 220).

(4) If a notice of an error involves an electronic fund transfer that was not initiated in a state as defined in § 205.2(k), or involves an electronic fund transfer resulting from a point-of-sale debit card transaction, the applicable time periods for action in subsections (c), (e), and (f) shall be 20 business days in place of 10 business days, and 90 calendar days in place of 45 calendar days.

* * * * *

(10) *Text of revision to official staff commentary.* The revisions to the Official Staff Commentary on Regulation E (EFT–2, Supp. II to 12 CFR Part 205) read as follows:

* * * * *

Section 205.2—Definitions and Rules of Construction

* * * * *

2–21.5 Q: *Fund transfer—debit card transaction.* A consumer uses a debit card to purchase goods or services or to obtain cash. The card is used to generate a sales slip and no electronic terminal is involved. The consumer's asset account is later debited for the amount of the transaction. Is this transfer subject to the regulation?

A: Yes. The definition of "electronic fund transfer" covers transfers resulting from debit card transactions whether or not an electronic terminal is involved at the time of the transaction. (See question 2–24.) (§ 205.2(g))

* * * * *

2–24 Q: *Point-of-sale terminals.* Does the regulation cover POS transactions in which the consumer presents an access device such as a debit card, and does the terminal receipt requirement apply?

A: The regulation applies to all transfers resulting from debit card transactions at point of sale whether or not an electronic terminal is involved. However, if there is no electronic terminal, a terminal receipt is not required and the periodic statement need not disclose terminal location. Point-of-sale terminals are electronic terminals for purposes of the regulation if they capture data electronically, for debiting or crediting to the consumer's asset account, using the consumer's access device—for example, when the consumer's personal identification number is required, in part, to activate the terminal. (See question 2–21.5. Also see § 205.11(c)(4) regarding the extension of certain error resolution deadlines.) (§§ 205.2(h) and 205.9(a))

* * * * *

Section 205.3—Exemptions

* * * * *

3–3.5 Q: *Securities exemption—asset management accounts.* Some consumer financial services include both an electronic fund transfer service and the purchase and sale of securities. An example is a program involving a debit card issued by a bank or other card issuer which the consumer uses to purchase goods or services, and a money market mutual fund held by a broker. Debits are processed by the card issuer and transmitted to the broker for payment from the money market mutual fund. Are such transfers exempt from coverage under the securities exemption?

A: No. The exemption applies only to transfers whose "primary purpose" is the purchase or sale of securities—for example, a telephone order to a stockbroker to buy or sell securities. It does not apply to transfers resulting from use of the card for the purchase of goods or services or to obtain cash. (A transaction involving the purchase or sale of securities also remains subject to the Board's margin requirements under Regulation T (12 CFR Part 220) and other applicable securities regulations.) (§ 205.3(c))

* * * * *

Section 205.5—Issuance of Access Devices

* * * * *

5–1.5 Q: *Issuance—addition of new accounts.* A consumer has been issued an access device for accessing an asset account. The account-holding institution wants to make an additional account accessible to the consumer by means of the same access device. May the institution do so without a request by the consumer?

A: No. Making an additional account accessible through an existing access device is equivalent to issuing an access device for that account, and is subject to the unsolicited issuance provisions. (Additional disclosures may be required in some circumstances. See question 7–5.5.) (§ 205.5(a)(1))

* * * * *

Section 205.6—Liability of Consumer for Unauthorized Transfers

* * * * *

6–6.5 Q: *Consumer negligence.* A consumer writes the PIN on the ATM card or on a piece of paper kept with the card—actions that may constitute negligence under state law. Do such actions affect the liability for unauthorized transfers that may be imposed on the consumer?

A: No. The extent of the consumer's liability is determined by the promptness in reporting loss or theft of an access device or unauthorized transfers appearing on a periodic statement. Negligence on the consumer's part cannot be taken into account to impose greater liability than is permissible under the act and Regulation E. (§ 205.6(b))

* * * * *

Section 205.7—Initial Disclosure of Terms and Conditions

* * * * *

7–5.5 Q: *Addition of new accounts.* A consumer arranges for electronic fund transfers to and from an account, and receives disclosures. Later, the consumer arranges for transfers involving an additional account at the same financial institution. Does the addition of the new account require further disclosures?

A: The addition of a new account would require the institution to furnish any of the required disclosures that differ from those previously given. (See questions 5–1.5 and 7–6.) (§ 205.7(a))

* * * * *

7–6.5 Q: *Addition of service—in interchange system.* A financial institution operates electronic terminals through which consumers can access their accounts, and gives the required disclosures regarding the service. Later, the institution joins an interchange or shared system of terminals, giving consumers access to terminals operated by other institutions in the system. Are new disclosures required?

A: The institution must provide any of the required disclosures that differ from those previously given. (§ 205.7(a))

* * * * *

7-15.5 Q: *Charges—in interchange system.* Charges are imposed on the account-holding institution by the operator of a shared or interchange ATM system for the use of the system. In addition, charges may be imposed by other institutions in the system for the use of their ATMs. Must such charges be disclosed by the account-holding institution in the initial disclosures?

A: The fact that charges are imposed on the account-holding institution by the system or terminal-operating institution does not, by itself, require a disclosure to the consumer. However, the institution must disclose any charges it imposes on the consumer for EFT services, including charges for ATM transactions in an interchange or shared ATM system.

Charges for use of an ATM imposed on the consumer by an institution other than the account-holding institution are not within the purview of the account-holding institution's relationship with its customer and need not be disclosed in the initial disclosures. (See question 4-1.) (§§ 205.7(a)(5) and 205.4(a))

* * * * *

Section 205.9—Documentation of Transfers

* * * * *

9-31 Q: *Periodic statements—charges.* What charges must be disclosed on the periodic statement?

A: Financial institutions should disclose the charges assessed against the account during the statement period for electronic fund transfers or the right to make transfers, or for account maintenance (including both EFT and non-EFT and both fixed fees and per-item charges). The charges may be disclosed as a total or may be itemized in part or in full, at the institution's option. (§ 205.9(b)(3))

9-31.5 Q: *Periodic statements—charges in interchange system.* Charges are imposed on the account-holding institution by the operator of a shared or interchange ATM system for the use of the system. In addition, charges may be imposed by other institutions in the system for the use of their ATMs. Must such charges be disclosed by the account-holding institution on the periodic statement?

A: The fact that charges are imposed on the account-holding institution by the system or terminal-operating institution does not, by itself, require a disclosure to the consumer. However, the institution must disclose any charges it imposes on the consumer for EFT services, including charges for ATM transactions in an interchange or shared ATM system.

Charges for use of an ATM imposed on the consumer by an institution other than the account-holding institution and included in the amount of the transfer by the terminal-operating institution need not be separately disclosed on the periodic statement. (§ 205.9 (a)(1), (b)(1)(i), and (b)(3))

* * * * *

9-36 Q: *Receipts/periodic statements—type of transfer.* What degree of specificity is required on terminal receipts and periodic statements for the type of transfer?

A: Common descriptions are sufficient. There is no prescribed terminology, although some examples are contained in the regulation. On periodic statements, for example, it is enough simply to show the amount of the transfer in the debit or the credit column if other information on the statement (such as a terminal location or third-party name) enables the consumer to identify the type of transfer. As a further example, when a consumer obtains cash from a merchant in addition to purchasing goods, it is not necessary to treat the transaction as involving two different types of transfers. (§ 205.9 (a)(3) and (b)(1)(iii))

* * * * *

9-40.5 Q: *Receipts/periodic statements—interchange system; terminal location.* In a shared or interchange system, a consumer uses terminals operated by institutions other than the account-holding institution. The terminal operators have terminals at more than one location, and the terminal receipts include a street address, city, and state in addition to the name of the terminal operator. In contrast, the periodic statement provided by the account-holding institution identifies the terminal location for these transfers by listing the name of the terminal operator and the city and state. Does this identification comply with the regulation?

A: Yes. For transfers initiated at non-proprietary terminals, the account-holding institution may describe the location on the periodic statement by naming the entity at whose place of business the terminal is located (or which owns or operates the terminal), plus the city and state. It need not repeat on the periodic statement the street address given on the terminal receipt; similarly, it need not include identification codes or terminal numbers shown on the receipt by the terminal operator. (§ 205.9 (a)(5) and (b)(1)(iv))

* * * * *

Section 205.10—Preauthorized Transfers

* * * * *

10-18.5 Q: *Preauthorized debits—authorization.* A consumer telephones the financial institution or designated payee to arrange for preauthorized electronic fund transfers from the consumer's account, and subsequently receives a form for authorizing the fund transfers. The consumer signs and returns one copy of the form, and retains a copy. Does this procedure comply with the regulation?

A: Yes; the confirmation form serves as the required written authorization. The regulation does not require that a prescribed format be used. (§ 205.10(b))

* * * * *

Section 205.12—Relation to State Law

12-1 Q: *Preemption of state EFT laws—specific determinations.* The regulation prescribes standards for determining whether state laws that govern electronic fund transfers are preempted by the act and the regulation. If, under these standards, a state law is inconsistent with the federal law, and is not more protective, is it automatically preempted by operation of law, absent a Board determination of preemption?

A: State law may be preempted even if the Board has not issued a determination. Interested parties may seek a Board determination by following the procedures set forth in the regulation. (§ 205.12 (a) and (b))

* * * * *

By order of the Board of Governors of the Federal Reserve System, October 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-27344 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-61-AD; Amdt. 39-4939]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires a one-time visual inspection of the elevator control system on McDonnell Douglas DC-9 and Military C-9 series airplanes. This action is prompted by an incident where a rod end separated and thread damage occurred due to a loose jamnut. This condition, if undetected, could cause loss of elevator control movements.

DATES: Effective November 26, 1984.

Comments must be received by November 26, 1984.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808: telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: A DC-9 operator reported that, during a preflight "roll out" of the flight controls, the control column jammed in the nose down position. Inspection of the elevator control system revealed that

the forward rod end, part number (P/N) SM4–6T3, had pulled out of the right hand tab pushrod assembly, P/N 4918127–501. The threads on both parts were damaged. Investigation revealed that the most probable cause of the thread damage and eventual rod end separation was improper jamnut torque, which allowed motion between the parts under normal reversing loads and vibration. Accomplishment of the visual inspections as outlined in McDonnell Douglas Service Bulletin A27–266, dated March 12, 1984, or later FAA approved revisions, will reduce the probability of a detached forward rod end and subsequent jamming, thus precluding the potential of severe degradation of aircraft controllability at the critical flight regime.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD is being issued to require visual inspections of the forward rod end and pushrod assemblies.

The compliance time for this amendment has been established by the agency on the basis of safety considerations. This compliance time provides the lead time necessary for operators to schedule and plan compliance with the AD with the least possible burden consistent with safety requirements. To prescribe the inspection required by this AD under the usual notice and public procedures followed by the agency would necessarily result in a reduction of the compliance time for the inspection required by the AD. This could leave operators with insufficient time to schedule airplanes for compliance with the AD. Therefore, accomplishment of the inspection required by this AD within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and, accordingly, this amendment becomes effective 30 days after publication in the **Federal Register.**

Although this action is in the form of a final rule, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD within the next 30 days. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directives Rules Docket No. 84–NM–61–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in light of the comments received. Operators are urged to submit their comments as early as possible since it may not be possible to evaluate comments received near the effective date in sufficient time to amend the AD before it becomes effective.

The substance of the AD has been informally coordinated with the manfacturer, the McDonnell Douglas Corporation, and the Air Transport Association of America.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9, and C–9 (Military) series airplanes, certificated in all categories. Compliance required as indicated unless previously accomplished. To prevent jamming of the elevator controls by a detached forward rod end, accomplish the following:

A. Within the next 650 hours time in service or 90 calendar days, whichever occur first after the effective date of this AD, visually inspect the fitting assembly (rod end) part number (P/N) 3938704–1 and pushrod P/N 3938705–501, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–266, dated March 12, 1984, hereinafter referred to as ASB27–266, or later FAA approved revisions.

B. If results of visual inspection are satisfactory, accomplish paragraph 4 of Part 2, Accomplishment Instructions, of ASB27–266.

C. If results of visual inspection are unsatisfactory, proceed in accordance with paragraph 5, Accomplishment Instructions of ASB27–266.

Note.—If rod end P/N SM4–6T3 (exclude DC–9–80 series) is required and not available, P/N SM4–6T may be substituted. The latter has only one grease fitting which must be oriented to allow access for scheduled lubrication.

D. Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective November 26, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that only adds a one-time visual inspection and does not impose any additional regulatory or economic burden on any person. This amendment is, therefore, not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Model DC–9 airplanes are operated by small entities I certify that it will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on October 10, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84–27546 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 84–NM–101–AD; Amdt. 39–4938]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 727 series airplanes which requires inspection and repair, if necessary, of the forward frame of the Number 3 cargo door cutouts. This action is prompted by several recent reports of cracks in the door frame. Failure to detect cracks in this area reduces the load-carrying capability of the door support structure and could result in the separation of the cargo door from the airplane and subsequent rapid decompression.

EFFECTIVE DATE: October 30, 1984.

ADDRESSES: The service documents may be obtained upon request from the Boeing Commercial Airplane Company,

P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM-120S; telephone (206) 431-2927. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There have been recent reports of cracks in the forward frame of the Number 3 cargo door cutout on seven Boeing Model 727-200 series airplanes. The cracking, attributed to fatigue, originated at a fastener hole in the inner flange of the frame. In several cases, it was reported that cracking had progressed through the inner chord and the web of the frame. Such a situation can cause loss of the load-carrying capability of the frame and transfer of load to the local fuselage skin, thus, greatly reducing the fatigue life of the skin. Such increases in skin loads will precipitate fatigue skin cracks and could result in the separation of the door from the airplane and subsequent rapid decompression.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued to require inspection and repair, if necessary, of the forward frame of the Number 3 cargo door cutout on Boeing Model 727-200 series airplanes equipped with the optional Number 3 cargo door.

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

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 727-200 series airplanes equipped with the Number 3 cargo door, certificated in all categories, listed in Boeing Alert Service Bulletin No. 727-53A169, Original Issue, dated September 11, 1984.

Compliance is required as indicated unless already accomplished.

To detect cracks in the forward frame of the Number 3 cargo door cutout, accomplish the following:

A. Within the next 300 landings after the effective date of this AD or prior to accumulating 29,000 landings, whichever occurs later, unless accomplished within the last 1,900 landings, visually inspect the forward frame of the Number 3 cargo door for cracks in accordance with Boeing Alert Service Bulletin No. 727-53A169, Original Issue or later FAA approved revisions. Repeat the inspections at intervals not to exceed 2,200 landings.

B. Repair cracked structure before further flight in accordance with Boeing Alert Service Bulletin No. 727-53A169, Original Issue or later FAA approved revisons. After repair, reinspect the frame prior to accumulating an additional 29,000 landings after repair and thereafter at intervals not to exceed 2,200 landings.

C. On request by an operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times in this AD, if the request contains substantiating data to justify the increase for that operator.

D. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

E. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

This amendment becomes effective October 30, 1984.

(Secs. 313(a), 314(a), and 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on October 10, 1984.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 84-27545 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 83-AWP-17]

Alteration of Jet Route, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule realigns a segment of Jet Route J-7 in the State of California to facilitate a more efficient use of the navigable airspace.

EFFECTIVE DATE: 0901 G.m.t., December 20, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On June 29, 1984, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign a segment of Jet Route J-7 in the State of California (49 FR 26750). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations deletes the segment of Jet Route J-7 between Oakland, CA, Sacramento, CA, and Reno, NV, and establishes a segment between Los Angeles, CA, and Reno, NV. This action improves efficiency through the codification of a route that is routinely requested by pilots. Also, a reduction in controller workload is realized by this action because

controllers will no longer need to provide pilots with radar navigational assistance along the route.

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

List of Subjects in CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

J-7 [Amended]

By deleting the words "Oakland, CA, via Sacramento, CA;" and substituting the words "Los Angeles, CA, via INT Los Angeles 319° and Avenal, CA, 145° radials; INT Avenal 145° and Friant, CA, 181° radials; Friant;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 1169)

Issued in Washington, D.C., on October 11, 1984.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84–27543 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270 and 271

[Docket Nos. RM83–72–001, et al. and RM82–16–001, et al.]

Production Under Section 2(21) of the Natural Gas Policy Act of 1978

Issued: October 11, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for further consideration.

SUMMARY: On August 22, 1984, the Federal Energy Regulatory Commission (Commission) issued Order No. 391 (28 FERC ¶ 61,263; 49 FR 33849 (August 27, 1984)) which amended the Commission's regulations relating to first sales of pipeline production under the Natural Gas Policy Act of 1978. A number of requests for rehearing of Order No. 391 have been received. In order to afford additional time for consideration of the issues raised in the requests for rehearing, the Commission is granting rehearing of Order No. 391 for the limited purpose of further consideration.

EFFECTIVE DATE: October 11, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Mattingly, Producer Regulation Section, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, (202) 357–9123.

First Sales of Pipeline Production Under Section 2(21) of the Natural Gas Policy Act of 1978 and First Sales by Affiliates: Order Granting Rehearing for Further Consideration

[Docket Nos. RM83–72–001, 002, 003, 004, 005, 006, 007, 008, and 009; Docket Nos. RM82–16–001, 002, 003, 004, 005, 006, 007, 008, and 009]

Issued: October 11, 1984.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

On August 22, 1984, the Commission issued a final rule designated as Order No. 391 in the above-captioned proceeding. A number of timely requests have been received seeking rehearing of Order No. 391.

In order to afford sufficient time for consideration of the issues raised in the requests for rehearing, we will grant rehearing of Order No. 391 for the limited purpose of further consideration. As provided by Rule 713, no answers to the requests for rehearing are permitted.

The Commission orders:

Rehearing of Order No. 391 is hereby granted for the limited purpose of further consideration.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–27502 Filed 10–17–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

[T.D. 84–214]

Country of Origin Marking of Imported Rotary Metal Cutting Tools; Change of Practice

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final change of practice.

SUMMARY: This document gives notice that Customs is modifying its current practice of exempting imported rotary metal cutting tools from being individually marked with the country of origin provided such tools reach the ultimate purchaser in the U.S. in individual tubes or containers which are properly marked.

After reviewing the comments received in response to the notice proposing this change, Customs will not limit the exemption to twist drill sets imported in sealed index storage boxes or in retail blister packs which are designed for retail marketing and in which the majority of twist drills in the set are incapable of being individually marked. Twist drills having a diameter of *less than* three-sixteenths (3/16) of an inch shall be considered incapable of being individually marked.

EFFECTIVE DATE: January 16, 1985.

FOR FURTHER INFORMATION CONTACT: Harold Loring, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that every article of foreign origin or its container imported into the U.S. shall be legibly, permanently, and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the U.S. unless specifically exempted. Part 134, Customs Regulations (19 CFR Part 134), sets forth the country of origin marking requirements of 19 U.S.C. 1304.

By Treasury Decision 74–122, published in the **Federal Register** on April 15, 1974 (39 FR 13538), Customs required that imported rotary metal cutting tools (i.e., interchangeable tools for hand or machine tools such as drill bits and twist drills of the kind classifiable in items 649.43, 649.44, and 649.46, Tariff Schedules of the United States; 19 U.S.C. 1202) must be marked

by means of die stamping in a contrasting color, by raised lettering, by engraving, or by some other method of producing a legible, conspicuous, and permanent mark to clearly indicate the country of origin. The decision allowed for an exception, however, *i.e.*, if the containers or individual tubes of the tools were properly marked and would reach the ultimate purchaser with the tool contained therein, then the tool itself could be exempted from individual marking.

Two trade associations representing the domestic industry have requested that Customs abolish this exception and require that each metal tool be individually marked. It is suggested that only tools too small to be marked be exempted from marking and that certification requirements be applied in those cases. This request is based both on the contention that there exists a consumer preference for domestic tools and on submitted proof that unmarked tools are reaching ultimate purchasers with their foreign source undisclosed. The domestic industry claims that the country of origin marking requirements of these tools are circumvented by importers not selling directly to the ultimate purchasers, but rather to distributors who often remove the tools from their individual containers or tubes. In some cases it is alleged that these tools are repackaged in order to conceal the country of origin from the ultimate purchaser. Concealing the tool's country of origin defeats the legislative purpose of 19 U.S.C. 1304 which is to enable the ultimate purchaser of the goods to decide for himself whether or not to buy foreign-made articles. In view of the concerns of the domestic industry, Customs, by a notice published in the Federal Register on April 25, 1984 (49 FR 17772), determined that a review of this matter was warranted and invited public comments on it before any change was made.

Discussion of Comments

Eighty-two comments were received in response to the notice; seventy-eight favored the change of practice, four opposed. Commenters supporting the change of practice do not disagree entirely with T.D. 74–122. They agree that rotary metal cutting tools should be marked in a permanent manner. However, the majority of commenters object to an exception being made for tools imported in marked containers. These commenters allege that domestic industry is harmed by the large number of rotary metal cutting tools which reach ultimate purchasers without any marking, having been separated from their containers in distribution. Aware of a consumer preference for domestic tools, it is alleged that distributors take the unmarked tools from their marked containers and dispose of the containers. It is claimed that some distributors repackage the unmarked tools in private brand labelled packages. Domestic industry, favoring the abolition of the exception, believes that foreign-made rotary metal cutting tools are inferior and when product failure occurs, domestic industry is held accountable when the consumer, seeing no foreign identification, erroneously believes the failed product to be American-made. Commenters point out that foreign governments subsidize foreign tool manufacturers and that the U.S. government should protect domestic industry by requiring foreign tools to be marked. Domestic industry claims it needs protection because of the foreign manufacturers' attempt to copy U.S. products, causing confusion in the marketplace. The domestic cutting tool industry states that it is essential for U.S. defense needs, and demands government protection, at least to the extent of requiring foreign tools to be identified.

Commenters favoring the change in practice also point out that individual tool marking is not expensive and can be performed at the same time the other tool markings are made, *i.e.*, size markings. If a permanent mark is made in the "holding" area of the tool, then no injury to the tool will occur. Thus, these commenters believe that individual tool marking will burden only those who seek to evade the marking statute.

From a legal point of view, commenters favoring the change note that T.D. 74–122 granted the exception to individual tool marking pursuant to § 134.32(d), Customs Regulations, which excepts articles "for which the marking of the containers will reasonably indicate the origin of the articles." Because the containers are separated from the tools during distribution, these commenters argue that the exception can no longer be justified.

Commenters in opposition to the change of practice argue that domestic industry overstates the degree to which distribution channels cause a tool to become separated from its marked container. In most cases, these commenters contend, it is too expensive to remove cutting tools from their containers, i.e., the value of concealing the foreign source is less than the cost of removing the product from its package. Therefore, the marked package is likely to reach the ultimate purchaser unopened. In addition, these commenters do not believe that Customs has the personnel to enforce a rule which would require that each tool be marked—for to do so would require Customs to remove tools from their containers for inspection. Many rotary metal cutting tools, such as twist drills, are very small and, these commenters suggest, markings would be very difficult to see. It is alleged that Customs would be bowing to protectionist pressure in changing the practice. It is argued that country of origin marking of individual tools would increase the cost of the tools. This is anti-competitive and is said to encourage U.S. inefficiency. Another commenter believes that the requirement for individual tool marking would cause unnecessary delay in the flow of commerce, *i.e.*, both Customs and importers would spend a great deal of time in checking for individual marking.

One commenter who imports rotary metal cutting tools believes that the exception should remain for twist drill sets packaged in expensive index boxes which are certain to remain with the product through distribution and reach the ultimate purchaser. This commenter agrees that twist drills imported in open stock sizes in individual envelopes or 5–10 units of one size to an envelope are more likely to be repackaged.

To the contrary, domestic industry argues that repackaging is not expensive and this is proved by the current evasive practices of distributors and importers. Commenters, favoring the change, believe that no great delay in the flow of commerce will occur if normal sampling procedures are used. They say that the change will be simple to enforce because Customs will not have to follow tools into commerce to detect violations. Individual tool marking will permit determinations to be made at time of entry. Finally, if foreign manufacturers will be marking tools individually in any event, then it would be simple to mark every tool, permitting no exceptions notwithstanding how elaborate the packaging.

Decision

Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that, unless excepted, every article of foreign origin *or its container* must be legibly, permanently, and conspicuously marked to indicate the English name of the country of origin to an ultimate purchaser in the U.S. Container marking will suffice provided the container, properly marked, is virtually certain to reach the ultimate purchase unopened. Thus, 19 U.S.C. 1304(a)(3)(D), as implemented by § 134.32(d), Customs Regulations, excepts an article from

individual country of origin marking if marking the container will reasonably indicate the origin of the article. In accordance with these principles, T.D. 74–122 ruled on the proper marking of individual rotary metal cutting tools, but provided for an exception from individual marking requirements in the case of tools imported in individual tubes or containers which are marked to indicate the origin of the tools inside.

Customs has reviewed domestic industry's petition, the comments received to the proposed change of practice, and the available evidence, and concludes that the exception created in T.D. 74–122 to individual tool marking has been abused.

Although we adhere to T.D. 74–122 (insofar as it holds that imported rotary metal cutting tools must be marked by means of die stamping in a contrasting color, by raised lettering, by engraving, or by some other permanent method of marking) we are making the following modifications to the exception created therein:

Rotary metal cutting tools may not be excepted from individual country of origin marking merely because they are imported in individual tubes or containers that are marked, *unless* it can be shown to the satisfaction of Customs officers at the port of entry that the containers are of a kind that are virtually certain to reach ultimate purchasers unopened, *i.e.*, twist drill sets imported in sealed index storage boxes or in retail blister packs which are designed for retail marketing and in which the majority of twist drills in the set are incapable of being individually marked. Rotary metal cutting tools imported in individual tubes or containers of carboard or plastic, must be individually marked in accordance with T.D. 74–122, notwithstanding that the container is marked.

In accordance with ORR Ruling 639–69, dated January 2, 1970, twist drills having a diameter *less than* three-sixteenths (3/16) of an inch shall be considered incapable of being marked. When these twist drills are imported in bulk, the containers shall be marked, and the importer shall be subject to the certification requirements of § 134.25, Customs Regulations (19 CFR 134.25), as amended by T.D. 84–155, published in the **Federal Register** on July 26, 1983 (48 FR 33860). Section 134.25 requires that if articles incapable of being marked are repackaged, the container must be marked to indicate the country of origin of the repackaged contents by either the importer who repackages the articles, or the purchaser or transferee of the articles who does the repackaging. At the time of entry of the articles, the importer must certify to the district director that the repackaged containers will be marked or that the importer will notify the purchaser or transferee of the marking requirement.

The basis for allowing the exception to continue in the case of certain twist drill sets rests in the substantial nature of various retail packages in which these twist drill sets are sold. The packaging often contains retail information and compartmentalized holders meant to attract consumers and retain their usefulness as holders even after purchase. The cost of removing the packaging would outweigh the value of concealing the country of origin marking. This cannot be said of larger twist drills imported in individual tubes or packets where the quality of such packaging is insubstantial (*i.e.*, cardboard or plastic) and small in value in comparison with the drill inside. It is noted that, in the case of twist drill sets, the majority of twist drills are under 3/16-inch and incapable of being legibly marked. For these sets, the exception should continue.

Whenever a container bears a U.S. address, or the words "United States" or "American" or "U.S.A.", then the country of origin preceded by the words "Made in" or "Product of" must appear in close proximity, and in a size comparable, to any U.S. address, location, notation, or reference, whether or not the article inside is marked. See § 134.46, Customs Regulations (19 CFR 134.36).

In the case of individual rotary cutting tool marking, adhesive labels or slip-on labels will continue to be considered inadequate for country of origin marking purposes in accordance with T.D. 74–122 and T.D. 70–27(1), dated December 23, 1969.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subject in 19 CFR Part 134

Customs duties and inspection, Imports, Labeling, Packaging and containers.

Dated: October 1, 1984.

William von Raab,

Commissioner of Customs.

Approved:

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–27586 Filed 10–17–84; 8:45 am]

BILLING CODE 4820–02–M

EMPLOYEE-MANAGEMENT RELATIONS COMMISSION

22 CFR Ch. VIII

Removal of Regulations

The Employment-Management Relations Commission was established by Executive Order 11636, "Employment-Management Relations in the Foreign Service of the United States" (36 FR 24901, Dec. 24, 1971). The regulations for its operation were promulgated at 37 FR 7594, April 18, 1972 and codified in Chapter VIII of Title 22, Code of Federal Regulations.

Chapter 10 of the Foreign Service Act of 1980 (Pub. L. 96–465, October 17, 1980, 94 Stat. 2071 (22 U.S.C. 3901 *et seq.*)) provided for the creation of the Foreign Service Labor Relations Board and the Foreign Service Impasse Disputes Panel. Following the enactment of this Act and in order to conform existing Executive orders to changes resulting from the Act, the President issued Executive Order 12292 (46 FR 13967, February 25, 1981) which revoked Executive Order 11636. Regulations implementing Chapter 10 of the Foreign Service Act of 1980 appear at 22 CFR, Chapter XIV (Part 1411 to 1471 and Appendices).

The Office of the Federal Register is in receipt of a letter from the Federal Labor Relations Authority confirming the information cited above and indicating that the regulations contained in 22 CFR Chapter VIII (Part 801–806) are obsolete and should be removed from the CFR.

Therefore, pursuant to the authority of the Director of the Federal Register to assure orderly development of the Code of Federal Regulations (1 CFR 8.2), Chapter VIII of Title 22 is found to be obsolete, the regulations are removed, and the chapter is vacated.

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 150

[T.D. 7985]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Regulations Under Section 6232, Relating to the Conditions Under Which the Partnership May Be Authorized To Act on Behalf of the Partners of the Partnership in the Determination, Assessment, and Collection of the Windfall Profit Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary excise tax regulations relating to the conditions under which a partnership may be authorized to act on behalf of its partners in the determination, assessment, and collection of the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 amended the tax law to allow for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items at the partnership level rather than at the partner level. That Act also provides that the partnership may act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax. These regulations provide guidance to partners and partnerships subject to these new rules.

DATES: The temporary regulations are effective for calendar years 1983 and 1984 only.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislative and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

Code section 6232, added by the Tax Equity and Fiscal Responsibility Act of 1982, amended the tax laws to provide for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items for windfall profit tax purposes at the partnership level rather than at the partner level. The section also permits the partnership to be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax to the extent provided in regulations. This document contains temporary regulations which set out the conditions under which the partnership will be treated as having this authority. These regulations are included in 26 CFR Part 150, Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980. The temporary regulations provided by this document apply only to calendar years 1983 and 1984.

Explanation of Provisions

Section 6232(c)(1) provides that a partnership shall be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax to the extent provided in regulations. These temporary regulations make this authority elective. A partnership seeking this authority must notify the Service that it intends to act on behalf of the partners. This authority to act on behalf of the partners is subject to certain elections by the partners. The temporary regulations require the electing partnership to notify the partners of the election and of their rights to negate the authority of the partnership.

Any group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may negate the authority of the partnership to act on behalf of the partners by making a "5-percent election." Additionally, any partner may negate the authority of the partnership to act on behalf of that particular partner by filing an "individual election." The procedures for making these elections are set forth in the temporary regulations.

If the partnership elects to act on behalf of the partners and a "5-percent election" is not made, the partnership shall compute the windfall profit tax liability (taking into account the net income limitation, independent producer amounts, and exemptions) of partners who have not made the "individual election" and pay any additional tax owed or file a claim for refund or credit due on behalf of those partners. Since those partners will be represented by the partnership in all administrative and judicial proceedings, they are not entitled to receive notice regarding these proceedings or permitted to attend these proceedings. The partnership is not required to furnish these partners a Form 6248. Instead, the partnership shall furnish them a statement indicating the amount of windfall profit tax withheld or paid during removal year 1983 (or 1984, as the case may be).

The temporary regulations are consistent with the guidance provided earlier in Rev. Proc. 84–4, 1984–4 I.R.B. 28 (January 23, 1984) (also released as IR–84–2, dated January 6, 1984) except for three provisions. First, the temporary regulations make clear that a partnership election to represent partners is valid even if the partnership fails to mail the required notice to one or more partners. Rev. Proc. 84–4 indicated that the partnership could make a valid election only if it actually mailed notice to all partners. Second, the temporary regulations provide that a partner who makes an "individual" election shall treat the Form 6248 received from the partnership in the same manner as a Form 6248 received from another source. Thus, the partner may aggregate data from different sources and file a single Form 720 if there is a net underpayment of windfall profit tax or a single claim for refund if there is a net overpayment. The partner shall file the return or claim with the service center designated in the appropriate instructions. Rev. Proc. 84–4 stated that the partner should file the return or claim with the Austin Service Center. Third, the temporary regulations permit the partnership to file a claim for refund on behalf of the partners at any time within the applicable limitations period; Rev. Proc. 84–4 required the partnership to file a claim with respect to any overpayment apparent on the Form 6248 by August 31, 1984.

The rules set forth in the temporary regulations are effective for 1983 and 1984 only. For taxable periods beginning after 1984, see the proposed regulations under section 6232 in the Proposed Rules section of this issue of the **Federal Register.**

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Paperwork Reduction Act

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB. (Control No. 1545–0224)

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553 (b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations was Donald W. Stevenson of the Legislation and Regulations Division

of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 150

Excise taxes, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Adoption of Amendments to the Regulations

Accordingly, the Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 150) are amended as follows:

New §§ 150.623(c)–1 through 150.6232(c)–5 are added in the appropriate place to read as follows:

§ 150.6232(c)–1 Partnership authorized to act on behalf of partners for removal year 1983 or 1984.

(a) *Overview of partnership authority and responsibilities*—(1) *In general.* Except to the extent otherwise provided in paragraph (a) (2) and (3) of this section, the partnership, acting through its tax matters partner, shall be authorized to act on behalf of its partners in the determination, assessment, and collection of the windfall profit tax for removal year 1983 or 1984 if the partnership elects to do so in accordance with the requirements of § 150.6232 (c)–2 (b). If the partnership elects to act on behalf of the partners in this regard the partnership's responsibilities to file with the Service and furnish to the partner any information, statement, or return are set forth in this section. If the partnership does not elect to act on behalf of the partners, it shall file with the Service and furnish to the partners any information, statement, or return required by other provisions of this part or by Part 51 of this chapter in the time and manner prescribed by those regulations.

(2) *Partnership authority negated by "5-percent election."* The authority of the partnership to act on behalf of the partners with respect to the windfall profit tax is negated if partners who in the aggregate own at least a 5-percent interest in the income of the partnership make the election provided in § 150.6232(c)–3. See paragraph (d) of this section for the responsibilities of the partnership in the event that a 5-percent election is made.

(3) *Partnership authority negated by "individual election."* The authority of the partnership to act on behalf of a particular partner with respect to the windfall profit tax is negated if that partner makes the election provided in § 150.6232(c)–4. See paragraph (c) of this section for the responsibilities of the partnership with respect to a partner who makes the "individual election."

(4) *Rules applicable to partner not represented by partnership.* For rules applicable to a partner when the partnership authority to act on behalf of the partner is negated by an election under § 150.6232(c)–3 or § 150.6232(c)–4, see § 150.6232(c)–5.

(b) *Partnership responsibility with respect to partner who does not elect to negate the authority of the partnership to act on its behalf*—(1) *In general.* If the partnership elects to be treated as authorized to act on behalf of the partners and no 5-percent election is made is accordance with § 150.6232(c)–3, this paragraph (b) shall apply with respect to any partner who has not made an individual election under § 150.6232(c)–4 to negate the authority of the partnership.

(2) *Information to be furnished to partner*—(i) *Information in lieu of Form 6248.* The partnership is not required to furnish the partner a Form 6248. Instead, the partnership shall furnish the partner a statement indicating the partner's allocable share of the windfall profit tax paid or withheld during removal years 1983 (or 1984, as the case may be). See § 150.6232(c)–2 for the time for furnishing this statement to the partners.

(ii) *Later adjustments.* If the partnership—

(A) Pays any additional windfall profit tax, or

(B) Receives any credit or refund of windfall profit tax paid or withheld, with respect to a partner's share of partnership production for removal year 1983 (or 1984, as the case may be), the partnership shall notify the partner of the adjustment so that the partner may take the amount of the adjustment into account appropriately for income tax purposes. The partnership shall provide this notice at the same time as the partnership furnishes information to the partner with respect to windfall profit tax withheld or paid during the removal year in which the adjustment occurs.

(3) *Partnership required to file Form 6248 with Service.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) by the first August 31 following the year to which the form relates. This Form 6248 shall show the amount of windfall profit tax allocable to the partner that was actually withheld or paid during 1983 (or 1984, as the case may be) and any adjustment made by the partnership with respect to that partner to eliminate any overpayment or underpayment. The partnership shall furnish a separate Form 6248 for each partner; the partnership is not permitted to submit an aggregate Form 6248 for all partners.

(4) *Partnership shall pay tax or file claim for credit or refund*—(i) *In general.* The partnership shall compute the windfall profit tax liability of a partner with respect to partnership production (taking into account the net income limitation and the partner's independent producer amounts and exemptions) for the removal year. On or before the date on which the partnership furnishes to the Service the Form 6248 with respect to a partner under paragraph (b)(3) of this section, the partnership shall file with the Austin Service Center (at the address set out in paragraph (e) of this section) a Form 720, Quarterly Federal Excise Tax Return, with Form 6047, Windfall Profit Tax, attached and pay any additional tax owed with respect to the partner. The partnership may also, at any time within the applicable period of limitations, file a Form 843, Claim, and claim any credit or refund due with respect to the partner. The partnership is not authorized to seek any adjustment in withholding to offset any overpayment of windfall profit tax during 1983 or 1984.

(ii) *Partnership may file aggregate return or claim.* The partnership may file an aggregate return or claim for refund on behalf of all partners for whom the partnership is authorized to act. The partnership shall attach to the aggregate return or claim a statement showing the amount of the underpayment or overpayment allocable to each partner. If partners hold identical "unit" interests and the underpayment or overpayment with respect to each "unit" is the same, the partnership may state the underpayment or overpayment with respect to a "unit," identify each person holding a "unit," and specify the number of "units" held by each person.

(iii) *Partnership to assume that partner certifications are correct.* For purposes of computing the windfall profit tax liability of a partner, the partnership shall treat as correct certifications furnished by the partner as to the partner's producer status. Accordingly, if the partner certifies that the partner is an independent producer or a qualified royalty owner, the partnership shall assume that the partner is in fact an independent producer or a qualified royalty owner in computing the partner's liability.

(iv) *Partner barred from filing claim based on partnership items.* The partnership has an exclusive right to file

a claim for refund of an overpayment of windfall profit tax if the overpayment arises from partnership items. The partner may file a claim for refund only if the overpayment arises from nonpartnership items; for example, the partner may file a claim for refund on the grounds that the partner is an independent producer but failed to certify that fact to the partnership.

(5) *Partnership shall represent partner in all proceedings.* The tax matters partner shall represent the partner in all administrative and judicial proceedings with respect to partnership items. Therefore, the partner shall not be permitted to participate in these proceedings or be entitled to receive the notices described in section 6223(a). The tax matters partner shall not be required to keep the partner informed of administrative or judicial proceedings. However, the partnership shall furnish to the partner upon request any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions.

(6) *Settlement authority.* Any settlement entered into by the tax matters partner is binding on the partner. The partner is not permitted to enter into a separate settlement with the Service; accordingly, the partner is not permitted to request consistent settlement terms under section 6224(c).

(c) *Partnership responsibilities with respect to partner who has made an individual election*—(1) *In general.* If the partnership makes the election described in § 150.6232(c)–2 to act on behalf of the partners and no 5-percent election is made, this paragraph (c) shall apply with respect to any partner who makes the individual election under § 150.6232(c)–4 to negate the authority of the partnership.

(2) *Partnership shall furnish Form 6248.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) and to that partner by the first August 31 following the year to which the form relates. Because the partnership is not authorized to make any adjustment to eliminate an overpayment or underpayment with respect to the partner, the Form 6248 will not show any adjustment made by the partnership.

(3) *Partnership may not file return or claim on behalf of partner.* The partnership may not file any return (Form 720) or any claim for credit or refund (Form 843) on behalf of the partner.

(4) *Partnership does not represent partner in proceedings.* Unless otherwise agreed upon between the partner and the partnership, the partnership shall not represent the partner in administrative or judicial proceedings to determine the proper treatment of partnership items with respect to the windfall profit tax.

(d) *Partnership responsibilities in event 5-percent election is made.* If the partnership elects to act on behalf of the partners in accordance with § 150.6232 (c)–2 but a 5-percent election is made to negate that authority, the partnership shall furnish a Form 6248 with respect to each partner in the partnership to the Service and to the partner by the first August 31 following the year to which the form relates. The Forms 6248 furnished to the Service shall be filed with the service center designated on that form. The partnership will not be permitted to make any adjustments with respect to the partners under these circumstances.

(e) *Address of Austin Service Center.* The address of the Austin Service Center to be used for purposes of this section and §§ 150.6232 (c)–2 through 150.6232 (c)–5 is: Internal Revenue Service Center, WPT Staff, P.O. Box 1231, Austin, Texas 78767, Stop 89.

(f) *Extension of time for filing return.* Any provision in this section or in § 150.6232 (c)–5 (b) that permits any return to be filed or a payment to be made later than the date otherwise prescribed for the filing of that return or the making of that payment by the Code or the regulations operates as an automatic extension of the period otherwise prescribed.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232 (c)–2 Election to act on behalf of partners for removal year 1983 or 1984.

(a) *In general.* The partnership may elect to be treated as authorized to act for each partner of the partnership for removal year 1983 or 1984 by furnishing the notice described in paragraph (b) of this section. This election is an annual election. The partnership must furnish a separate notice for each removal year for which the partnership wishes to make this election.

(b) *Notice to the Service*—(1) *Content of notice.* The partnership shall furnish to the Internal Revenue Service a notice that states that the partnership intends to—

(i) Act on behalf of all partners in any judicial or administrative proceeding with respect to partnership items for windfall profit tax purposes;

(ii) Pay on behalf of the partners any additional windfall profit tax determined to be due to reflect the proper treatment of partnership items;

(iii) Receive on behalf of the partners any credit for, or refund of, any overpayment of windfall profit tax attributable to partnership items; and

(iv) Reimburse the Service upon request for any duplicate refund made to a partner.

(2) *Time and place for filing.* The notice shall be furnished to the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first March 31 following the year to which the election relates. The notice shall identify the partnership by name, address, and identification number and shall be signed by a person authorized to sign the Form 1065.

(c) *Notice to the partners*—(1) *In general.* A partnership that makes an election by filing a notice under paragraph (b) of this section shall furnish to each partner of the partnership, by the first March 31 following the year to which the election relates, a notice that includes the information contained in the notice under paragraph (b) of this section.

(2) *Further information required.* In addition the notice shall—

(i) Inform each partner of the partner's allocable share of the windfall profit tax paid or withheld during 1983 (or 1984, as the case may be) with respect to partnership production (so that the partner may claim an income tax deduction for that amount);

(ii) Explain the right of any partner or any group of partners holding a 5-percent or greater interest in the income of the partnership to negate the authority of the partnership to act on behalf of all partners by filing a notice in accordance with § 150.6232(c)–3; and

(iii) Explain the right of each partnership individually to elect not to have the partnership act on behalf of that partner by filing a notice in accordance with § 150.6232(c)–4.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232(c)–3 "5-percent" election for removal year 1983 or 1984.

(a) *In general.* Any partner or group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may elect to negate the authority of the partnership to act on behalf of the partners for removal year 1983 or 1984 by filing a written notice to that effect.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first June 30 following the year to which the election relates.

(2) *Content of notice.* The notice shall—

(i) Identify the partnership by name, address, and identification number;

(ii) Identify the partners forming the 5-percent group by name, address, identification number, and percentage interest in the partnership;

(iii) Be signed by all members of the group making the election; and

(iv) Be clearly identified as an election to negate the authority of the partnership to act for all partners.

Any notice not clearly identified as a notice of election under this section shall be treated as an individual election under § 150.6232(c)–4. Thus, for example, a notice by a single partner owning a 5-percent interest that is not clearly identified as an election to negate the authority of the partnership to act for all partners shall be treated as an individual election under § 150.6232(c)–4.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6236(c)–4 Individual election for removal year 1983 or 1984.

(a) *In general.* Any partner desiring that the partnership not be authorized to act on its behalf for removal year 1983 or 1984 shall file a notice in accordance with the rules set forth in this section.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232(c)–1(e)) on or before the first June 30 following the year to which the election relates.

(2) *Content of notice.* The notice shall clearly identify the partner and the partnership by name, address, and identification number and shall state that it constitutes an election to deny the partnership the right to represent the partner in proceedings related to windfall profit tax on partnership production during 1983 (or 1984, as the case may be). The notice shall be signed by the partner.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership within the period prescribed for filing the notice.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

§ 150.6232(c)–5 Partner responsibility when partnership authority is negated for removal year 1983 or 1984.

(a) *In general.* If the partnership makes an election under § 150.6232(c)–2 to act on behalf of the partners for removal year 1983 or 1984, this section shall apply with respect to—

(1) All partners if an election under § 150.6232(c)–3 is made, and

(2) Any partner who makes an election under § 150.6232(c)–4.

(b) *Partner shall pay additional tax or claim credit or refund.* The partner shall aggregate the Form 6248 information received from the partnership with Form 6248 information received from other sources to determine whether a net overpayment or underpayment of windfall profit tax exists for the partner's interests in oil properties. If a net underpayment exists, the partner shall file Form 720 with the service center designated on that form and pay any tax due by the first October 31 following the year to which the election relates. See § 150.6232(c)–1([f), relating to extension of time for filing a return and paying tax. If a net overpayment exists, the partner may file a Form 843 or any other appropriate form to claim a credit or refund in accordance with the applicable instructions.

(c) *Partners in same position as under rules for income tax proceedings.* The partner retains any right with respect to the determination of the tax treatment of partnership items for windfall profit tax purposes that the partner would possess with respect to similar determinations for income tax purposes under sections 6221 through 6231 and the regulations under those sections. For example, the partner is entitled to receive notice of the proceedings from the tax matters partner or the Service if that partner is entitled to receive notice under section 6223 of the Code, and the partner is entitled to participate in any administrative or judicial proceeding. Similarly, a settlement agreement entered into between the Service and the tax matters partner is binding on the partner if a settlement entered into under section 6224(c) of the Code would be binding on the partner.

(Information and collection requirements approved by the Office of Management and Budget under control No. 1545–0224)

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

This Treasury decision is issued under the authority contained in sections 6232 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 666, 26 U.S.C. 6232; 68A Stat. 917, 26 U.S.C. 7805).

Approved by the Office of Management and Budget under control number 1545–0224.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 26, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of Treasury.

[FR Doc. 84–27601 Filed 10–17–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 601

Internal Revenue Practice; Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document corrects errors contained in the miscellaneous amendments to the Statement of Procedural Rules (SPR) published in the Federal Register on September 18, 1984.

DATE: This correction is effective as of September 18, 1984.

FOR FURTHER INFORMATION CONTACT: Michel A. Daze of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T (202–566–3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1984, the Federal Register published miscellaneous amendments to the SPR (49 FR 36497), including an amendment to § 601.104(b) relating to extensions of time for filing returns.

Need for Correction

There is a need to conform the amendment to § 601.104 to T.D. 7865, which amended § 1.6081–3, relating to the automatic extension of time for filing a corporate income tax return, and which was published in the Federal Register on April 18, 1983 (48 FR 16483).

Drafting Information

The principal author of this correction is Michel A. Dazé of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Amendments to the Statement of Procedural Rules

Accordingly, FR Doc. 84–24575 (49 FR 36497) is amended as follows:

§ 601.104 [Amended]

In § 601.104, paragraph (b)(2), the last 15 lines of the first column and the first 12 lines of the middle column on page 36499 are removed and the following is added instead.

* * * * *

(2) *Corporations.* On or before the date prescribed by law for filing its income tax return, a corporation may obtain an automatic 6-month extension of time (a 3-month extension in the case of taxable years ending before December 31, 1982) for filing the income tax return by filing Form 7004 and paying the full amount of the properly estimated unpaid tax liability. For taxable years beginning before 1983, however, the corporation must remit with Form 7004 an estimated amount not less than would be required as the first installment of tax should the corporation elect to pay the tax in installments.

This correction is issued under the authority contained in 5 U.S.C. 301 and 552.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–27602 Filed 10–17–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD13 84–15]

Anchorage Ground: Puget Sound Area, Washington

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations describing several anchorage grounds within the Puget Sound Area. These amendments involve only name changes for some of the navigational aids used to delineate anchorage boundaries; the physical boundaries of the anchorage grounds remain the same. The intended effect of this action is to update the Regulations so that the names used therein are consistent with the recently changed names of the aids stated in the Light Lists, Coast Pilots and other publications.

DATES: This regulation becomes effective October 18, 1984. Comments on this regulation must be received on or before December 15, 1984.

ADDRESS: Comments should be mailed to Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA, 98174. The comments will be available for inspection or copying at 915 Second Avenue, Room 3506, Seattle, WA. Normal office hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. P. Bernard, USCG, Commander (mps), Thirteenth Coast Guard District, 915 Second Avenue, Rm. 3506, Seattle, WA, 98174. Telephone (206) 442–5537.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days from the date of publication. Due to the purely administrative nature of this change, following normal rulemaking procedures is unnecessary. The regulation should have little or no economic impact and no adverse comments are expected concerning the terms of the regulation. Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this notice are Lieutenant M. P. Bernard, USCG, Project Officer, Port Safety Branch, Thirteenth Coast Guard District, and Lieutenant Aubrey Bogle, USCG, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The names of a number of the navigational aids which delineate the boundaries for several anchorage grounds in Puget Sound, Washington are being changed by this Regulation. These changes are necessary to bring the naming of these aids to navigation into compliance with International Association of Lighthouse Authorities standards and have been reflected in changes to the Light List publications for Puget Sound. This change is purely administrative as the location of the reference points and the physical boundaries of the anchorage grounds remain the same.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended by revising § 110.230 (a)(4), (a)(6), (a)(7)and (a)(13) to read as follows:

§ 110.230 Puget Sound Area, Washington.

(a) * * *

(4) Port Gardner General Anchorage, Possession Sound. Beginning at a point bearing 211°, 560 yards, from Snohomish River Light 5; thence 180°, 675 yards; thence 216°, 250 yards; thence 254°, 800 yards; thence 302°, 1,700 yards; thence 49°, 1,280 yards; thence approximately 115°, 1,525 yards, to the point of beginning.

* * * * *

(6) Thorndike Bay Emergency Explosives Anchorage, Hood Canal. Beginning at a point bearing 267°, 3,500 yards, from Hood Canal Light 7; thence 180°, 1,000 yards to a point approximately 251°, 3,725 yards, from Hood Canal Light 7; thence 270°, 1,350 yards to a point approximately 256°, 5,000 yards, from Hood Canal Light 7; thence due north 1,000 yards, to a point approximately 268°, 4,900 yards, from Hood Canal Light 7; thence approximately 90°, 1,350 yards, to the point of beginning.

(7) Smith Cove General Anchorage (west), Elliott Bay. Shoreward of a line beginning at Fourmile Rock Light; thence to a point bearing 207°, 1,100 yards, from Fourmile Rock Light; thence southeasterly to a point bearing 6°30', 2,075 yards, from Duwamish Head Light 2; thence due north to the shore of Smith Cove.

* * * * *

(13) Commencement Bay General Anchorage. A quadrilateral area bounded as follows: Beginning at latitude 47°17'37" N., longitude 122°26'00" W.; thence due south to latitude 47°17'19" N., longitude 122°26'00" W.; thence due east to a point bearing 286° T from Hylebos Waterway Light 1 at a distance of 450 yards; thence due north to latitude 47°17'33" N., longitude 122°25'00" W.; thence west northwest to the point of beginning.

* * * * *

(33 U.S.C. 471; 49 CFR 1.46; and 33 CFR 1.05–1(g))

Dated: October 3, 1984.

R.R. Garrett,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 84-27567 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[Regulation 84-09]

COTP Hampton Roads, VA, Safety Zone Regulations; James River, Newport News, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the James River, Newport News, Virginia. This zone is needed to protect watercraft from possible damage during the launching of the aircraft carrier USS THEODORE ROOSEVELT from Newport News Shipbuilding Shipway No. 12. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 11:30 a.m., Eastern Daylight Time, 27 October 1984. It terminates at 2:00 p.m., Eastern Daylight Time, 27 October 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D. A. SANDE, Chief, Port Operations Department, Coast Guard Marine Safety Office, Hampton Roads, Norfolk, Virginia 23510 (804) 441-3296.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made 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 needed to safeguard watercraft and their occupants from the associated dangers involved.

Drafting Information

The drafter of this regulation is Lieutenant Commander D. A. SANDE, project officer for the Captain of the Port.

Discussion of Regulation

To prevent possible damage to watercraft and possible injury to their occupants during the launching of the USS THEODORE ROOSEVELT on Saturday, 27 October 1984, no watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Hampton Roads, Virginia. U.S. Coast Guard patrol vessels will be on scene to enforce the safety zone monitoring VHF-FM channels 16 and 13. This action is necessary due to the hazards involved in launching and moving an aircraft carrier within a restricted waterway such as the James River. During the launching, the USS THEODORE ROOSEVELT will be out of control until assisting tugs can secure the vessel. This rule is issued in response to a request by the Newport News Shipbuilding and Drydock Company for the Coast Guard to provide traffic control and escort vessels in connection with the launching. This action is designed to prevent damage to watercraft and possible injury to their occupants in the event of collision with the USS THEODORE ROOSEVELT. It is intended that this rule will accomplish this end by preventing all such traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.T543 to read as follows:

§ 165.T543 Safety Zone: James River, Newport News, Virginia.

(a) *Location.* The following area is a safety zone: All waters within 1000 yards from the shoreline of the northern portion of Newport News Shipbuilding and Drydock Company into the James River. Specifically all waters within the following boundaries constitute a safety zone: A line beginning at 37°00'3" N. Latitude, 76°27'01" W. Longitude, thence south along the shoreline to 36°59'15" N. Latitude, 76°26'40" W. Longitude, thence to 36°58'00" N. Latitude, 76°27'10" W. Longitude, thence to 37°00'12" N. Latitude, 76°27'54" W. Longitude, thence to the point of beginning. The safety zone will commence at 11:30 a.m., Eastern Daylight Time, 27 October 1984, and will terminate at 2:00 p.m., Eastern Daylight Time, 27 October 1984.

(b) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

(33 U.S.C. 1225 and 1231; 49 CFR 1.46; 33 CFR 165.3)

Dated: October 5, 1984.

D.C. O'Donovan,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

[FR Doc. 84-27568 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 21

Vocational Rehabilitation Amendments

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: Title I of Public Law 96-466, Education and Rehabilitation Amendments of 1980, revised and updated the VA vocational rehabilitation program. The enactment of Public Law 96-466 represented the culmination of a period of sustained study and consideration of the vocational rehabilitation program and the steps necessary to improve the program.

The changes revise the purpose of the program to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. This change expands the scope of vocational rehabilitation beyond training to include both employment and independence in daily living and marked a fundamental change in the philosophy and purpose of the program.

Other changes were designed to carry out this broadened purpose.

EFFECTIVE DATES: The following sections are effective October 1, 1980: §§ 21.21, 21.22, the portion of § 21.70(c) limiting the duration of a vocational rehabilitation program, §§ 21.78(b)(3), 21.132(c), 21.148(c), 21.152(c), 21.160(e), 21.162 (b) and (c), 21.252 (b) and (c), 21.256, the portion of § 21.260(a) providing for payment of a subsistence allowance, § 21.260(b), 21.266(e), 21.268, 21.274, 21.276, 21.320, 21.322(a), (f), (g), (h), 21.324 (a through n), 21.328, 21.332, 21.380, 21.382, 21.390, 21.400, 21.402, 21.410, 21.412, 21.414.

All sections not listed in the preceding paragraph are effective April 1, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Boies, Assistant Director for Policy and Program Development, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits (282), 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2886.

SUPPLEMENTARY INFORMATION: In the enactment of Pub. L. 95–202, the Veterans Administration was called upon to conduct a thorough study of the provisions of the veterans' vocational rehabilitation program with a view to making recommendations for legislative or administrative changes in the program. This study was completed and submitted to the President and the Congress on September 26, 1978 (Senate Committee on Veterans' Affairs Print No. 26, 95th Congress; House Committee on Veterans' Affairs Print No. 167, 95th Congress). This study found that the veterans' vocational rehabilitation program was essentially patterned after the original program in 1943 and was in need of substantial revision and modernization.

The findings and recommendations of this study were adopted by the President in his message to the Congress on the status of Vietnam era veterans submitted October 19, 1978. The President concluded that the current chapter 31 vocational rehabilitation program required "major updating."

The program of vocational rehabilitation in effect at that time was designed in 1943 when it was a progressive and responsible formulation and had generally served disabled veterans well for more than 30 years. Nevertheless, the program needed revision to take advantage of what had been accomplished in rehabilitation during the intervening 3 decades. Congress, in requiring the study, directed the VA to analyze its authority to provide vocational rehabilitation services in comparison with the authority provided the state-federal vocational rehabilitation program under the Rehabilitation Act of 1973. Our study concluded that an updating of our own rehabilitation authority was necessary and appropriate.

A major feature of the traditional VA vocational rehabilitation program limited the purpose of vocational rehabilitation to restoring a veteran's employability lost by virtue of a handicap due to a service-connected disability or disabilities. Our study recommended that the purpose of this program should encompass not only the achievement of employability, but also entry into and adjustment in suitable employment, including self-employment where appropriate. Such revision is consistent with the generally accepted goal and criterion of vocational rehabilitation. This revision is also consistent with current practice under which a rehabilitation agency is seen as the most effective agent for carrying the process of vocational rehabilitation to its completion in successful employment.

The chapter 31 definition which equated vocational rehabilitation with training was seen as incomplete in two important areas. First, it omitted certain essential services. There was neither provision for pretraining services for veterans whose training and employment goal is indeterminate, nor for direct employment placement and adjustment services necessary for the achievement of actual employment. Second, the limited definition resulted in a fragmented concept of vocational rehabilitation which did not consider rehabilitation to be a unified, multidisciplinary process. Consequently, the definition promoted the provision of VA vocational rehabilitation services as separate services, rather than as integrated and coordinated components of an overall process. The study recommended that the program provide all services needed—pretraining, training, and post-training, beginning with the identification of the handicapped, service-disabled veteran and continuing through the rehabilitation process on into employment whenever feasible.

Additional recommendations concerned changes in eligibility and entitlement, the need for an ongoing training and staff development program, and other provisions to bring about desired improvements in the program. The Congress, after consideration which included legislative proposals offered by the Veterans Administration, enacted the new vocational rehabilitation program as Title I of Pub. L. 96–466, of which some of the provisions were effective October 1, 1980. The remaining provisions became effective by April 1, 1981.

The changes enacted revise the purpose of the program to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

The scope of services which can be authorized (including employment services) is broadened. A comprehensive initial evaluation is provided in each case as a basis for determining eligibility and enhancing program planning. An extended evaluation is accomplished to determine if vocational rehabilitation is reasonably feasible when this determination cannot be made during an initial evaluation. The basic period of eligibility is increased from 9 years to 12 years. An individualized rehabilitation plan is jointly formulated by the VA and each veteran with an employment handicap who elects to participate in the vocational rehabilitation program. Subsistence allowance is increased. A program of staff development is established. Finally, the VA is directed to conduct a 4-year independent living pilot program to assist veterans for whom achievement of a vocational goal is not reasonably feasible.

Due to enactment of Pub. L. 96–466, the VA has taken a number of steps to help assure that the new program would be effectively implemented. Prior to enactment of Pub. L. 96–466, the development of policy and procedure for vocational rehabilitation was the responsibility of the Education and Rehabilitation Service. Field operations had been placed under the jurisdiction of the Veterans Services Division in the regional offices. In an effort to prepare for implementation of the new law, the Administrator approved a reorganization in both Central Office and regional offices which resulted in the establishment of the VR&C (Vocational Rehabilitation and Counseling) Service on October 1, 1980. VR&C was charged with the responsibility for developing policies and procedures for the administration of the chapter 31 program and for provision of counseling services under chapters 32, 34, 35 and other education programs administered by the VA. Concurrently, units were established at each regional office. These operational units were designated Vocational Rehabilitation and Counseling Divisions.

In considering the implementation of the sweeping changes in the program, the VA made several basic decisions. It was determined that the most practicable approach to establishing the new program was to develop a series of comprehensive issues on all provisions of the law affecting direct delivery of services. These issues detailed both policy and procedure, and enabled field staff to begin administration of the provisions of law as they became effective in October 1980 and April 1981. Guidelines dealing with chapter 31 eligibility and entitlement, initial and extended evaluations, Individualized Written Rehabilitation Plans, authorization of supplies, and new provisions for payment of monthly allowances were issued April 7, 1981. Two additional issues dealing with employment services and the pilot program of independent living were issued later in 1981. All issues were subsequently published in the **Federal Register.** No comments were received on

any of the issues published in the **Federal Register.**

A second decision was made to totally reorganize and restructure chapter 31 regulations, rather than modify the existing regulations. The proposed regulations were published in five separate sections and are now resubmitted together following the comment period for the fifth section. The first section of the proposed regulations was published for comment on April 29, 1982 in the **Federal Register**, volume 47, number 83, at pages 18381 to 18386. The regulations were concerned with definition of terms used in the law such as "employment handicap", "vocational goal", "independent living". In addition this section included regulations dealing with the purpose of the program, periods of eligibility, and basic entitlement.

The second section of the proposed regulations was published for comment in the **Federal Register** on September 15, 1982, volume 47, number 179 at pages 40649 through 40659. The regulations in this section implemented provisions of law dealing with the following: the provision of a comprehensive initial evaluation of the veteran's situation by a counseling psychologist in the VR&C Division to determine eligibility for and entitlement to assistance and to provide a basis for planning a rehabilitation program; the establishment of an IWRP (Individualized Written Rehabilitation Plan) based upon findings made in the course of the initial evaluation; and the duration of a period of rehabilitation services. In addition the role of the VRP (Vocational Rehabilitation Panel), formerly the Vocational Rehabilitation Board, has been restructured. The VRP now serves as a consultative rather than a decision-making body. The Vocational Rehabilitation Panel is a multidisciplinary group whose main function is to assist VR&C staff members to plan and carry out a program of rehabilitation services for seriously disabled veterans.

The third section of the proposed regulations was published in the **Federal Register** volume 48, number 91 at pages 20939 through 20949 on May 9, 1983. This section deals with provisions for approving and authorizing subsistence allowances, measuring full and part-time participation in a rehabilitation program, and approving leaves of absence during the period of rehabilitation services.

The fourth section of the proposed regulations was published in the **Federal Register** volume 48, number 180 at pages 41438 through 41449 on September 15, 1983. This section deals with a new system of case statuses, satisfactory conduct and cooperation, entrance into a rehabilitation program, travel, and approval of courses and facilities utilized under chapter 31.

The fifth and final section of the proposed regulations was published in the **Federal Register** volume 48, number 192 at pages 45123 through 45137 on October 3, 1983. This section includes personnel and staff development, the Veterans Advisory Committee on Rehabilitation, furnishing supplies, independent living services, counseling, educational and vocational training services, special rehabilitation services, medical care, and employment services.

The final regulations are now republished in their correct numerical sequence as a unit. (The original 5 publications for comment did not appear in chronological sequence.)

The Veterans Administration received comments from two organizations on proposed regulations concerning eligibility and entitlement to vocational rehabilitation services. We received no comments on other sections of the regulations during the comment period. Our action on these comments is described in the following paragraphs.

One organization had several comments on § 21.42(b) and § 21.42(c) pertaining to periods of eligibility.

Section 21.42 generally provides that the 12-year period of eligibility is the date that the veteran is discharged unless the date is deferred for one of the reasons given in § 21.42 (a), (b), or (c). § 21.42(b) states that the beginning date of the 12-year period may be deferred if it is determined that the veteran was not discharged under other than honorable conditions or that the discharge is a bar to benefits which is later removed. If such a change is made, then the beginning date of the 12-year period would be the date of the change in the veteran's status. The organization is concerned that the reasons for removing a bar to benefits and the agency which can make such a change (i.e., Discharge Review Board or Board of Corrections for Military Discharges) are not specified in § 21.42(b) or elsewhere. It is suggested that either the regulation be made more specific or that a cross-reference be made to CFR 3.12 which generally governs changes in character of discharge determinations.

The provision of law on which § 21.42(b) is based includes the reasons for removal of bars to benefits. These determinations are made under the provision of existing § 3.12. It was therefore not believed necessary or desirable to restate those provisions in § 21.42(b). However, we agreed that a cross-reference to § 3.12 is appropriate.

The organization also requests that § 21.42(c) be clarified to include drug and alcohol conditions as a basis for deferral of the beginning date of the 12-year period of eligibility. The reasons for deferral of the period of eligibility under this provision are determined under the same policies and procedures as are applicable under chapter 34 to extension of the delimiting date because of physical or mental disability. Since drug and alcohol disabilities may not in and of themselves be the basis of an extension of the delimiting date under chapter 34, neither may an extension be approved under chapter 31. On the other hand, drug and alcohol problems are considered in determining a veteran's basic entitlement to vocational rehabilitation services. Under § 21.53(a)(3), the effects of alcoholism and drug abuse are to be considered in the same manner as other nonservice-connected disabilities in evaluating restrictions on the veteran's employability. Therefore, no changes were made in § 21.42(c).

Comments were received on the provisions of § 21.52 concerning the determination of a serious employment handicap. Establishment of basic eligibility (§ 21.40) requires that the veteran have a compensable service-connected disability and an employment handicap.

A separate determination whether a serious employment handicap exists must be made in each case in which an employment handicap is found. A finding of serious employment handicap is a recognition that the veteran has experienced or can be expected to experience serious problems in training and employment. For each of these individuals special measures may be needed, such as extension of the period of eligibility, additional training or employment services as well as more intensive assistance from VR&C staff during the period the veteran is participating in a rehabilitation program to assure a successful outcome.

Section 21.52(c) states that if an employment handicap exists, a serious employment handicap shall always be held to exist under certain conditions; i.e., service-connected disability of 50% or more, and neuropsychiatric disability evaluated at 30 to 40%. While agreeing with the intent of the paragraph, the comment was that the use of the phrase that "a serious employment handicap always exists" under the specific conditions cited could lead such veterans "with disabilities evaluated at 50% or more disabling who have made a satisfactory employment adjustment to believe they are exceptional." We agreed the statement in question could be more aptly worded and have

modified the proposed regulation accordingly.

Another comment on this same section states that the situations of veterans with a non-neuropsychiatric service-connected disability evaluated at 30 or 40% disabling be examined to assure that the veteran is satisfied with his or her current employment. The comment stated that, if the veteran is not satisfied with his or her employment, he or she should be found to have a serious employment handicap on the basis of his or her dissatisfaction with current employment. In considering this suggestion, it should be noted that the veteran's satisfaction or dissatisfaction with current employment is considered in the determination of basic entitlement. A part of the determination of basic entitlement is made in accordance with § 21.51(c)(4), Consistency with Abilities, Aptitudes, and Interests. The veteran's expressed satisfaction or dissatisfaction with current or prior employment and the reasons for the veteran's feelings provide important data in determining if employment is consistent with the veteran's pattern or abilities, aptitudes and interests.

The provisions of § 21.52(d) allow for the establishment of serious employment handicap on the basis of a prior history of poor prior adjustment, or current problems which indicate a need for special assistance. Within this context, dissatisfaction with current or prior employment is considered insofar as the effects of such dissatisfaction are manifested in the veteran's prior history or current situation. If evidence of serious employment or ajdustment problems warranting a finding of serious employment handicap does not exist, the counseling psychologist would determine that the veteran was eligible for the comprehensive vocational rehabilitation benefits and services which may be provided on the basis of employment handicap, but ineligible for the special forms of assistance which are provided only on the basis of serious employment handicap. Therefore, we have made no revision of the section commented upon.

Section 21.52(e) states that a serious employment handicap will not normally be found if a veteran has a service-connected disability evaluated at less than 30% disabling. This paragraph allows a positive finding if especially servere problems of work adjustment exist. A suggestion was made that a finding of serious employment handicap be permitted if a veteran is totally dissatisfied with his or her employment even if such dissatisfaction is not shown in an unstable work history. This recommendation is similar to the previous proposal regarding a finding of serious employment handicap in the case of a veteran with a disability rated at 30 or 40% disabling; and our response is subject to the same considerations. The effects of the veteran's dissatisfaction with his or her employment in establishing the existence of a serious employment handicap are considered within the context of its contribution to serious problems in or maintaining employment. Therefore, this suggestion was also rejected. Section 21.60 establishes the Vocational Rehabilitation Panel. The purpose of the Panel is to provide technical assistance in the planning of rehabilitation programs for seriously disabled veterans and dependents. This purpose is carried out through use of a wide range of professionals from public and private agencies including the VA, community agencies and organizations participating in individual cases. A question was raised whether accredited representatives of veterans organizations may participate only in those panels which concern an individual they represent, or if accredited representatives may be asked to be permanent members of panels based upon their ongoing interest in the welfare of veterans. Section 21.60(b) describes the composition of the Panel. The Panel must include a counseling psychologist in the VR&C Division as chairperson, a VRS (vocational rehabilitation specialist) in VR&C, a medical consultant from a VA medical center, and a social worker from a VA medical center. In addition other specialists from the VA may be utilized to assist on an individual as-needed basis. It was not intended that persons outside the VA would serve as members of the Vocational Rehabilitation Panel. For this reason we have amended § 21.60(b)(5) to delete language in subparagraph (b)(5) which implies otherwise. The VA, from time to time, as appropriate may seek from non-VA sources information for use by the Panel in evaluating a case, but those sources will not participate in the Panel's review. Therefore the role of the accredited representative from the service organization representing the particular veteran is not changed by this regulation.

Section 21.62(b)(4) requires the Panel to review all discontinued cases involving veterans with service-connected disability of 50% or more. It was suggested that the Panel also review discontinuances of veterans with service-connected disability evaluated at less than 50% disabling. The role of the Panel in cases evaluated at 50% or more disabling is to focus on the special problems which arise in cases of the most seriously disabled veterans. The Panel's review of discontinuance actions in these cases is consistent with its general role. Adding to this responsibility would vitiate the special role of the VRP and would not add to the quality of service being furnished service-disabled veterans with disability ratings of less than 50%, so the proposal is rejected.

In addition to the specific changes made in response to comments, editorial, grammatical and technical changes have also been made in the text. In some instances the provisions have been revised to more clearly follow the text of the authorizing statutory language, to improve readability, or to improve organization of the material. None of the changes made are of such a nature as to significantly amend the substance of the original proposals and republication of the final regulations for comment is not necessary.

Regulatory Flexibility Act

The Administrator hereby certifies that these final rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that, to the extent the rules are directed to small entities, they follow the requirements of Public Law 96–466, or codify pre-existing agency policy and practice. Thus, no new regulatory burdens are imposed on small entities. In addition, only a limited number of service-connected disabled veterans are in training under this program at any given time. These rules will therefore have no significant economic impact on small entities.

The Catalog of Federal Domestic Assistance Number is 64.116.

Executive Order 12291

These regulations do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. There will be no new reporting or recordkeeping requirements, or other compliance costs, to business or educational institutions caused by these rules. The rules will not affect other agencies. However, these rules may induce some veterans to train under 38 U.S.C., chapter 31, who would

not have done so otherwise. Furthermore, these regulations will affect every veteran who is eligible to train under 38 U.S.C., chapter 31. However, these effects of the law do not place the regulations in the category of major rules. Since these regulations are not major rules they do not require regulatory analysis. They will not have an effect of $100 million in any year. They will not create major increases in costs or prices. They will not cause major additional costs to recipients. Accordingly, the VA has not prepared an analysis of these regulations.

List of Subjects in 38 CFR Part 21

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

Approved: August 28, 1984.
By direction of the Administrator.

Everett Alvarez, Jr.,
Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. The table of contents for Part 21 is revised to read as follows.

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1a. Section 21.1 and the center heading preceding it are revised to read as follows:

Vocational rehabilitation overview

§ 21.1 Training and rehabilitation for veterans with service-connected disabilities.

(a) *Purposes.* The purposes of this program are provide to eligible veterans with compensable service-connected disabilities all services and assistance necessary to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. (38 U.S.C. 1500)

(b) *Basic requirements.* Before a service-disabled veteran may receive training and rehabilitation services under chapter 31, title 38, United States Code, three basic requirements must be met:

(1) The Veterans Administration must first find that the veteran has basic entitlement to services as prescribed by § 21.40. (38 U.S.C. 1502)

(2) The services necessary for training and rehabilitation must be identified by the Veterans Administration and the veteran. (38 U.S.C. 1506)

(3) An individual written plan must be developed by the Veterans Administration and the veteran describing the goals of the program and the means through which these goals will be achieved. (38 U.S.C. 1507)

§ 21.2 [Removed]

2. Section 21.2 is removed.

§ 21.3 [Removed]

3. Section 21.3 is removed.

§ 21.20 [Removed]

3a. The center heading preceding § 21.20 is revised to read:

NONDUPLICATION.

4. Section 21.20 is removed.

5. Section 21.21 is revised to read as follows:

§ 21.21 Nonduplication—38 U.S.C. Chapters 31, 32, 34, and 35.

(a) *Election.* A veteran who has basic entitlement to rehabilitation under chapter 31, and is also eligible for educational assistance under chapters 32, 34, and 35 must elect which benefit he or she will currently receive. The veteran may reelect at any time. (38 U.S.C. 1795)

(b) *Prior training.* If a veteran has pursued an educational or training program under chapter 32, 33 (prior to its repeal), 34 or 35, the earlier program of education or special restorative training shall be utilized to the extent practicable in determining the character and duration of vocational rehabilitation to be furnished. (38 U.S.C. 1795)

6. Section 21.22 is revised to read as follows:

§ 21.22 Nonduplication—Federal programs.

(a) *Allowances.* A service-disabled veteran who is eligible for benefits under chapter 31, may not receive a subsistence allowance or elect payment of an allowance at the educational assistance rate under chapter 34 pursuant to § 21.264 if the veteran:

(1) Is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service), or

(2) Is attending a course of education or training paid for under chapter 41, Title 5, United States Code and whose full salary is being paid to such veteran while so training. (38 U.S.C. 1781)

(b) *Services which may be authorized.* A service-disabled veteran who is in one of the two categories defined in paragraph (a) of this section is entitled to receive all benefits, other than an allowance, to which he or she is otherwise entitled under chapter 31, including:

(1) Payment of any tuition and fees not paid for by the Armed Forces.

(2) The cost of special services, such as reader services, tutorial assistance, and special equipment during the period of such training. (38 U.S.C. 1781)

7. Section 21.30 is revised to read as follows:

§ 21.30 Claims.

A specific claim in the form prescribed by the Veterans Administration must be filed for:

(a) A program of rehabilitation services, or

(b) Employment assistance. (38.U.S.C. 1502, 1517)

8. Section 21.31 is revised to read as follows:

§ 21.31 Informal claim.

Any communication or action indicating an intent to apply for rehabilitation or employment assistance, from a veteran, a duly authorized representative, or a Member of Congress may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the veteran for execution. In the case of a claim for rehabilitation, or employment assistance, the formal claim will be considered filed as of the date of receipt of the informal claim if received within 1 year from the date it was sent to the veteran, or before cessation of the course, whichever is earlier. (38 U.S.C. 3013)

9. Section 21.32 is revised to read as follows:

§ 21.32 Time limit.

(a) *Time limit for filing evidence.* The provisions of this paragraph are applicable to an original application, formal or informal, for rehabilitation or employment assistance and to a claim for increased benefits by reason of the existence of a dependent.

(1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application;

(2) If the evidence is not received within 1 year from the date of such notification, benefits may not be paid by reason of that application. (38 U.S.C. 3013)

(b) *Failure to furnish claimant form of notice of time limit.* Failure to furnish a potential claimant any form of information concerning the right to file a claim, or to furnish notice of the time limit for the filing of a claim or submission of evidence will not extend the periods allowed for these actions. As to appeals, see 38 CFR 19.110. (38 U.S.C. 3013)

Cross-references: § 3.103, Due process, § 3.110, Computation of time limits.

10. A new center heading and a § 21.35 are added to read as follows:

Definitions

§ 21.35 Definitions.

(a) *Employment handicap.* This term means an impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(1))

(b) *Independence in daily living.* This term means the ability of a veteran, without the service of others, or with a reduced level of the services of others, to live and function within such veteran's family and community. (38 U.S.C. 1501(2))

(c) *Program of education.* This term means:

(1) A combination of subjects or unit courses pursued at a school which is generally acceptable to meet requirements for a predetermined educational, professional or vocational objective; or

(2) Such subjects or courses which are generally acceptable to meet requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; or

(3) Any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at any educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section (7)(i)(1) of the Small Business Act. (15 U.S.C. 636(i)(1), 38 U.S.C. 1652(b))

(d) *Program of independent living services and assistance.* This term includes:

(1) The services provided in this program that are needed to enable a veteran to achieve maximum independence in daily living, including counseling, diagnostic, medical, social, psychological, and educational services determined by the Veterans Administration to be necessary, and

(2) The monthly allowance authorized by 38 U.S.C. ch. 31 for such a veteran. (38 U.S.C. 1501(4))

(e) *Rehabilitated to the point of employability.* This term means that the veteran is employable in an occupation for which a vocational rehabilitation program has been provided under this program (38 U.S.C. 1501(5))

(f) *Rehabilitation program.* This term includes, when appropriate:

(1) A vocational rehabilitation program (see paragraph (i) of this section);

(2) A program of independent living services and assistance (see paragraph (d) of this section) for a veteran for whom a vocational goal has been determined not to be reasonably feasible; or (38 U.S.C. 1501(6))

(3) A program of employment services for employable veterans who are prior participants in Veterans Administration or state-federal vocational rehabilitation programs. (38 U.S.C. 1517)

(g) *Serious employment handicap.* This term means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(7))

(h) *Vocational goal.* This term means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests. (38 U.S.C. 1501(8))

(i) *Vocational rehabilitation program.* This term includes:

(1) The services that are needed for the accomplishment of the purposes of 38 U.S.C. ch. 31 including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Veterans Administration to be needed:

(i) In the case of a veteran for whom the achievement of a vocational goal has not been found to be infeasible such services include:

(A) Determining whether a vocational goal is reasonably feasible;

(B) Improving the veteran's potential to participate in a program of services designed to achieve a vocational goal;

(C) Enabling the veteran to achieve maximum independence in daily living;

(ii) In the case of a veteran for whom achievement of a vocational goal is feasible, such services include assisting the veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment; or

(2) The term also includes the monetary assistance authorized by 38 U.S.C. ch. 31 for a veteran receiving any of the services described in this paragraph. (38 U.S.C. 1501(9))

(j) *Program of employment services.* This term includes the counseling, medical, social, and other placement and post-placement services provided to a veteran under 38 U.S.C. ch. 31 to assist the veteran in obtaining or maintaining suitable employment. (38 U.S.C. 1517)

(k) *Other terminology.* The following are primarily intended as explanations rather than definitions of terms to which frequent reference will be made in these regulations.

(1) *Counseling psychologist.* Unless otherwise stated, the term "counseling psychologist" refers to a counseling psychologist in the Vocational Rehabilitation and Counseling Service in the Department of Veterans Benefits, Veterans Administration. (38 U.S.C. 1518(c))

(2) *Vocational rehabilitation specialist.* Unless otherwise stated, the term "vocational rehabilitation specialist" refers to a vocational rehabilitation specialist in the Vocational Rehabilitation and Counseling Service in the Department of Veterans Benefits of the Veterans Administration, or to a Veterans Administration counseling psychologist

performing the duties of a Vocational Rehabilitation Specialist. (38 U.S.C. 1518(c))

(3) *School, educational institution, institution.* These terms means any public or private school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults. (38 U.S.C. 1652(c))

(4) *Training establishment.* This term means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. Chapter 4C, or any agency of the Federal Government authorized to supervise such training. (38 U.S.C. 1652(e))

(5) *Rehabilitation facility.* This term means a distinct organizational entity, either separate or within a larger insititution or agency, which provides goal-oriented comprehensive and coordinated services to individuals designed to evaluate and minimize the handicapping effects of physical, mental, social and vocational disadvantages, and to effect a realization of the individual's potential. (38 U.S.C. 1515(a))

(6) *Workshop.* This term means a charitable organization or institution, conducted not for profit, but for the purpose of carrying out an organized program of evaluation and rehabilitation for handicapped workers and/or for providing such individuals with remunerative employment and other occupational rehabilitative activity of an educational or therapeutic nature. (38 U.S.C. 1515(a))

11. The center heading and § 21.40 are revised to read as follows:

Basic Entitlement

§ 21.40 Basic entitlement.

A veteran shall be entitled to a program of rehabilitation services under 38 U.S.C. chapter 31 if all of the following conditions are met:

(a) *Service-connected disability.*

(1) The veteran has a service-connected disability which is, or but for the receipt of a retired pay would be, compensable under 38 U.S.C. ch. 11 and which was incurred or aggravated in service on or after September 16, 1940, or

(2) A serviceperson is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has charge pending discharge or release from active military, naval or air service and is suffering from a disability which will likely be compensable under 38 U.S.C. ch. 11. (38 U.S.C. 1502)

(b) *Employment handicap.* The veteran is determined to be in need of rehabilitation to overcome an employment handicap. (38 U.S.C. 1502)

12. A new center heading is added and § 21.41 is revised to read as follows:

Periods of Eligibility

§ 21.41 Basic period of eligibility.

A veteran having basic entitlement may be provided a program of rehabilitative services the twelve-year period following discharge. The beginning date of the twelve-year period is the day of the veteran's discharge or release from his or her last period of active military, naval, or air service and the ending date is twelve years from the discharge or release date, unless the beginning date is deferred or the ending date is deferred or extended as provided in §§ 21.42, 21.44, and 21.45. (38 U.S.C. 1503(a))

13. Section 21.42 is revised to read as follows:

§ 21.42 Basic period of eligibility deferred.

The basic twelve-year period of eligibility does not run if the veteran was prevented from beginning or continuing a vocational rehabilitation program for one of the following reasons:

(a) *Compensable service-connected disability not established.* The basic twelve-year period shall not begin to run until the veteran establishes the existence of a compensable service-connected disability. When the veteran establishes the existence of a compensable service-connected disability, the basic twelve-year period begins on the day the Veterans Administration notifies the veteran of this. The ending date is twelve years from the beginning date. (38 U.S.C. 1503(b)(3))

(b) *Character of discharge.* (1) The basic twelve-year period of eligibility shall not begin to run during any period when the veteran had not met the requirement of a discharge or release from the active military, naval or air services under conditions other than dishonorable before:

(i) The discharge or release was changed by appropriate authority, or

(ii) The Veterans Administration determines that the discharge or release was under conditions other than dishonorable.

(2) The basic twelve-year period shall not begin to run during any period in which the veteran's discharge or dismissal was considered a bar to benefits by the Veterans Administration, before this bar is removed by the Veterans Administration.

(3) When there is a change in the character of discharge or dismissal under paragraphs (b) (1) or (2) of this section the beginning date of the basic twelve-year period of eligibility is the effective date of the change. Determination of character of discharge and change in the character of discharge shall be made under the provisions of § 3.12. The ending date is twelve years from the beginning date. (38 U.S.C. 1502(b) (2))

(c) *Medical condition prevents initiation or continuation.* The basic twelve-year period of eligibility shall not begin to run or continue to run during any period of 30 days or more in which the veteran's participation in vocational rehabilitation is infeasible because of the veteran's medical condition. The twelve-year period shall begin or resume when it is feasible for the veteran to participate in a vocational rehabilitation program, as that term is defined in § 21.35. (38 U.S.C. 1503(b)(1))

§ 21.43 [Removed]

14. Section 21.34 is removed.

15 New § 21.44 is added to read as follows:

§ 21.44 Extension beyond basic period of eligibility because of serious employment handicap.

The basic period of eligibility of a veteran with a serious employment handicap may be extended when the veteran's employment and particular handicap necessitate an extension as necessary to pursue a vocational rehabilitation program under the following conditions:

(a) *Not rehabilitated to the point of employability.* The basic period of eligibility may be extended when the veteran has not previously been rehabilitated to the point of employability. (38 U.S.C. 1503(c))

(b) *Rehabilitated to the point of employability.* The veteran was previously declared rehabilitated to the point of employability, under the Veterans Administration vocational rehabilitation program, but either:

(1) The veteran's service-connected disability or disabilities have worsened

to the extent that he or she is unable to perform the duties of the occupation in which he or she is trained, or in a related occupation; or

(2) The occupation in which the veteran was rehabilitated to the point of employability is not presently suitable in view of the veteran's current employment handicap and capabilities. (The finding of unsuitability must be based upon objective evidence developed in the course of reconsideration which shows that the nature or extent of the veteran's employment handicap and his or her capabilities are significantly different than were previously found.) or;

(3) Occupational requirements have changed and additional services are needed to help the veteran continue in the occupation in which he or she was trained or in a related field. (38 U.S.C. 1503(c))

16. New § 21.45 is added to read as follows:

§ 21.45 Extension beyond basic period of eligibility for a program of independent living services.

The period of eligibility for a veteran to pursue a program of independent living services may be extended beyond the basic twelve-year period under the following conditions:

(a) The veteran's medical condition (service and nonservice-connected disabilities) is so severe that achievement of a vocational goal is not reasonably feasible, and (b) the extension is necessary to ensure that he or she will achieve maximum independence in daily living. (38 U.S.C. 1503(d))

17. New § 21.47 is added to read as follows:

§ 21.47 Eligibility for employment assistance.

(a) *Eligibility of current participants in chapter 31.* Each veteran currently in a vocational rehabilitation program under 38 U.S.C. ch. 31 is eligible for assistance in obtaining and maintaining suitable employment. (38 U.S.C. 1517)

(b) *Eligibility of prior participants in vocational rehabilitation programs.* A veteran who has been in a vocational rehabilitation program under chapter 31 or a similar program under the Rehabilitation Act of 1973 and is employable in competitive employment or in a sheltered workshop or other special situation at the minimum wage is eligible for employment assistance under the following conditions:

(1) The veteran has filed a claim for vocational rehabilitation or employment assistance;

(2) The veteran has a service-connected disability which:

(i) Was incurred on or after September 16, 1940; and

(ii) Is compensable, but for payment of retired pay; and

(3) The veteran:

(i) Completed a vocational rehabilitation program under 38 U.S.C. ch. 31 or participated in such a program for at least 90 days on or after September 16, 1940; or

(ii) Completed a vocational rehabilitation program under the Rehabilitation Act of 1973 after September 26, 1975, or participated in such a program which included at least 90 days of post-secondary education or vocational training. (38 U.S.C. 1517)

(c) *Exclusion of period of employment assistance from period of eligibility for vocational rehabilitation.* The periods during which employment assistance may be provided are not subject to limitations on periods of eligibility for vocational rehabilitation provided in §§ 21.41 through 21.45. (38 U.S.C. 1505)

18. New § 21.48 is added to read as follows:

§ 21.48 Severance of service connection—reduction to noncompensable degree.

When a rating action is taken which proposes severance of service-connection or reduction to a noncompensable degree, the provisions of the following paragraphs will govern the veteran's entitlement to rehabilitation and employment assistance under 38 U.S.C. ch. 31.

(a) *Applicant.* If the veteran is an applicant for rehabilitation or employment assistance when the proposed rating action is taken, all processes respecting determination of entitlement or induction into training shall be immediately suspended. In no event shall any veteran be inducted into a rehabilitation program or provided employment assistance during the interim periods provided in § 3.105 (d) and (e) of this title. If the proposed rating action becomes final, the application will be denied. See also § 21.50 as to initial evaluation. (38 U.S.C. 1504)

(b) *Reduction while in a rehabilitation program.* If the proposed rating action is taken while the veteran is in a rehabilitation program and results in a reduction to a noncompensable rating of his or her disability, the veteran may be retained in the program until the completion of the program, except if "discontinued" under § 21.198 he or she may not reenter. (38 U.S.C. 1503)

(c) *Severance while in a rehabilitation program.* If the proposed rating action is taken while the veteran is in a rehabilitation program and results in severance of the service-connection of his or her disability, rehabilitation will be terminated effective as of the last day of the month in which severance of service-connection becomes final. (38 U.S.C. 1503)

19. A new center heading and new §§ 21.50, 21.51, 21.52, 21.53, 21.57, 21.58, and 21.59 are added to read as follows:

Initial and Extended Evaluation

§ 21.50 Initial evaluation.

(a) *Eligibility for initial evaluation.* The Veterans Administration shall provide an initial evaluation to each individual who applies for benefits under chapter 31, if the individual is:

(1) A veteran who has a compensable service-connected disability which was incurred in, or aggravated by service on or after September 16, 1940; or

(2) A serviceperson who is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has charge pending discharge or release from active military, naval or air service, and the serviceperson is suffering from a disability which the Veterans Administration has determined will likely be compensable.

(38 U.S.C. 1502(1))

(b) *Purpose.* An initial evaluation will be provided to each individual who meets the conditions of paragraph (a) of this section to:

(1) Determine the existence of an employment handicap;

(2) Determine the basic twelve-year period of eligibility;

(3) Determine whether an employment handicap shall be considered a serious employment handicap;

(4) Determine whether the basic twelve-year period of eligibility is extended for a veteran with a serious employment handicap;

(5) Determine as expeditiously as possible, without an extended evaluation, whether achievement of a vocational goal is reasonably feasible;

(6) Evaluate the ability of the veteran to live and function independently within the veteran's family and community;

(7) Determine if the veteran is eligible for employment services under § 21.47;

(8) Develop information necessary to plan an individual program for a veteran found eligible and entitled to services under chapter 31; and

(9) Assist a veteran who is found ineligible for assistance under chapter 31 to identify other resources and programs for which he or she may be eligible.

(38 U.S.C. 220, 1506(a), 1516)

(c) *Scope of initial evaluation.* The initial evaluation shall include consideration of:

(1) The handicapping effects of the veteran's service-connected disability on employability and independence in daily living;

(2) The veteran's residual physical and mental capabilities which contribute to employability and independence in daily living;

(3) The veteran's ability to function independently in family and community;

(4) Prior assessments of employability by a counseling psychologist;

(5) Assessments authorized to provide additional information necessary for initial evaluation; and

(6) The veteran's personal history including:

(i) Education and training;

(ii) Employment;

(iii) Nonservice-connected disability(ies), and

(iv) Family and community adjustment.

(38 U.S.C. 1506(a))

(d) *Responsibility for initial evaluation.* (1) All determinations regarding service requirements for basic entitlement and, the beginning and ending dates of a veteran's basic twelve-year period of eligibility shall be made by appropriate staff of the Adjudication Division.

(2) All other determinations, including extension of the basic twelve-year period because of serious employment handicap, and entitlement to assistance under chapter 31 shall be made by appropriate staff of the Vocational Rehabilitation and Counseling Division.

(38 U.S.C. 1502, 1503, 1515(a))

(e) *Cooperation of the veteran.* The cooperation of the veteran is essential to an initial evaluation. The purpose of the initial evaluation and the steps in the process shall be explained to the veteran and his or her cooperation requested. If the veteran does not cooperate in the initiation or completion of the initial evaluation the counseling psychologist shall make a reasonable effort through counseling to secure the veteran's cooperation. If the veteran's cooperation cannot be secured, the counseling psychologist shall suspend the initial evaluation until such time as the veteran cooperates. The veteran will be informed of any suspension of the initial evaluation, the reasons for this action, and the steps necessary to resume the evaluation.

(38 U.S.C. 1511)

§ 21.51 Employment handicap.

(a) *Importance of decision.* The proper determination of employment handicap is a critical decision for rehabilitation planning and program accountability. To the extent possible, necessary information shall be developed in the course of initial evaluation and the significance of the information under paragraphs (d) and (e) of this section for determining employment handicap shown in each case.

(38 U.S.C. 1501(1), 1502)

(b) *Definition.* The term "employment handicap" means an impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(1))

(c) *Components of employment handicap.* Components of employment handicap include:

(1) *Impairment.* This term means the restrictions on employability caused by:

(i) The veteran's service and nonservice-connected disabilities;

(ii) Deficiencies in education and training;

(iii) Negative attitudes toward the disabled; and

(iv) Other pertinent factors.

(2) *Service-connected disability.* The veteran's service-connected disability need not be the sole or primary cause of the employment handicap but it must materially contribute to the impairment described in paragraph (c)(1) of this section. Therefore its effects must be identifiable, measurable, or observable.

(3) *Nonservice-connected disability.* This term includes all physical and mental disabilities which have not been found to be service-connected by the Veterans Administration, including alcoholism and drug abuse. The effects of alcoholism and drug abuse are to be considered in the same manner as other nonservice-connected disabilities in evaluating restrictions on employability. When the manifestations of alcoholism, drug abuse or other nonservice-connected disabilities raise questions as to the reasonable feasibility of a vocational goal for a veteran otherwise entitled to assistance under chapter 31 such questions will be resolved under provisions of § 21.53.

(4) *Consistency with abilities, aptitudes, and interests.* The following points should be considered to determine if the veteran's training and employment are consistent with his or her abilities, aptitudes and interests:

(i) A finding that a veteran is employed in an occupation which is consistent with his or her abilities, aptitudes and interests may not be made if the occupation does not require reasonably developed skills, except under conditions described in paragraphs (e) (2) and (3), of this section;

(ii) The veteran's residual capacities, as well as limitations arising from the veteran's service and nonservice-connected disabilities are relevant;

(iii) Evidence of the consistency of interests with training and employment may be based on:

(A) The veteran's statements to a Veterans Administration counseling psychologist during initial evaluation or subsequent reevaluation;

(B) The veteran's history of participation in specific activities; or

(C) Information developed by the Veterans Administration through use of interest inventories.

(38 U.S.C. 1502)

(d) *Determining extent of impairment.* The extent of the veterans impairment shall be assessed through consideration of factors described in paragraph (c)(1) of this section:

(38 U.S.C. 1502)

(e) *Material contribution of service-connected disability to the impairment.* A finding that the veteran's service-connected disability materially contributes to his or her impairment to employment will be made by assessing the following factors:

(1) *Preparation for employment.* The service-connected condition adversely affects the veteran's current ability to prepare for employment in one or more fields which would otherwise be consistent with the veteran's abilities, aptitudes, and interests. An adverse effect is demonstrated when the physical or psychological results of the service-connected condition:

(i) Impair the veteran's ability to train;

(ii) Prevent or impede access to training facilities; or

(iii) Diminish the veteran's motivation and ability to mobilize his or her energies for education or training.

(2) *Obtaining employment.* The service-connected condition places the veteran at a competitive disadvantage with similarly circumstanced nondisabled persons in obtaining employment. A veteran without reasonably developed specific job skills shall be considered to be at a competitive disadvantage unless evidence of record shows a history of current, stable, continuing employment.

(3) *Retaining employment.* The physical or psychological effects of a service-connected condition adversely

affect the veteran's ability to maintain employment which requires reasonably developed skills. This criterion is not met if a veteran though lacking reasonably developed skills, has a history of continuing, stable employment.

(38 U.S.C. 1501(1))

(f) Determination of employment handicap. The counseling psychologist may find the veteran has an employment handicap.

(1) An employment handicap which entitles the veteran to assistance under this program exists when all of the following conditions are met:

(i) The veteran has an impairment of employability;

(ii) The veteran's service-connected disability materially contributes to the impairment of employability;

(iii) The veteran has not overcome the effects of the impairment of employability through employment in, or qualification for employment in an occupation consistent with his or her pattern of abilities, aptitudes, and interests.

(2) An employment handicap does not exist when *any* of the following conditions is present:

(i) The veteran's employability is not impaired.

(ii) The veteran's employability is impaired, but his or her service-connected disability does not materially contribute to the impairment of employability.

(iii) The veteran has overcome the effects of the impairment of employability through employment in, or qualification for employment in an occupation consistent with his or her pattern of abilities, aptitudes and interests.

(38 U.S.C. 1502(2))

(g) *Eligibility for employment assistance.* If a veteran is not found to have an employment handicap delete a separate determination of his or her eligibility for employment assistance will be made under provisions of § 21.47.

(38 U.S.C. 1517)

(h) *Responsibility for determinations.* The determination of an employment handicap and eligibility for employment assistance may only be made by a counseling psychologist in the Vocational Rehabilitation and Counseling Division.

(38 U.S.C. 1506(a))

§ 21.52 Serious employment handicap.

(a) *Requirement of determination of serious employment handicap.* A separate determination whether a serious employment handicap exists shall be made in each case in which an employment handicap is found.

(38 U.S.C. 1506(a))

(b) *Definition.* The term "serious employment handicap" means a significant impairment of a veteran's ability to prepare for, obtain or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(7))

(c) *Serious employment handicap exists.* A veteran who has been found to have an employment handicap shall also be held to have serious employment handicap if he or she has:

(1) A neuropsychiatric service-connected disability rated at thirty percent or more disabling; or

(2) Any other service-connected disability rated at fifty percent or more disabling.

(38 U.S.C. 1506(a))

(d) *Serious employment handicap may exist.* A veteran with a nonneuropsychiatric service-connected disability may be found to have a serious employment handicap even though the disability is rated at thirty or forty percent disabling, when either of the following conditions exists:

(1) The veteran has a prior history of poor adjustment in training and employment, and special efforts will be needed if the veteran is to be rehabilitated; or

(2) The veteran's situation presents special problems due to nonservice-connected disability, family pressures, etc., and a number of special and supportive services are needed to effect rehabilitation.

(38 U.S.C. 1506(a))

(e) *Serious employment handicap normally not found.* A finding of serious employment handicap will normally not be made when a veteran's service-connected disability is rated at less than thirty percent disabling. A finding of serious employment handicap may nevertheless be made when:

(1) The veteran's service-connected disability has caused substantial periods of unemployment or unstable work history;

(2) The veteran has demonstrated a pattern of maladaptive behavior which is shown by a history of withdrawal from society or continuing dependency on government income support programs; and

(3) The Vocational Rehabilitation Panel has reviewed the case under provisions of § 21.62 and forwarded its evaluation to the counseling psychologist.

(38 U.S.C. 1506(a))

(f) *Responsibility for determining serious employment handicap.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall make determinations of serious employment handicap.

(38 U.S.C. 1506(a))

§ 21.53 Reasonable feasibility of achieving a vocational goal.

(a) *Requirement.* The Veterans Administration shall determine the reasonable feasibility of achieving a vocational goal in each case in which a veteran has either:

(1) An employment handicap, or

(2) A serious employment handicap.

(38 U.S.C. 1506(a))

(b) *Definition.* The term "vocational goal" means a gainful employment status consistent with the veteran's abilities, aptitudes, and interests.

(38 U.S.C. 1501(8))

(c) *Expeditious determination.* The determination of reasonable feasibility shall be made as expeditiously as possible when necessary information has been developed in the course of initial evaluation. If an extended evaluation is necessary as provided in § 21.57 a decision of feasibility shall be made by the end of the extended evaluation. Any reasonable doubt shall be resolved in favor of a finding of feasibility.

(38 U.S.C. 1505(d))

(d) *Vocational goal is reasonably feasible.* Achievement of a vocational goal is reasonably feasible for a veteran with either an employment or serious employment handicap when the following conditions are met:

(1) Vocational goal(s) has (have) been identified;

(2) The veteran's physical and mental conditions permit training for the goal(s) to begin within a reasonable period; and

(3) The veteran:

(i) Possesses the necessary educational skills and background to pursue the vocational goal; or

(ii) Will be provided services by the Veterans Administration to develop such necessary educational skills as part of the program.

(38 U.S.C. 1504(a)(1), 1506(a))

(e) *Criteria for reasonable feasibility not met.* (1) When all of the criteria of paragraph (d) of this section are not met,

the Veterans Administration may find that:

(i) A period of extended evaluation is necessary to determine whether achievement of a vocational goal is reasonably feasible,

(ii) Achievement of a vocational goal is infeasible.

(2) A finding that achievement of a vocational goal is infeasible without a period of extended evaluation requires:

(i) Consultation with the Vocational Rehabilitation Panel, and

(ii) Compelling evidence which establishes infeasibility beyond any reasonable doubt.

(38 U.S.C. 1504(a)(1), 1506(b))

(f) *Responsibility for determining the reasonable feasibility of achieving a vocational goal.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall determine whether achievement of a vocational goal is reasonably feasible.

(38 U.S.C. 1506(b))

§ 21.57 Extended evaluation.

(a) *Purpose.* The purpose of an extended evaluation for a veteran with a serious employment handicap is to determine the feasibility of the veteran achieving a vocational goal, when this decision reasonably cannot be made on the basis of information developed during the initial evaluation.

(38 U.S.C. 1506(c))

(b) *Scope of services.* During the extended evaluation, a veteran may be provided:

(1) Diagnostic and evaluative services;

(2) Services to improve his or her ability to attain a vocational goal;

(3) Services to improve his or her ability to live and function independently in the community;

(4) An allowance as provided in § 21.260.

(38 U.S.C. 1504)

(c) *Determination.* The determination of the reasonable feasibility of a vocational goal will be made at the earliest time possible during an extended evaluation, but no later than the end of the period of evaluation or an extension of that period. Any reasonable doubt as to feasibility will be resolved in the veteran's favor.

(1) When a vocational goal is reasonably feasible, an IWRP (Individualized Written Rehabilitation Plan) will be developed as indicated in § 21.84.

(2) When a vocational goal is not reasonably feasible, information developed in the evaluation will be the basis for recommendations and referral to the Vocational Rehabilitation Panel. The Panel will consider the case under provisions of § 21.62(b).

(38 U.S.C. 1506(b))

(d) *Responsibility for determining the need for a period of extended evaluation.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division shall determine whether a period of extended evaluation is needed.

(38 U.S.C. 1506(c))

§ 21.58 Redetermination of employment handicap and serious employment handicap.

(a) *Prior to induction into a program.* A determination as to employment handicap, serious employment handicap, or eligibility for a program of employment services will not be changed except for:

(1) Unmistakable error in fact or law; or

(2) New and material evidence which justifies a change.

(38 U.S.C. 1502, 1506)

(b) *After induction into a program.* (1) The Veterans Administration will not redetermine a finding of employment handicap, serious employment handicap, or eligibility for a program of employment services subsequent to the veteran's induction into a program because of a reduction in his or her disability rating, including a reduction to 0 percent:

(2) The Veterans Administration may consider whether a finding of employment handicap should be changed to serious employment handicap when there is an increase in the degree of service-connected disability, or other significant change in the veteran's situation;

(3) A redetermination of employment handicap, serious employment handicap, or eligibility for a program of employment services will be made when there is a clear and unmistakable error of fact or law.

(38 U.S.C. 1502, 1506)

(c) *Following rehabilitation or discontinuance.* A veteran's eligibility and entitlement to assistance must be redetermined in any case in which:

(1) The veteran is determined to be rehabilitated to the point of employability under the provisions of § 21.190;

(2) The veteran is determined to meet the requirements for rehabilitation under the provisions of § 21.196; or

(3) The veteran's program is discontinued under the provisions of § 21.198, except as described in § 21.198(c)(3).

(38 U.S.C. 1502, 1511)

§ 21.59 Review and appeal of decisions on eligibility and entitlement.

A veteran may appeal decisions of the Vocational Rehabilitation and Counseling staff on eligibility and entitlement to rehabilitation services to the Board of Veterans Appeals as provided in §19.2 of Title 38, CFR. However, the veteran or an accredited representative, on his or her behalf, may request administrative review by Central Office prior to filing an appeal to BVA. A case already on appeal to BVA may not be referred to Central Office for administrative review or advisory opinion.

(38 U.S.C. 1507(c))

20. New §§ 21.60 and 21.62 and a center heading are added to read as follows:

Vocational Rehabilitation Panel

§ 21.60 Vocational Rehabilitation Panel.

(a) *Establishment of the Panel.* A Vocational Rehabilitation Panel will be established at each field station by the station head. The purpose of the Panel is to provide technical assistance in the planning of rehabilitation programs for seriously disabled veterans and dependents. This purpose will be most effectively carried out through use of the services of a wide range of professionals to bring the resources of the Veterans Administration and the community to bear on problems presented in the individual case.

(38 U.S.C. 1504(a))

(b) *Composition of the Panel.* The Panel will include, but not be limited to the following:

(1) A counseling psychologist in the VR&C (Vocational Rehabilitation and Counseling) Division as the chairperson;

(2) A vocational rehabilitation specialist in VR&C;

(3) A medical consultant from a Veterans Administration Medical Center;

(4) A member of the Social Services staff from a Veterans Administration Medical Center; and

(5) Other specialists from the Veterans Administration.

(38 U.S.C. 1504(a), 1515(a))

(c) *Appointment to the Panel.*

(1) The VR&C (Vocational Rehabilitation and Counseling) Officer may not serve as either chairperson or member of the Panel.

(2) The VR&C Officer will arrange for the participation of nonmedical professional staff in the Panel's meetings.

(38 U.S.C. 1515(a)(2))

(d) *Scope of Panel review.* The Panel will review each case which has been referred to it in relation to:

(1) Specific reason for the referral; and

(2) Other problem areas which the Panel identifies in the course of its consideration of the case.

(38 U.S.C. 1504(a))

(e) *Referral.* A case may be referred to the Panel by:

(1) A counseling psychologist in VR&C;

(2) A vocational rehabilitation specialist in VR&C; or

(3) The VR&C officer.

(38 U.S.C. 1504(a))

(f) *Report.* The Panel must prepare a report on its findings and recommendations in each case. The Panel's recommendations may include specific actions which are warranted on the basis of current information, or may identify additional information needed to provide a sounder basis for planning the veteran's program of rehabilitation.

(38 U.S.C. 1504(a))

§ 21.62 Duties of the Vocational Rehabilitation Panel.

(a) *Consultation requested.* The Panel shall provide technical and consultation services when requested by professional staff of the Vocational Rehabilitation and Counseling Division to:

(1) Assist the staff in planning and carrying out rehabilitation plans for seriously disabled veterans and dependents and

(2) Consider other cases of individuals eligible for, or being provided, assistance under chapters 31, 32, 34, and 35 or title 38, U.S.C. in which interdisciplinary review will be valuable.

(38 U.S.C. 1504(a))

(b) *Consultation required.* The Panel's consideration is required in the following instances:

(1) *Serious employment handicap.* The Panel will review each case in which the counseling psychologist is considering whether a veteran with a disability rating of less than thirty percent has a serious employment handicap as required by § 21.52(e)(3).

(38 U.S.C. 1506(a))

(2) *Extended evaluation.* The Panel's review is required for programs of extended evaluation which:

(i) Were originally planned to be completed within 12 months and there is a reasonable expectation that a decision can be reached during an extension not to exceed six months;

(ii) Are planned for more than 12 but less than 18 months;

(iii) Are planned for more than 18 months.

(38 U.S.C. 1505(a))

(3) *Rehabilitation not reasonably feasible.* The Panel will review each finding by VR&C staff that a rehabilitation program is not reasonably feasible, if the Panel has not previously participated in consideration of the case. This includes:

(i) A finding that vocational rehabilitation is not reasonably feasible; or

(ii) A finding that a program of independent living services is not reasonably feasible because:

(A) The veteran's level of independence cannot be measurably improved; or

(B) Such a program is medically contraindicated at this time.

(38 U.S.C. 1506(a))

(4) *Discontinuance.* The Panel shall review any case in which discontinuance is being considered for a veteran with a service-connected disability rated fifty percent or more disabling.

(38 U.S.C. 1504 (a))

(c) *Independent living services.* The Panel has a key responsibility to assure that seriously disabled service-connected veterans who need independent living services to increase their independence in daily living are provided necessary services. In carrying out this responsibility the Panel shall:

(1) Review all cases which come before it to assure that the proposed program of rehabilitation includes those services necessary to increase the veteran's level of independence in vocational pursuits and capacity for functioning in family and community;

(2) Review cases in which a preliminary finding of infeasibility has been made, to evaluate whether such findings are due to failure to include services which could be authorized under chapter 31 to improve the veteran's functional capacity;

(3) Review all cases in which the counseling psychologist prepares an IILP (Individualized Independent Living Service Program) for participation in the independent living program authorized under chapter 31 as provided in § 21.160 and § 21.162.

(d) *Dependents.* The specific duties of the Panel with respect to dependents are more fully described in § 21.3300, § 21.3301, § 21.3304 § 21.4105, § 21.4276.

(38 U.S.C. 1736, 1740, 1741, 1742, 1743)

21. A new center heading and new §§ 21.70, 21.72, 21.73, 21.74, 21.76 and 21.78 are added to read as follows:

Duration of Rehabilitation Programs

§ 21.70 Vocational rehabilitation.

(a) *General.* The goal of a vocational rehabilitation program is to:

(1) Evaluate and improve the veteran's ability to achieve a vocational goal;

(2) Provide services needed to qualify for suitable employment;

(3) Enable the veteran to achieve maximum independence in daily living;

(4) Enable the veteran to become employed in a suitable occupation and to maintain suitable employment.

(38 U.S.C. 1501(9))

(b) *Vocational rehabilitation program.* This term includes:

(1) The services that are needed for the accomplishment of the purposes of chapter 31, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Veterans Administration to be needed;

(i) In the case of a veteran for whom the achievement of a vocational goal has not been found to be infeasible such needed services include:

(A) Determining whether a vocational goal is reasonably feasible;

(B) Improving the veteran's potential to participate in a program of services designed to achieve a vocational goal;

(C) Enabling the veteran to achieve maximum independence in daily living;

(ii) In the case of a veteran for whom achievement of a vocational goal is feasible, such needed services include assisting the veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment; or

(2) The term also includes the monetary assistance authorized by chapter 31 for a veteran receiving any of the services described in this paragraph.

(38 U.S.C. 1501(9))

(c) *Duration of vocational rehabilitation.* Decisions on the duration of periods for attaining the goals named in paragraph (a) of this section are made in the course of development and approval of the Individualized Written Rehabilitation Plan. However, the duration of a vocational rehabilitation program may not exceed 48 months (or its equivalent when pursued on a part-time basis), except as provided in § 21.78.

(38 U.S.C. 1795, 1505)

§ 21.72 Rehabilitation to the point of employability.

(a) *General.* Rehabilitation to the point of employability may include the services needed to:

(1) Evaluate and improve the veteran's ability to undertake training;

(2) Train the veteran to the level generally recognized as necessary for entry into employment in a suitable occupational objective. Where a particular degree, diploma, or certificate is generally necessary for entry into the occupation, e.g., an MSW for social work, the veteran shall be trained to that level.

(38 U.S.C. 1504)

(b) *When duration of training may exceed general requirements.*—(1) *Employment handicap.* If the amount of training necessary to qualify for employment in a particular occupation in a geographical area where a veteran lives or will seek employment exceeds the amount generally needed for employment in that occupation, the Veterans Administration will provide, or arrange for the necessary additional training.

(38 U.S.C. 1505(c))

(2) *Serious employment handicap.* The Veterans Administration will assist a veteran with a serious employment handicap to train to a higher level than is usually required to qualify in a particular occupation, when one of the following conditions exist:

(i) The veteran is preparing for a type of work in which he or she will be at a definite disadvantage in competing with nondisabled persons for jobs or business, and the additional training will help to offset the competitive disadvantage;

(ii) The number of feasible occupations are restricted, and additional training will enhance the veteran's employability in one of those occupations;

(iii) The number of employment opportunities within feasible occupations are restricted.

(38 U.S.C. 1505(c))

(c) *Responsibility for estimating duration of training.* (1) The counseling psychologist shall estimate the duration of training and the estimate shall be incorporated in the IWRP (Individualized Written Rehabilitation Plan). When the period of training is estimated to exceed 48 months, the concurrence of the Vocational Rehabilitation and Counseling Officer is required, prior to approving the IWRP, under conditions listed in § 21.78.

(2) The estimated duration of the period of training required to complete an original or amended IWRP may be extended when necessary. Authorization of an extension is the responsibility of the counseling psychologist, except as provided in paragraph (d) of this section. Any extension which will result in use of more than 48 months of entitlement must meet conditions described in § 21.78.

(38 U.S.C. 1795)

(d) *Extension of training by the vocational rehabilitation specialist.* (1) The VRS (Vocational Rehabilitation Specialist) may authorize an extension of up to six months of the period of vocational rehabilitation training authorized by the IWRP when:

(i) The veteran is in "rehabilitation to the point of employability" status under § 21.190;

(ii) The veteran has completed more than half of the prescribed training;

(iii) The veteran is making satisfactory progress;

(iv) The extension is necessary to complete training;

(v) Training can be completed within six months; and

(vi) The extension will not result in use of more than 48 months of entitlement under chapter 31 alone or in combination with other programs identified in § 21.4020.

(2) If the conditions listed in paragraph (d)(1) of this section are not met, and an extension is needed to complete the program, the case will be referred to the counseling psychologist for a determination.

(38 U.S.C. 1505(c))

§ 21.73 Employment assistance.

(a) *Duration.* Employment assistance may be provided to the veteran for the period necessary to enable the veteran to secure employment in a suitable occupation, and to adjust in the employment. This period shall not exceed 18 months. A veteran may be provided such assistance if he or she:

(1) Has completed the period of rehabilitation to the point of employability, or

(2) Is eligible for employment assistance as provided in § 21.47.

(38 U.S.C. 1505(b))

(b) *Employment assistance not charged against chapter 31 entitlement.* The period of employment assistance provided in paragraph (a) of this section is not charged against the months of entitlement under chapter 31 (see § 21.70.

(38 U.S.C. 1505(b))

§ 21.74 Extended evaluation.

(a) *General.* An extended evaluation may be authorized for the period necessary to determine whether the attainment of a vocational goal is reasonably feasible for the veteran. The services which may be provided during the period of extended evaluation are listed in § 21.57(b).

(b) *Duration.* An extended evaluation may not be for less than two weeks (full or part-time equivalent) nor for more than twelve months, unless a longer period is necessary to determine whether achievement of a vocational goal is reasonably feasible.

(38 U.S.C. 1505(a))

(c) *Approval of the period of an extended evaluation.* (1) The counseling psychologist may approve an initial period of up to 12 months for an extended evaluation.

(2) An additional period of extended evaluation of up to six months may be approved by the counseling psychologist, if there is reasonable certainty that the feasibility of achieving a vocational goal can be determined during the additional period. The counseling psychologist will obtain technical assistance from the Vocational Rehabilitation Panel in each veteran's case before granting an extension of a period of extended evaluation.

(3) An extension beyond a total period of 18 months for additional periods of up to six months each may only be approved by the counseling psychologist if there is substantial certainty that a determination of feasibility may be made within this extended period. The concurrence of the Director, Vocational Rehabilitation and Counseling Service is also required for this extension.

(38 U.S.C. 1505(a))

§ 21.76 Independent living.

(a) *General.* A program of independent living services may be authorized to enable the veteran to:

(1) Reach the goals of the program, and

(2) Maintain the newly achieved level of independence in daily living.

(38 U.S.C. 1501(4), 1504(b))

(b) *Period of independent living services.* The duration of an independent living services program may not exceed 24 months unless the counseling psychologist finds, following consultation with the Vocational Rehabilitation Panel, that an additional period of up to six months would enable the veteran to substantially increase his or her level of independence in daily living.

(38 U.S.C. 1505(d))

§ 21.78 Approving more than 48 months of rehabilitation.

(a) *General.* Neither the basic period of entitlement which may be authorized for a program of rehabilitation under chapter 31 alone, nor a combination of entitlement of chapter 31 and other programs listed in § 21.4020 shall exceed 48 months except as indicated in paragraphs (b) and (c) of this section.

(38 U.S.C. 1795)

(b) *Employment handicap.* A rehabilitation program for a veteran with an employment handicap may only be extended beyond 48 months when:

(1) The veteran previously completed training for a suitable occupation but the veteran's service-connected disability has worsened to the point that he or she is unable to perform the duties of the occupation for which training had been provided, and a period of training in the same or a different field is required. An extension beyond 48 months under chapter 31 alone shall be authorized for this purpose.

(38 U.S.C. 1505(c)(1)(A))

(2) The occupation in which the veteran previously completed training is found to be unsuitable because of the veteran's abilities and employment handicap. An extension beyond 48 months under chapter 31 alone shall be approved for this purpose.

(38 U.S.C. 1505(c)(1)(B))

(3) The veteran previously used entitlement under other programs administered by the Veterans Administration, including chapters 32, 34, or 35 of title 38 U.S.C. and the additional period of assistance to be provided under chapter 31 which the veteran needs to become employable will result in more than 48 months being used under all Veterans Administration education programs. Under these conditions the number of months necessary to complete the program may be authorized under chapter 31, provided that the length of the extension will not result in authorization of more than 48 months under chapter 31 alone.

(38 U.S.C. 1795)

(4) A veteran in an approved chapter 31 program has elected payment of benefits at the chapter 34 educational assistance rate. The 48 month limitation may be exceeded only:

(i) To the extent that the entitlement in excess of 48 months does not exceed the entitlement previously used by the veteran in a course at the secondary school level under § 21.4235, or

(ii) If the veteran is in a course on a term, quarter, or semester basis which began before the 45 months limitation on chapter 34 entitlement was reached, and completion of the course will be possible by permitting the veteran to complete the training under chapter 31.

(38 U.S.C. 1795)

(5) The assistance to be provided in excess of 48 months consists only of a period of employment assistance (see § 21.73).

(38 U.S.C. 1505(b))

(c) *Serious employment handicap.* The duration of a rehabilitation program for a veteran with a serious employment handicap may be extended beyond 48 months under chapter 31 for the number of months necessary to complete a rehabilitation program under the following conditions:

(1) To enable the veteran to complete a period of rehabilitation to the point of employability;

(2) To provide an extended evaluation in cases in which the total period needed for an extended evaluation and for rehabilitation to the point of employability would exceed 48 months;

(3) To provide a program of independent living services, including cases in which achievement of a vocational goal becomes feasible during or following a program of independent living services;

(4) Following rehabilitation to the point of employability:

(i) The veteran has been unable to secure employment in the occupation for which training has been provided despite intensive efforts on the part of the Veterans Administration and the veteran, and a period of retraining or additional training is needed;

(ii) The skills which the veteran developed in training for an occupation in which he or she was employed are no longer adequate to maintain employment in that field and a period of retraining is needed;

(iii) The veteran's service-connected disability has worsened to the point that he or she is unable to perform the duties of the occupation for which the veteran has been trained, and a period of training in the same or different field is required;

(iv) The occupation in which the veteran previously completed training is found to be unsuitable due to the veteran's abilities and employment handicap.

(5) The assistance to be provided in excess of 48 months consists, only of a period of employment assistance. (see § 21.73).

(38 U.S.C. 1505(c)(2))

(d) *Approval of extension beyond 48 months.* All extensions of a rehabilitation program beyond 48 months of total entitlement under all Veterans Administration programs requires the approval of the counseling psychologist and concurrence of the Vocational Rehabilitation and Counseling Officer. Concurrence of the VR&C officer is not required for an extension due to provision of employment assistance (see § 21.21).

(38 U.S.C. 1505(b))

22. A new center heading and new §§ 21.80, 21.82, 21.84, 21.86, 21.88, 21.90, 21.92, 21.94, 21.96, and 21.98 are added to read as follows:

Individualized Written Rehabilitation Plan

§ 21.80 Requirement for a rehabilitation plan.

(a) *General.* An IWRP (Individualized Written Rehabilitation Plan) will be developed for each veteran eligible for rehabilitation services under chapter 31. The plan is intended to assist in:

(1) Providing a structure which allows VR&C staff to translate the findings made in the course of the initial evaluation into specific rehabilitation goals and objectives;

(2) Monitoring the veteran's progress in achieving the rehabilitation goals established in the plan;

(3) Assuring the timeliness of assistance by Veterans Administration staff in providing services specified in the plan; and

(4) Evaluating the effectiveness of the planning and delivery of rehabilitation services by VR&C staff.

(38 U.S.C. 1507(a))

(b) *When a plan is prepared.* A plan will be prepared in each case in which a veteran will pursue:

(1) A vocational rehabilitation program, as that term is defined in § 21.35(i);

(2) An extended evaluation program;

(3) An independent living services program; or

(4) An employment program.

(38 U.S.C. 1507(a))

(c) *Plan—a generic term.* The term "plan" refers to the IWRP (Individualized Written Rehabilitation Plan) § 21.84, IEEP (Individualized Extended Evaluation Plan) § 21.86, IEAP (Individualized Employment Assistance Plan) § 21.88, and IILP (Individualized Independent Living Plan) § 21.90.

(38 U.S.C. 1507(a))

(d) *Plan not required.* A plan will not be prepared for a veteran who is not

eligible for any assistance under chapter 31. Veterans Administration staff, with the veteran's assistance and cooperation, will utilize information developed in the course of an initial evaluation to assist the veteran to develop alternatives for education and training, independence in daily living, or employment assistance. This assistance should help the veteran in achieving attainable vocational, independent living and employment goals utilizing benefits and services for which the veteran may be eligible under other Veterans Administration or non-Veterans Administration programs.

(38 U.S.C. 220)

§ 21.82 Completing the plan under chapter 31.

(a) *Serious employment handicap.* Each plan for a veteran with a serious employment handicap shall provide for completion of the program provided by the plan under chapter 31. The provisions of § 21.70 and § 21.78(c) are designed to enable a veteran with a serious employment handicap to pursue and complete a rehabilitation plan under Veterans Administration auspices. These provisions shall be used as necessary to accomplish the goals of the plan.

(38 U.S.C. 1505(c), 1507)

(b) *Employment handicap.* A plan for a veteran with an employment handicap that is not a serious employment handicap shall require that the program be completed within 48 months, if the veteran is not eligible for an extension as provided in § 21.78. When the program provided by the plan cannot be completed under chapter 31 because of limitations imposed by the veteran's termination date or months of remaining entitlement, realistic, comprehensive and detailed arrangements must be made which will enable the veteran to successfully complete training under other auspices. If an arrangement cannot be made which meets these requirements, the long-range vocational goal of the veteran must be reevaluated, and another vocational goal selected which can be completed using the veteran's remaining chapter 31 resources.

(38 U.S.C. 1507(a))

(c) *Employment assistance when training is not completed under chapter 31.* A plan for employment assistance may be implemented even though the veteran's training has not been or will not be completed under chapter 31.

(38 U.S.C. 1517(a))

§ 21.84 Individualized written rehabilitation plan.

(a) *Purpose.* The purposes of the IWRP (Individualized Written Rehabilitation Plan) are to:

(1) Identify goals and objectives to be achieved by the veteran during the period of rehabilitation services that will lead to the point of employability;

(2) Plan for placement of the veteran in the occupational field for which training and other services will be provided; and

(3) Specify the key services needed by the veteran to achieve the goals and objectives of the plan.

(38 U.S.C. 1507)

(b) *Elements of the plan.* A plan will include the following:

(1) A statement of long-range rehabilitation goals. Each statement of long-range goals shall include at a minimum:

(i) One vocational goal for a veteran with an employment handicap; or

(ii) One vocational goal and, if applicable, one independent living goal for a veteran with a serious employment handicap.

(2) Intermediate rehabilitation objectives; Intermediate objectives are statements of achievement expected of the veteran to attain the long-range goal. The development of appropriate intermediate objectives is the cornerstone of an effective plan. Intermediate objectives should have the following characteristics:

(i) The activity specified relates to the achievement of the goal;

(ii) The activity specified is definable in terms of observable behavior (e.g., pursuing an A.A. degree);

(iii) The activity has a projected completion date;

(iv) The outcome desired upon completion is measurable (e.g., receiving an A.A. degree).

(3) the specific services to be provided by the Veterans Administration as stated. Counseling shall be included in all plans for a veteran with a serious employment handicap.

(4) The projected starting and completion dates of the planned services and the duration of each service;

(5) Objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved as set forth; and

(6) The name, location, and phone number of the DVB case manager is included.

(38 U.S.C. 1507(a))

§ 21.86 Individualized extended evaluation plan.

(a) *Purpose.* The purpose of an IEEP (Individualized Extended Evaluation Plan) is to identify the services needed for the Veterans Administration to determine the veteran's ability to achieve a vocational goal when this cannot reasonably be determined during the initial evaluation.

(38 U.S.C. 1507)

(b) *Elements of the plan.* An IEEP shall include the same elements as an IWRP except that:

(1) The long-range goals shall be to determine whether achievement of a vocational goal is reasonably feasible;

(2) The intermediate objectives relate to problems or questions which must be resolved for the Veterans Administration to determine the reasonable feasibility of achieving a vocational goal.

(38 U.S.C. 1507(a))

§ 21.88 Individualized employment assistance plan.

(a) *Purpose.* The purpose of the IEAP (Individualized Employment Assistance Plan) is to assure that a comprehensive, thoughtful approach is taken, enabling eligible veterans to secure suitable employment.

(38 U.S.C. 1507)

(b) *Requirement for a plan.* An IEAP will be prepared:

(1) As part of an IWRP; or

(2) When the veteran is eligible for employment assistance under provisions of § 21.47.

(38 U.S.C. 1507(a))

(c) *Elements of the plan.* The IEAP shall follow the same structure as the IWRP. Each IEAP will include full utilization of community resources to enable the veteran to:

(1) Secure employment; and

(2) Maintain employment.

(38 U.S.C. 1517)

(d) *Preparation of the IEAP.* Preparation of the IEAP will be completed:

(1) No later than 60 days before the projected end of the period of rehabilitation services leading to the point of employability; or

(2) Following initial evaluation when employment services constitute the whole of the veteran's program under provisions of § 21.47

(38 U.S.C. 1507(a))

§ 21.90 Individualized independent living plan.

(a) *Purpose.* The purpose of the IILP (Individualized Independent Living Plan) is to identify the steps through which a veteran, whose disabilities are so severe that a vocational goal is not reasonably feasible, can become more independent in daily living within the family and community.

(38 U.S.C. 1509)

(b) *Elements of the plan.* The IILP shall follow the same structure as the IWRP. The plan will include:

(1) Services which may be provided under chapter 31 to achieve independence in daily living (38 U.S.C. 1504);

(2) Utilization of programs with a demonstrated capacity to provide independent living services for severely handicapped persons (38 U.S.C. 1504(b), 1520(a));

(3) Services provided under other Veterans Administration and non-Veterans Administration programs needed to achieve the goals of the plan (38 U.S.C. 1507);

(4) Arrangements for maintaining the improved level of independence following completion of the plan (38 U.S.C. 1507(a)).

§ 21.92 Preparation of the plan.

(a) *General.* The plan will be jointly developed by Veterans Administration staff and the veteran.

(38 U.S.C. 1507(a))

(b) *Approval of the plan.* The terms and conditions of the plan must be approved and agreed to by the counseling psychologist, the vocational rehabilitation specialist, and the veteran.

(38 U.S.C. 1507(a))

(c) *Implementation of the plan.* The vocational rehabilitation specialist or counseling psychologist designated as case manager has the primary role in carrying out Veterans Administration responsibility for implementation of the plan.

(38 U.S.C. 1507(a))

(d) *Responsible staff.* The counseling psychologist has the primary responsibility for the preparation of plans.

(38 U.S.C. 1507(a))

§ 21.94 Changing the plan.

(a) *General.* The veteran, the counseling psychologist or the vocational rehabilitation specialist may request a change in the plan at any time.

(38 U.S.C. 1507(c))

(b) *Long-range goals.* A change in the staement of a long-range goal may only be made following a reevaluation of the veteran's rehabilitation program by the counseling psychologist. A change may be made when:

(1) Achievement of the current goal(s) is no longer reasonably feasible; or

(2) The veteran's circumstances have changed or new information has been developed which makes rehabilitation more likely if a different long-range goal is established; and

(3) The veteran fully participates and concurs in the change.

(38 U.S.C. 1507(b))

(c) *Intermediate objectives or services.* A change in intermediate objectives or services provided under the plan may be made by the case manager when such change is necessary to carry out the statement of long-range goals. The veteran must concur in the change.

(38 U.S.C. 1507(b))

(d) *Minor changes.* Minor changes in the plan (e.g., changing the date of a scheduled evaluation) by the case manager may be made without the participation and concurrence of the veteran.

(38 U.S.C. 1507(b))

(e) *Changes in duration of the plan.* Any change in the total duration of a veteran's rehabilitation plan is subject to provisions on duration of a rehabilitation program described in §§ 21.70–21.78.

(38 U.S.C. 1507(b))

§ 21.96 Review of the plan.

(a) *General.* The veteran's progress in reaching the goals of the plan will be reviewed and evaluated as scheduled in the plan by the case manager and the veteran.

(38 U.S.C. 1507(b))

(b) *Comprehensive review required.* The case manager and the veteran will review all of the terms of the plan and the veteran's progress at least every twelve months. On the basis of such review the veteran and the case manager will agree whether the plan should be:

(1) Retained in its current form;

(2) Amended; or

(3) Redeveloped

(38 U.S.C. 1507(b))

§ 21.98 Appeal of disagreement regarding development of, or change in, the plan.

(a) *General.* The veteran may request a review of a proposed, original, or amended plan when Veterans Administration staff and the veteran do not reach agreement on the terms and conditions of the plan. A veteran who requests a review of the plan must submit a written statement to the case manager which:

(1) Requests a review of the proposed, original, or amended plan; and

(2) Details his or her objections to the terms and conditions of the proposed, original, or amended plan.

(38 U.S.C. 1507(c))

(b) *Review by Vocational Rehabilitation and Counseling Officer.* Upon receipt of the veteran's request for review of the plan, the counseling psychologist or the case manager will forward the request together with relevant comment to the VR&C Officer who will:

(1) Review relevant information; and

(2) Inform the veteran of his or her decision within 90 days.

(38 U.S.C. 1507(c))

(c) *Review by Vocational Rehabilitation and Counseling Service.* The veteran's request shall be reviewed by the Director, Vocational Rehabilitation and Counseling Service in any case in which the Vocational Rehabilitation and Counseling Officer is the case manager. The veteran will be informed of the decision within 90 days.

(38 U.S.C. 1507(c))

(d) *Appeal to the Board of Veterans Appeals.* The veteran may appeal an adverse decision of the Vocational Rehabilitation and Counseling Officer, or the Director, Vocational Rehabilitation and Counseling Service to the Board of Veterans Appeals.

(38 U.S.C. 1507(c))

23. A new center heading and a new § 21.100 are added to read as follows:

Counseling

§ 21.100 Counseling.

(a) *General.* A veteran requesting or being furnished assistance under chapter 31 shall be provided professional counseling services by VR&C (Vocational Rehabilitation and Counseling) Service and other staff as necessary to:

(1) Carry out an initial evaluation in each case in which assistance is requested;

(2) Develop a rehabilitation plan or plan for employment services in each case in which the veteran is found during the initial evaluation to be eligible and entitled to services;

(3) Assist veterans found ineligible for services under chapter 31 to the extent provided in § 21.82; and

(4) Try to overcome problems which arise during the course of the veteran's rehabilitation program or program of employment services. (38 U.S.C. 1501)

(b) *Types of counseling services.* The VA will furnish comprehensive counseling services, including but not limited to

(1) Psychological;
(2) Vocational;
(3) Personal adjustment;
(4) Employment;
(5) Educational. (38 U.S.C. 1504)

(c) *Qualifications.* Counseling services may only be furnished by VA or other personnel who meet requirements established under provisions of § 21.380 and other policies of the VA pertaining to the qualifications of staff providing assistance under chapter 31. (38 U.S.C. 1518)

(d) *Limitation.* Counseling services necessary to carry out the initial evaluation and the development of a rehabilitation plan or a program of employment services will be furnished by staff of the VR&C Service of the Department of Veterans Benefits. (38 U.S.C. 1515)

24. The following new center heading and §§ 21.120 through 21.129 are added:

Educational and Vocational Training Services

§ 21.120 Educational and vocational training services.

(a) *Purposes.* The purposes of providing educational and vocational training services are to enable a veteran eligible for, and entitled to, services and assistance under chapter 31 to:

(1) Meet the requirements for employment in the occupational objective established in the IWRP (Individualized Written Rehabilitation Plan);

(2) Provide incidental training which is necessary to achieve the employment objective in the IEAP (Individualized Employment Assistance Plan);

(3) Provide incidental training needed to achieve the goals of an IILP (Individualized Independent Living Plan); or

(4) Provide training services necessary to implement an IEEP (Individualized Extended Evaluation Plan). (38 U.S.C. 1507)

(b) *Selection of courses.* The VA will generally select courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or employment. If such courses are not available in the area in which the veteran resides, or if they are available but not accessible to the veteran, other arrangements may be made. Such arrangements may include, but are not limited to:

(1) Relocation of the veteran to another area in which necessary services are available, or

(2) Use of an individual instructor to provide necessary training. (38 U.S.C. 1507)

(c) *Charges for education and training services.* The cost of education and training services will be one of the factors considered in selecting a facility when:

(1) There is more than one facility in the area in which the veteran resides which:

(i) Meets requirements for approval under §§ 21.292 through 21.298;

(ii) Can provide the education and training services, and other supportive services specified in the veteran's plan; and

(iii) Is within reasonable commuting distance;

(2) The veteran wishes to train at a suitable facility in another area, even though training can be provided at a suitable facility in the area in which the veteran resides. (38 U.S.C. 1515(a))

§ 21.122 School course.

(a) *Explanation of terms—schools, educational institution, and institution.* These terms mean any public or private school, secondary school, vocational school, correspondence school, business school, junior college, teacher's college, college, normal school, professional school, university, scientific or technical institution, or other institution funishing education for adults. (38 U.S.C. 1652(c))

(b) *Course.* A course generally consists of a number of areas of subject matter which are organized into learning units for the purpose of attaining a specific educational or vocational objective. Organized instruction in the units comprising the course is offered within a given period of time and credit toward graduation or certification is generally given. (38 U.S.C. 1504(a)(7))

(c) *School course.* A "school course" is a course as defined in paragraph (b) of this section offered by a facility identified in paragraph (a) of this section. (38 U.S.C. 1515)

§ 21.123 On-job course.

(a) *Training establishment.* This term means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any state apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal government authorized to supervise such training. (38 U.S.C. 1652(e))

(b) *On-job course.* An on-job course is pursued toward a specified vocational objective, provided by a training establishment. The trainee learns, in the course of work performed under supervision, primarily by receiving formal instruction, observing practical demonstration of work tasks, and assisting in those tasks. Productive work should gradually increase with greater independence from formal instruction as the course progresses. (38 U.S.C. 1507(a)(7))

§ 21.124 Combination course.

(a) *General.* A combination course is a course which combines training on the job with training in school. For the purpose of VA vocational rehabilitation, a course will be considered to be a combination course, if the student spends full-time on the job and one or more times a week also attends school on a part-tme basis. A veteran may pursue the components of a combination course in the following manner:

(1) Concurrent school and on-job training;

(2) Primarily on-job with some related instruction in school;

(3) In a school as a preparatory course to entering on-job training; or

(4) First training on-job followed by the school portion. (38 U.S.C. 1507(e)(7))

(b) *Cooperative course.* A cooperative course is a special type of combination course which usually:

(1) Has an objective which the student attains primarily through school instruction with the on-job portion being supplemental to the school course;

(2) Is at the college or junior college level although some cooperative courses are offered at post-secondary schools which do not offer a college degree or at secondary schools;

(3) Requires the student to devote at least one-half of the total training period to the school portion of the course; and

(4) Includes relatively long periods each of training on the job and in school such as a full term in school followed by a full term on the job. (38 U.S.C. 1504(e)(7))

§ 21.126 Farm cooperative course.

(a) *Definition.* An approvable farm cooperative course is a full-time course designated to restore employability by training a veteran to:

(1) Operate a farm which he or she owns or leases; or

(2) Manage a farm as the employee of another. (38 U.S.C. 1504(a)(7))

(b) *Reaching the goal of a farm cooperative course.* The farm cooperative course must enable a veteran to become proficient in the type of farming for which he or she is being provided rehabilitation services. The areas in which proficiency is to be established include:

(1) Planning;

(2) Producing;

(3) Marketing;

(4) Maintaining farm equipment;

(5) Conserving farm resources;

(6) Financing the farm;

(7) Managing the farm; and

(8) Keeping farm and home accounts. (38 U.S.C. 1504(a)(7))

(c) *Instruction, including organized group instruction.* Instruction in a farm cooperative course may be by a mixture of organized group (classroom) instruction and individual instruction or by individual instruction alone. A course which includes organized group instruction must meet the following criteria to be considered as full-time:

(1) The number of clock hours of instruction which should be provided yearly shall meet the requirements of § 21.310(a)(4) and § 21.4264 pertaining to full-time pursuit of a farm cooperative course:

(2) The individual instructor portion of a farm cooperative course shall include at least 100 hours of individual instruction per year. (38 U.S.C. 1504(a)(7))

(d) *Instruction given solely by an individual instructor.* (1) Instruction in a farm cooperative course may be given solely by an individual instructor if organized group instruction is:

(i) Not available within reasonable commuting distance of the veteran's farm; or

(ii) The major portion of the organized group instruction that is available does not have a direct relation to the veteran's farming operation and pertinent VA records are fully and clearly documented accordingly.

(2) To be considered full-time pursuit the individual instruction provided in these course must:

(i) Consist of at least 200 hours of instruction per year;

(ii) Be given by a fully qualified individual instructor by contract between the VA and the instructor or an educational agency which employs the instructor. (38 U.S.C. 1504(a)(7))

(e) *Plan requirements for farm operator or farm manager.* (1) The plan for training developed by the case manager and the veteran in collaboration with the instructor must include:

(i) A complete written survey including but not limited to the areas identified in § 21.298 (a) and (b);

(ii) An overall, long-term plan based upon the survey of the operation of the farm;

(iii) An annual plan identifying the part of the overall plan to be implemented which will be prepared before the beginning of each crop year; and

(iv) A detailed individual training program showing the kind and amount of instruction, classroom and individual, or individual; and

(2) The farm must meet the requirements for selecting a farm found in § 21.298. (38 U.S.C. 1507(a)(7))

§ 21.128 Independent study course.

A veteran may pursue a course by independent study under the following conditions:

(a) *College level.* The course is offered by a college or university. (38 U.S.C. 1504(a)(7))

(b) *College degree.* The course leads to or is fully creditable towards a standard college degree. (38 U.S.C. 1504(a)(7))

(c) *Course content.* The course consists of a prescribed program of study with provision for interaction between the student and regularly employed faculty of the university or college by mail, telephone, personally, or class attendance. (38 U.S.C. 1504(a)(7))

(d) *School responsibility.* The university or college:

(1) Evaluates the course in semester or quarter hours or the equivalent; and

(2) Prescribes a period for completion. (38 U.S.C. 1504(a)(7))

§ 21.129 Home study course.

(a) *Definition.* A "home study" course is a course conducted by mail, consisting of a series of written lesson assignments furnished by a school to the student for study and preparation of written answers, solutions to problems, and work projects which are corrected and graded by the school and returned to the trainee. (38 U.S.C. 1504(a)(7))

(b) *Limitations on inclusion of home study courses, in rehabilitation plans.* A veteran and his or her case manager may include a home study course in a rehabilitation plan only when it supplements the major part of the program. The purpose of the home study course is to provide the veteran with theory or technical information directly related to the practice of the occupation for which the veteran is training. (38 U.S.C. 1504(a)(7))

Center heading and §§ 21.131, 21.133, 21.135–21.138 [Removed]

25. The center heading "SUBSISTENCE ALLOWANCE" and §§ 21.131, 21.133, and 21.135 through 21.138 are removed; and §§ 21.130, 21.132 and 21.134 are revised as follows:

§ 21.130 Education and vocational courses outside the United States.

(a) *General.* The VA may provide educational and vocational courses outside a State if the case manager determines that such training is in the best interest of the veteran and the Federal Government. (38 U.S.C. 1514)

(b) *Specific conditions.* (1) The training must be necessary to enable the veteran to qualify for, obtain, and retain suitable employment in the occupational objective; and

(2) Either:

(i) The training is not available in the United States; or

(ii) The training is available in the United States, but personal hardship would result from requiring that the veteran pursue training in this country; and

(3) All necessary supportive services, including medical care and treatment, can be provided. (38 U.S.C. 1514)

§ 21.132 Repetition of the course.

(a) *Repeating all or part of the course.* A veteran, having completed a course under chapter 31 according to the standards and practices of the institution, ordinarily will not pursue it again at the expense of the VA. However, the VA may approve repetition of all, or any part of the course when the VA determines that the repetition is necessary to accomplish the veteran's vocational rehabilitation. A veteran repeating a course under chapter 31 is subject to the same requirements for satisfactory pursuit and completion of the course as are other veterans taking the course unless a longer period is needed because of the veteran's reduced work tolerance. (38 U.S.C. 1504(a)(7))

(b) *Review course.* A veteran who has completed a course of training under chapter 31 may pursue a review course, such as a bar review course, if it is specifically organized and conducted as a review course. (38 U.S.C. 1504(a)(7))

(c) *Auditing a subject.* Auditing, as defined in § 21.4200(i), may not be authorized as a part of any rehabilitation plan. However, if an individual repeats a course under the conditions described in paragraph (a) of this section, the course shall not be considered an audited course, if pursued

in the same manner as a subject offered for credit. The individual must meet the same requirements as other students, and not be a mere listener. (38 U.S.C. 1780(a))

§ 21.134 Limitations on flight training.

Authorization of flight training under chapter 31 is subject to the same limitations applicable to flight training under chapter 34, including the following:

(a) *Prior to October 1, 1981.* A veteran in a nondegree flight training program prior to October 1, 1981, may continue in his or her program until rehabilitation to the point of employability, interruption of more than six months, or discontinuance, whichever is earliest. (38 U.S.C. 1504(c))

(b) *After October 1, 1981.* After October 1, 1981, flight training may only be authorized in degree curriculums in the field of aviation that include required flight training. (38 U.S.C. 1504(c))

§ 21.145 [Removed]

26. Section 21.145 is removed and a new center heading and §§ 21.140 through 21.156 are added as follows:

Special Rehabilitation Services

§ 21.140 Evaluation and improvement of rehabilitation potential.

(a) *General.* The purposes of these services are to:

(1) Evaluate if the veteran:

(i) Has an employment handicap;

(ii) Has a serious employment handicap; and

(iii) Is reasonably feasible for a vocational goal or an independent living goal.

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the veteran's potential for vocational rehabilitation or independent living;

(ii) A suitable vocational rehabilitation program; or

(iii) A suitable independent living program.

(3) Reevaluate the vocational rehabilitation or independent living potential of a veteran participating in a rehabilitation program under chapter 31, as necessary.

(4) Enable a veteran to achieve:

(i) A vocational goal; or

(ii) An independent living goal. (38 U.S.C. 1504)

(b) *Periods during which evaluation and improvement services may be provided.* Evaluation and improvement services may be provided concurrently, whenever necessary, with a period of rehabilitation services, including:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation:

(3) Rehabilitation to the point of employability:

(4) A program of independent living services: or

(5) Employment services, incidental to obtaining or maintaining employment. (38 U.S.C. 1505)

(c) *Duration of full-time assistance.* If evaluation and improvement services are furnished on a full-time basis as a preliminary part of the period of rehabilitation to the point of employability, or as the vocational rehabilitation program, the duration of such assistance may not exceed 12 months, except as provided in § 21.74(c). (38 U.S.C. 1505)

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Medical care and treatment;

(4) Independent living services;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services. (38 U.S.C. 1504(a)(1))

§ 21.142 Adult basic education.

(a) *Definition.* The term "adult basic education" means an instructional program for the undereducated adult planned around those basic and specific skills most needed to help him or her to function adequately in society. (38 U.S.C. 1504(a)(1))

(b) *Purposes.* The purposes of providing adult basic education are to:

(1) Upgrade a veteran's basic educational skills;

(2) Provide refresher training; or

(3) Remedy deficiencies which prevent the veteran from undertaking a course of education or vocational training. (38 U.S.C. 1504(a)(1))

(c) *Periods during which basic adult education may be provided.* Basic adult education may be authorized, as necessary, during;

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; and

(3) Independent living services. (38 U.S.C. 1504(a)(1))

§ 21.144 Vocational course in a sheltered workshop or rehabilitation facility.

(a) *General.* A vocational course in a sheltered workshop or rehabilitation facility may be an institutional, on-job, or combination course which has been modified to facilitate successful pursuit by a person with a disability that would otherwise prevent or impair the person's participation in the course. (38 U.S.C. 1504(a)(7))

(b) *Authorization.* A vocational course in a sheltered workshop or rehabilitation facility may be authorized when the training offered is a sound method of restoring a veteran's employability. (38 U.S.C. 1504(a)(7))

§ 21.146 Independent instructor course.

(a) *Definition.* An independent instructor course is a full-time course of vocational training which the veteran pursues with an individual instructor, who, independently of a training institution or on-job training establishment, furnishes and conducts a vocational course at a suitable place of training. (38 U.S.C. 1504(a)(7))

(b) *Limitations on including an independent instructor course in a rehabilitation plan.* A veteran and his or her case manager may include an independent instructor course in a rehabilitation plan, other than one involving a farm cooperative program, only when either or both of the following conditions exist:

(1) Training is not available through an established school, on-job training establishment, rehabilitation facility or sheltered workshop within a reasonable commuting distance from the veteran's home; or

(2) The veteran's condition or other circumstances do not permit the veteran to attend an otherwise suitable facility within commuting distance. See § 21.126.

(c) *Training in the home.* Training in the home is a specialized type of independent instructor course which the veteran pursues in his or her home if:

(1) He or she is unable to pursue training at an otherwise suitable facility because of the effects of his or her disability;

(2) Based on proper medical opinion, the veteran is able to pursue the prescribed training; and

(3) The veteran's home provides a favorable educational environment with adequate work and study space. (38 U.S.C. 1504(a)(7))

(d) *Planning an individual instructor course.* The case manager, the veteran, and the instructor should jointly plan the training program for a veteran for whom an independent instructor course is prescribed. (38 U.S.C. 1504(A)(7))

(e) *Assuring employment.* Since the customary channels leading to employment may not be readily available to a veteran requiring an individual instructor course, the IEAP (Individual Employment Assistance Plan) shall indicate thorough consideration of plans and prospects for seeking and obtaining employment,

including self-employment, upon completion of training. (38 U.S.C. 1504(a)(7))

(f) *Rate of pursuit.* A veteran in an independent instructor program shall pursue training at a rate comparable to the rate at which similar training is pursued on an institutional basis, unless the veteran's work tolerance is reduced by the effects of his or her disability. (38 U.S.C. 1504(a)(7))

§ 21.148 Tutorial assistance.

(a) *General.* A veteran may be provided individualized tutorial assistance, if the VA determines that special assistance beyond that ordinarily given by the facility to students pursuing the same or a similar subject is needed to correct a deficiency in a subject. (38 U.S.C. 1504(a)(7))

(b) *Authorization of tutorial assistance.* Tutorial assistance may be provided during any period of rehabilitation services authorized by the VA. (38 U.S.C. 1504(a)(7))

(c) *Use of relatives precluded.* Tutorial assistance at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.374 pertaining to the use of a relative as an attendant. (38 U.S.C. 1692)

(d) *Payment at the chapter 34 rate.* If a veteran has elected payment at the educational assistance rate payable under chapter 34, he or she may not be provided individualized tutorial assistance under provisions of chapter 31. See § 21.334. (38 U.S.C. 1508(f))

§ 21.150 Reader service.

(a) *Limitations on vision.* A veteran considered to have a visual impairment necessitating reader service includes a veteran:

(1) Whose best corrected vision is 20/200 in both eyes;

(2) Whose central vision is greater than 20/200 but whose field of vision is limited to such an extent that the widest diameter of a visual field subtends to an angle no greater than 20 degrees; or

(3) With impaired vision, whose condition or prognosis indicates that the residual sight will be adversely affected by the use of his or her eyes for reading. (38 U.S.C. 1504(a)(14))

(b) *Periods during which reader service may be provided.* reader service necessary to the development of a rehabilitation plan, or the successful pursuit of a rehabilitation program may be provided during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services; or

(5) Employment services, including an initial employment period of up to three months. (38 U.S.C. 1504(a)(14))

(c) *Reader responsibility.* The reader should be able to do more than read to the veteran. The reader should have an understanding of the subject matter based upon prior training or experience which allows him or her to:

(1) Read printed material with understanding; and

(2) Test the veteran's understanding of what has been read. (38 U.S.C. 1504(a)(14))

(d) *Extent of service.* The number of hours of service will be determined in each case by the amount of reading necessitated by the course and the efficacy of other equipment with which the verteran has been furnished to enable him or her to read printed material unassisted. (38 U.S.C. 1504(a)(14))

(e) *Recording.* The VA will not normally pay for recording textbooks or other materials as a part of reader services, since excellent recording services are provided by volunteer organizations at no cost. (38 U.S.C. 1504(a)(14))

(f) *Selecting a relative as a reader.* Utilization of a relative of the veteran as a reader is subject to the limitations on use of a relative as an attendant under § 21.374. (38 U.S.C. 1504(a)(14))

§ 21.152 Interpreter service for the hearing impaired.

(a) *General.* The main purpose of interpreter service for the hearing impaired is to facilitate instructor-student communication. The VA will provide interpreter service as necessary for the development and pursuit of a rehabilitation program. This service will be provided if:

(1) A VA physician determines that:

(i) The veteran is deaf or his or her hearing is severely impaired; and

(ii) All appropriate services and aids have been furnished to improve the veteran's residual hearing; or

(2) A VA physician determines that the veteran:

(i) Can benefit from language and speech training; and

(ii) Agrees to undertake language and speech training. (38 U.S.C. 1504(a)(14))

(b) *Periods during which interpreter service may be provided.* Interpreter service may be furnished during:

(1) Initial evaluation or reevaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services; or

(5) Employment services, including the first three months of employment. (30 U.S.C. 1504(a)(14))

(c) *Selecting the interpreter.* Only certified interpreters or persons meeting generally accepted standards for interpreters shall provide interpreter service. When an individual is not certified by a State or professional association, the VA shall seek the assistance of a State certifying agency or a professional association in ascertaining whether the individual is qualified to serve as an interpreter. (38 U.S.C. 1504(a)(14))

(d) *Relatives.* Interpreter service at VA expense may not be provided by a relative of the veteran. The term "relative" has the same meaning as under § 21.374 pertaining to the use of relatives as attendants. (38 U.S.C. 1692)

§ 21.154 Special transportation assistance.

(a) *General.* A veteran, who because of the effects of disability has transportation expenses in addition to those incurred by persons not so disabled, shall be provided a transportation allowance to defray such additional expenses. The assistance provided in this section is in addition to provisions for interregional and intraregional travel which may be authorized under provisions of §§ 21.370 through 21.376. (38 U.S.C. 1504(a)(13))

(b) *Periods during which special transportation allowance may be provided.* A special transportation allowance may be provided during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Independent living services; or

(4) Employment services, including the first three months of employment. (38 U.S.C. 1504(a)(14))

(c) *Scope of transportation assistance.* (1) Transportation assistance includes mileage, parking fees, reasonable fee for a driver, transportation furnished by a rehabilitation facility or sheltered workshop, and other reasonable expenses which may be incurred in local travel;

(2) The veteran's monthly transportation allowance may not exceed the lesser of actual expenses incurred or one-half of the subsistence allowance of a single veteran in full-time institutional training, unless extraordinary arrangements, such as transportation by ambulance, are necessary to enable a veteran to pursue a rehabilitation program. (38 U.S.C. 1504(a)(13))

(d) *Determining the need for a transportation allowance.* The case manager will determine the need for a transportation allowance. The assistance of a medical consultant shall

be utilized, as necessary, to determine the need for special transportation assistance and to develop transportation arrangements which do not unduly tax the veteran's ability to travel and pursue a rehabilitation program. (38 U.S.C. 1513(a)(13))

(e) *Use of a relative precluded.* A relative of the veteran may not be paid any part of a special transportation allowance. The term "relative" has the same meaning as under § 21.374 pertaining to the use of a relative as an attendant. (38 U.S.C. 1504(a)(13))

§ 21.155 Services to a veteran's family.

(a) *General.* The VA shall provide services to a veteran's family which are necessary to the implementation of the veteran's rehabilitation plan. The term "family" includes the veteran's immediate family, legal guardian, or any individual in whose home the veteran certifies an intention to live. (38 U.S.C. 1504(a)(11))

(b) *Scope of services to a veteran's family.* The services which may be furnished to the family are generally limited to consultation, homecare training, counseling, and mental health services of brief duration which are designed to enable the family to cope with the veteran's needs. Extended medical, psychiatric or other services may not be furnished to family members under these provisions. (38 U.S.C. 1504(a)(11))

(c) *Providing services to a veteran's family.* VR&C Staff will:

(1) Identify services which family members may need to facilitate the rehabilitation of the veteran; and

(2) Arrange for provision of the services which have been identified. (38 U.S.C. 1504(a)(11))

(d) *Resources for provision of services to family members.* (1) The established program and services which are furnished by DM&S (Department of Medicine and Surgery) to family members of veterans eligible for chapter 31 should be used to the extent practicable; but

(2) If services are not readily available through regular DM&S programs, necessary services will normally be secured through arrangements with other public and nonprofit agencies. (38 U.S.C. 1504(a)(11))

§ 21.156 Other incidental goods and services.

(a) *General.* Other incidental goods and services may be authorized if the case manager determines them to be necessary to implement the veteran's rehabilitation plan. For example, a calculator may be authorized for a veteran pursuing an engineering degree, even though the veteran may not be required to have a calculator for any specific subject in his or her course, where there is substantial evidence that lack of a calculator places the veteran at a distinct disadvantage in successfully pursuing the course. (38 U.S.C. 1504(a)(10))

(b) *Limitation on cost.* The costs of incidental goods and services normally should not exceed five percent of training costs for any twelve-month period. (38 U.S.C. 1504(a)(10))

27. A new center heading and new §§ 21.160 and 162 are added as follows:

Independent Living Services

§ 21.160 Independent living services.

(a) *Purpose.* The purpose of independent living services is to assist eligible veterans whose ability to function independently in family, community, or employment is so limited by the severity of disability (service and nonservice-connected) that vocational or rehabilitation services need to be appreciably more extensive than for less disabled veterans. (38 U.S.C. 1501)

(b) *Definitions.* The term "independence in daily living" means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within the veteran's family and community. (38 U.S.C. 1501(2))

(c) *Situations under which independent living services may be furnished.* Independent living services may be furnished:

(1) As part of a program to achieve rehabilitation to the point of employability;

(2) As part of an extended evaluation to determine the reasonable feasibility of achieving a vocational goal;

(3) Incidental to a program of employment services; or

(4) As the whole of a rehabilitation program. (38 U.S.C. 1504)

(d) *Services which may be authorized.* The services which may be authorized as part of an IILP (Individualized Independent Living Plan) include:

(1) Any appropriate service which may be authorized for a vocational rehabilitation program as that term is defined in § 21.35(i), except for a course of education or training as described in § 21.120; and

(2) Independent living services offered by approved independent living centers and programs which are determined to be necessary to carry out the veteran's plan including:

(i) Evaluation of independent living potential;

(ii) Training in independent living skills;

(iii) Attendant care;

(iv) Health maintenance programs; and

(v) Identifying appropriate housing accommodations. (38 U.S.C. 1504(b))

(e) *Coordination with other VA elements and other Federal, State, and local programs.* Implementation of programs of independent living services and assistance will generally require extensive coordination with other VA and non-VA programs. The resources of VA medical centers shall be utilized as prescribed in § 21.242. If appropriate arrangements cannot be made to provide these services through VA medical centers, other governmental and private nonprofit programs may be used to secure necessary services if the program meets the requirements of § 21.294. (38 U.S.C. 220, 1509, 1520)

§ 21.162 Participation in a program of independent living services.

(a) *Approval of a program of independent living services.* A program of independent living services and assistance is approved when:

(1) All steps required by § 21.90 and § 21.92 to the development and preparation of an IILP (Individualized Independent Living Plan) have been completed; and

(2) The Director, Vocational Rehabilitation and Counseling Service, concurs in the IILP. (38 U.S.C. 1509, 1520)

(b) *Special considerations affecting approval by the Director, Vocational Rehabilitation and Counseling Service.* The Director, Vocational Rehabilitation and Counseling Service, shall consider the following factors before approving the participation of a veteran in an independent living program:

(1) Conformity of the proposed plan with provisions of paragraph (a)(1);

(2) If the VA resources available limit the number of veterans who may be provided a program of independent living services and assistance, the first priority shall be given to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of service-connected disability;

(3) A substantial proportion of veterans provided with programs of independent living services and assistance shall be receiving long-term care in VA hospitals and nursing homes;

(4) The veterans provided programs of independent living and assistance shall be from all geographic areas of the country; and

(5) If a veteran's independent living plan could be approved, but for one of the other requirements of this section, the veterans shall have priority over

other veterans with the same or lower ratings for service-connected disability applying during the following fiscal year. (38 U.S.C. 1520)

(c) *Limitations.* (1) A program of independent living services and assistance may not be approved after September 30, 1985. Programs authorized prior to that date may be continued until completion or other termination;

(2) Any contract for services initiated before September 30, 1985, may be continued in effect for the purpose of providing necessary services and assistance;

(3) The limitations on provision of independent living services to veterans for whom such services constitute the whole of a program are not applicable to veterans being provided independent living services as part of a rehabilitation program during periods identified in § 21.160(c)(1), (2), and (3). (38 U.S.C. 1504(b), 1520)

28. The following new centerheading and § 21.180 are added as follows:

Case Status

§ 21.180 Case status system.

(a) *General.* Each veteran's case will be assigned to a specific case status from the point of initial contact until all appropriate steps in the rehabilitation process have been completed. The case status system will:

(1) Assist VR&C staff to fulfill its case management responsibility to provide authorized assistance to enable the veteran to successfully pursue his or her program; and

(2) Assure program management and accountability. (38 U.S.C. 1507)

(b) *Responsibility for change of case status.* The case manager is responsible for assigning a case to the appropriate case status at each point in the rehabilitation process. (38 U.S.C. 1506(e))

(c) *Case manager.* The VR&C (Vocational Rehabilitation and Counseling) Officer or his or her designee will assign a case manager when the veteran's case is placed in "evaluation and planning" status. The VR&C Officer or his or her designee may assign case management responsibility for development and implementation of a rehabilitation plan authorized under chapter 31 to a counseling psychologist or vocational rehabilitation specialist in the VR&C Division. The case manager assigned will, unless replaced by the VR&C Officer, continue to be responsible for case management throughout the course of the veteran's rehabilitation program. The DVB case manager should coordinate efforts to secure necessary medical and other services with DM&S (Department of Medicine and Surgery) staff assigned case management responsibility at a VA medical center as appropriate in the individual case. (38 U.S.C. 1506(e))

(d) *Informing the veteran.* The veteran will be informed in writing of changes in case status by the VA which affect his or her receipt of benefits and services under chapter 31. The letter to the veteran will include the reason for the change of case status, and other information required under provisions of § 21.420. (38 U.S.C. 1507)

(e) *Normal progression for eligible veterans.* The cases of veterans who are eligible for and entitled to services under chapter 31 for whom individualized plans have been prepared will generally undergo the following changes of status:

(1) *Individualized written rehabilitation plan.* A veteran with an IWRP (Individualized Written Rehabilitation Plan) will generally move sequentially from "applicant" status through "evaluation and planning" status "rehabilitation to the point of employability" status, "employment services" status, and "rehabilitated" status.

(2) *Individualized extended evaluation plan.* A veteran with an IEEP (Individualized Extended Evaluation Plan) will generally move from "applicant" status through "evaluation and planning" status to "extended evaluation" status. Once in "extended evaluation" status there will generally be a finding which leads to development of an IWRP (paragraph (e)(1) of this section), or IILP (Individualized Independent Living Plan) (paragraph (e)(3) of this section).

(3) *Individualized independent living plan.* A veteran with an IILP (Individualized Independent Living Plan) will generally move from "applicant" status through "evaluation and planning," "extended evaluation," "independent living," and "rehabilitated status.

(4) *Individualized employment assistance plan.*

(i) A veteran with an IEAP (Individualized Employment Assistance Plan) which is a part of an IWRP will move through the case statuses described in paragraph (e)(1) of this section, or in some cases through the steps in paragraph (e)(2) of this section.

(ii) A veteran for whom only employment services are provided will generally move from "applicant" through "evaluation and planning," "employment services" to "rehabilitated" status. (38 U.S.C. 1507)

(f) *Normal progression for ineligible veterans.* A veteran found ineligible for services under chapter 31 will generally move from "applicant" to "evaluation and planning" status, to "ineligible" status. (38 U.S.C. 1507)

(g) *Changes of status.* The case manager may change the case status when:

(1) Conditions for change specified in the status are met;

(2) The change is not specifically precluded by the status to which change is being considered; and

(3) The change is consistent with provisions of other applicable regulations. (38 U.S.C. 1506)

29. Section 21.182 is added as follows:

§ 21.182 "Applicant" status.

(a) *Purpose.* The purposes of "applicant" status are to:

(1) Process a veteran's claim for assistance under chapter 31 in a timely manner; and

(2) Identify service-disabled veterans whom the VA should contact individually to increase their awareness and understanding of how they may benefit from services furnished under chapter 31. (38 U.S.C. 1502)

(b) *Assignment to "applicant" status.* The VA will assign a veteran's records to "applicant" status when either:

(1) The VA receives a formal or informal application from a veteran for services under chapter 31; or

(2) The VR&C (Vocational Rehabilitation and Counseling) Division:

(i) Advises a veteran in writing of the veteran's potential eligibility for chapter 31 services, or

(ii) Is informed that the veteran has been advised in writing of his or her potential eligibility for chapter 31 services by other VA elements. (38 U.S.C. 1502(2))

(c) *Termination of "applicant" status.* "Applicant" status will be terminated when:

(1) An appointment for an initial evaluation has been kept by the veteran; or

(2) The veteran's service-connected disability is reduced to a noncompensable degree; or

(3) The veteran's service-connected disability is severed; or

(4) The veteran's application is invalid because of fraud or error; or

(5) The veteran withdraws his or her claim, or otherwise indicates that no further assistance is desired. (38 U.S.C. 1506)

Cross-Reference: See §§ 21.30 Claims, 21.31 Informal claims, and 21.32 Time limits.

30. Section 21.184 is added as follows:

§ 21.184 "Evaluation and planning" status.

(a) *Purpose.* The purpose of "evaluation and planning" status is to identify veterans for whom evaluation and planing services are needed to:

(1) Accomplish an initial evaluation as provided in § 21.50;

(2) Develop an IWRP (Individualized Written Rehabilitation Plan), IEEP (Individualized Extended Evaluation Plan), IILP (Individualized Independent Living Plan) or IEAP (Individualized Employment Assistance Plan); or

(3) Reevaluate:

(i) Findings made in prior initial evaluations, or

(ii) Current or previous individualized rehabilitation plans. (38 U.S.C. 1506, 1507)

(b) *Assignment to "evaluation and planning" status.* A veteran's records will be assigned to "evaluation and planning" Status for any of the purposes specified in paragraph (a) of this section. (38 U.S.C. 1506, 1507)

(c) *Termination of "evaluation and* planning" status for any of the purposes veteran's records to "evaluation and planning" status may be terminated under the following conditions:

(1) *Evaluation and planning completed.* The services necessary to complete evaluation and planning have been provided. These services are:

(i) Completion of an initial evaluation;

(ii) Development of an IWRP (Individualized Written Rehabilitation Plan) or other individual rehabilitation plan in those cases in which eligibility and entitlement to services provided under chapter 31 are established; or

(iii) Completion of reevaluation of prior findings made in initial evaluation or modification of a rehabilitation plan.

(2) *Evaluation and planning not completed.* The VR&C Division shall make every reasonable effort to enable the veteran to complete the evaluation and planning phase of the rehabilitation process. A determination that every reasonable effort by the VA has been made, and that little likelihood exists that continued efforts will lead to completion of planning and evaluation, may be made under the following conditions:

(i) The veteran writes the VA and requests that his or her case be inactivated;

(ii) The veteran fails to keep scheduled appointments following his or her initial appointment; or

(ii) The veteran otherwise fails to cooperate with the VA in the evaluation and planning process. If the veteran fails to cooperate, the provisions of § 21.362 are applicable. (38 U.S.C. 1506, 1507)

Cross-Reference: See §§ 21.50 through 21.58 Initial and extended evaluation, and §§ 21.80 through 21.98 Individualized written rehabilitation plan.

31. Section 21.186 is added as follows:

§ 21.186 "Ineligible" status.

(a) *Purpose.* The purpose of "ineligible" status is to identify the cases in which a veteran requests services under chapter 31, but the request is denied by the VA, usually, on the basis of information developed when the veteran was in "evaluation and planning" status. (38 U.S.C. 1506)

(b) *Assignment to "ineligible" status.* A veteran's case will be assigned to "ineligible" status following a finding by the VA that the veteran is not eligible for or entitled to services under chapter 31. The finding must preclude all possible chapter 31 services. (38 U.S.C. 1506, 1507)

(c) *Termination of "ineligible" status.* The assignment of the veteran's case to "ineligible" status should be terminated if the veteran thereafter becomes eligible to receive any chapter 31 service. Placement of the case in "ineligible" status is a bar to reconsideration of eligibility unless a material change in circumstances occurs. (38 U.S.C. 1506)

32. Section 21.188 is added as follows:

§ 21.188 "Extended evaluation" status.

(a) *Purpose.* The purposes of "extended evaluation" status are to:

(1) Identify a veteran for whom a period of "extended evaluation" is needed; and

(2) Assure that necessary services are provided by the VA during the extended evaluation. (38 U.S.C. 1506)

(b) *Assignment to "extended evaluation" status.* A veteran's case may be assigned or reassigned to "extended evaluation" status under provisions of § 21.57, § 21.74, § 21.86, § 21.94, § 21.96, or § 21.98. (38 U.S.C. 1507)

(c) *Continuation in "extended evaluation" status.* A veteran's case will be in "extended evaluation" status during periods in which:

(1) The veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran is receiving rehabilitation services prescribed in the IEEP (§ 21.86); or

(3) The veteran is on authorized leave of absence during an extended evaluation. (38 U.S.C. 1508)

(d) *Termination of "extended evaluation status.* A veteran in "extended evaluation" status will remain in that status until one of the following events occur:

(1) Following notification of necessary arrangements to begin an extended evaluation, the date the extended evaluation begins, and instructions as to the next steps to be taken, the veteran:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled date of induction, except where the deferment is due to illness or other sufficient reason;

(2) The VA determines the reasonable feasibility of a vocational goal for the veteran before completion of all of the planned evaluation because the decision does not require the further evaluation;

(3) The veteran completes the extended evaluation;

(4) Either the veteran or the VA interrupts the extended evaluation;

(5) Either the veteran or the VA discontinues the extended evaluation; or

(6) Service-connection for the veteran's service-connected disability is severed by the VA or his or her continued eligibility otherwise ceases. (38 U.S.C. 1506)

Cross-References: See §§ 21.57 Extended evaluation, 21.322 Commencing dates, 21.324 Reduction or termination.

33. Section 21.190 is added as follows:

§ 21.190 "Rehabilitation to the point of employability" status.

(a) *Purpose.* The "rehabilitation to the point of employability" status serves to:

(1) Identify veterans who receive training and rehabilitation services to enable them to attain a vocational goal; and

(2) Assure that services specified in the veteran's IWRP are provided in a timely manner by the VA. (38 U.S.C. 1501)

(b) *Assignment.* A veteran's case may be assigned or reassigned to "rehabilitation to the point of employability" status under the provisions of §§ 21.84, 21.94, 21.96, or 21.98. (38 U.S.C. 1507)

(c) *Continuation in "rehabilitation to the point of employability" status.* A veteran will be assigned to "rehabilitation to the point of employability" status during periods in which:

(1) The veteran has progressed through "applicant" status and "evaluation and planning" status (including extended evaluation status when appropriate), and is pending induction into the facility at which training and rehabilitation services will be provided;

(2) The veteran is receiving training and rehabilitation services prescribed in the IWRP; or

(3) The veteran is on authorized leave of absence. (38 U.S.C. 1504, 1508)

(d) *Termination of "rehabilitation to the point of employability" status when goals of the IWRP for this period are achieved.* The VA will consider a veteran to have completed the period of rehabilitation to the point of employability, and will terminate this status under the following conditions:

(1) The veteran achieves the goals of, and has been provided services specified in, the IWRP;

(2) The veteran who leaves the program has completed a sufficient portion of the services prescribed in the IWRP to establish clearly that he or she is generally employable as a trained worker in the occupational objective established in the IWRP;

(3) The veteran, who has not completed all prescribed services in the IWRP, accepts employment in the occupational objective established in the IWRP with wages and other benefits commensurate with wages and benefits received by trained workers; or

(4) The veteran:

(i) Satisfactorily completes a prescribed program, the practice of which requires pursuing an examination for licensure, but

(ii) Is unable to take the licensure examination prior to the basic twelve-year termination date and there is no basis for extension of that date. (38 U.S.C. 1507)

(e) *Other conditions for termination of "rehabilitation to the point of employability" status.* In addition to termination under conditions described in paragraph (d) of this section, the classification of the veteran's records in this status may be terminated under any of the following conditions:

(1) A veteran who has been notified of necessary arrangements to begin the program, the date the program begins and instructions as to the next steps to be taken:

(i) Fails to report and does not respond to initial or subsequent followup by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers induction for a period exceeding 30 days beyond the scheduled beginning date of the program, except where the deferment is due to illness or other sufficient reason.

(2) Either the veteran or the VA interrupts the period of rehabilitation to the point of employability;

(3) Either the VA or the veteran discontinues the period of rehabilitation to the point of employability;

(4) The veteran reaches his or her termination date, and there is no basis for extension under § 21.44;

(5) The veteran's entitlement to training and rehabilitation services under chapter 31 is exhausted, and there is no basis for extension under § 21.78; or

(6) Service-connection for the veteran's service-connected disability is served by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1507)

(f) *Payment of employment adjustment allowance.* An employment adjustment allowance will be paid when the veteran's classification in "rehabilitation to the point of employability" status is terminated under provisions of paragraph (d) of this section. An employment adjustment allowance will not be paid if termination is for one of the reasons specified in paragraph (e) of this section. (38 U.S.C.1508(a))

Cross-References: See §§ 21.120 Educational and vocational trainings services, 21.282 Effective date of induction into a rehabilitation program, and 21.284 Reentering into a rehabilitation program.

34. Section 21.192 is added as follows:

§ 21.192 "Independent living program" status.

(a) *Purpose.* The "independent living program" status serves to:

(1) Identify veterans who are being furnished a program of independent living services by the VA; and

(2) Assure that such veterans receive necessary services from the VA in a timely manner. (38 U.S.C.1507)

(b) *Assignment to "independent living program" status.* A veteran may be assigned or reassigned to "independent living program" status under the provisions of §§ 21.88, 21.94, 21.96, or 21.98.(38 U.S.C. 1507)

(c) *Continuation in "independent living program" status.* A veteran will be in "independent living program" status during periods in which:

(1) The provisions of § 21.282 for induction into a program are met, but the veteran is pending induction into the facility at which rehabilitation services will be provided;

(2) The veteran receives rehabilitation services prescribed in an IILP; or

(3) The veteran is on authorized leave of absence status. (38 U.S.C. 1509, 1520)

(d) *Termination of "independent living program" status.* When a veteran's case has been assigned to "independent living program" status, the case will be terminated from that status, if one of the following occurs:

(1) A veteran, who has been notified of necessary arrangements to begin a program, the date the program begins and instructions as to the next steps to be taken:

(i) Fails to report and does not respond to followup contact by the case manager;

(ii) Declines or refuses to enter the program; or

(iii) Defers entry for more than 30 days beyond the scheduled beginning date, unless the deferment is due to illness or other sufficient reason.

(2) The veteran completes the IILP;

(3) Either the veteran or the VA interrupts the program;

(4) Either the veteran or the VA discontinues the program; or

(5) Service-connection for the veteran's service-connected disability is severed by the VA or he or she otherwise ceases to be eligible. (38 U.S.C. 1509, 1510)

Cross-References: See §§ 21.160 Independent living services. 21.282 Effective date of induction into a rehabilitation program. 21.322 Commencing date. 21.324 Reduction or termination date.

35. Section 21.194 is added as follows:

§ 21.194 "Employment services" status.

(a) *Purpose.* The status "employment services" serves to:

(1) Identify veterans who are being furnished employment services; and

(2) Assure that these veterans receive necessary services in a timely manner. (38 U.S.C. 1517)

(b) *Assignment to "employment services" status.* A veteran's case may be assigned or reassigned to "employment services" status under the provisions of §§ 21.84, 21.88, 21.94 and 21.98.(38 U.S.C. 1517

(c) *Continuation in "employment services" status.* A case will remain in "employment services" status for the period specified in the IEAP, subject to the limitations specified in paragraph (d) of this section. (38 U.S.C. 1517)

(d) *Termination of "employment services" status.* The veteran will continue in "employment services" status until the earliest of the following events occurs:

(1) He or she is:

(i) Employed in the occupational objective for which training was provided or in a closely related objective for sixty days, and

(ii) Adjusted to the duties and responsibilities of the job;

(2) He or she qualifies for placement in "rehabilitation" status under the provisions of § 21.196(b)(2);

(3) Either the veteran or the VA interrupts the employment services program;

(4) Either the veteran or the VA discontinues the employment services program;

(5) He or she reaches the end of the period for which employment services have been authorized and there is no basis for extension; or

(6) Service-connection for the veteran's service-connected disability is severed or he or she otherwise ceases to be eligible. (38 U.S.C. 1517)

Cross-References: See §§ 21.47 Eligibility for employment assistance, 21.250 Overview of employment services, and 21.326 Authorization of employment services.

36. Sections 21.196 through 21.198 are added as follows:

§ 21.196 "Rehabilitated" status.

(a) *Purpose.* The purpose of "rehabilitated" status is to identify those cases in which the goals of a rehabilitation program or a program of employment services have been substantially achieved.

(b) *Assignment to "rehabilitated" status.* A veteran's case shall be assigned to "rehabilitated" status under the following conditions:

(1) *Achieving and maintaining suitable employment.* A veteran's case shall be assigned to "rehabilitated" status from "employment services" status as provided in § 21.194(d)(1) pertaining to the achievement and maintenance of suitable employment, following attainment of the goals of a plan. This includes:

(i) An IEAP (Individualized Employment Assistance Plan) which is part of an IWRP (Individualized Written Rehabilitation Plan); or

(ii) An IEAP which constitutes the program of services to be provided under chapter 31.

(2) *Rehabilitation to the point of employability not completed.* A veteran who has not completed the planned period of rehabilitation to the point of employability shall be assigned to "rehabilitated" status if he or she:

(i) Is employed and adjusted in employment for 60 days in the occupational objective established in the IWRP, with wages and benefits commensurate with wages and other benefits received by other workers in the same occupation; or

(ii) Is employed and adjusted in employment for 60 days in a job other than the one prescribed by the IWRP Panel which provides wages and benefits commensurate with the wages and benefits of workers in the occupation for which the veteran was training, is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities, and otherwise consistent with the veteran's abilities and interests.

(3) *IEAP not completed.* A veteran in an IEAP which constitutes the whole of the veteran's program of services will be assigned to "rehabilitated" status from "employment services" status, even if the IEAP is not completed when:

(i) He or she is employed and adjusted in employment for 60 days in an occupation which provides wages and benefits commensurate with the wages and benefits received by workers in the occupational objective of the IEAP, and

(ii) The occupation in which the veteran is employed is compatible with the limiting effects of the veteran's service and nonservice-connected disabilities and otherwise consistent with the veteran's abilities and interests.

(4) *Independent living services plan.* A veteran in an IILP shall be considered rehabilitated when;

(i) The goal(s) of the IILP is (are) achieved, and

(ii) The veteran has maintained the increased level of independence for sixty days; or

(iii) The veteran has not achieved the goals of the IILP, but the VA determines that the veteran has received maximum benefits from the services provided, and has achieved a substantial increase in the level of independence. (38 U.S.C. 1507, 1517)

(c) *Termination of "rehabilitated" status.* A veteran's case will not be removed from "rehabilitated" status once that status has been assigned, unless the determination of rehabilitation is set aside for a reason specified in § 21.284. (38 U.S.C. 1500)

Cross-Reference: See § 21.284 Reentrance into a rehabilitation program.

§ 21.197 "Interrupted" status.

(a) *Purpose.* The purpose of "interrupted" status is to recognize that a variety of situations may arise in the course of a rehabilitation program in which a temporary suspension of the program is warranted. In each case, the VA first must determine that the veteran will be able to return to a rehabilitation program or a program of employment services following the resolution of the situation causing the interruption. This determination will be documented in the veteran's record. (38 U.S.C. 1517)

(b) *Assignment to "interrupted" status.* A veteran's case will be assigned to "interrupted" status when:

(1) The VA determines that a suspension of services being provided is necessary; and

(2) Either:

(i) A definite date for resumption of the program is established; or

(ii) The evidence indicates the veteran will be able to resume the program at some future date, which can be approximately established. (38 U.S.C. 1510)

(c) *Reasons for assignment to "interrupted" status.* A veteran's case may be interrupted and assigned to "interrupted" status for reasons including but not limited to the following:

(1) *Veteran does not initiate or continue rehabilitation process.* If a veteran does not begin or continue the rehabilitation process, the veteran's case will be interrupted and assigned to "interrupted" status, including:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status or

(vi) A case in "employment services" status.

(2) *Unsatisfactory conduct and cooperation.* If a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be interrupted as determined under provisions of §§ 21.362 and 21.364.

(3) *Services not available.* The veteran cannot continue the program because the necessary training and rehabilitation services are unavailable.

(4) *Prior to assignment to "discontinued" status.* A veteran's case shall be assigned to "interrupted" status prior to discontinuance and assignment to "discontinued" status in all cases except the veteran's death. The purpose of assignment to "interrupted" status is to assure that all appropriate actions have been taken to help the veteran continue in his or her program before discontinuing benefits and services.

(5) *Absences.* The veteran is not entitled to be placed on authorized absence under §§ 21.340 through 21.350 while in interrupted status. (38 U.S.C. 1511)

(d) *Reentrance from "interrupted" status.* (1) A veteran in "interrupted" status may be assigned to his or her prior status or other appropriate status, if he or she reports for entrance or reentrance into the prescribed program at the time and place scheduled for the resumption of the rehabilitation program.

(2) If a veteran in "interrupted" status fails to report for entrance or reentrance into the program at the appointed time and place, the veteran's case will remain in "interrupted" status. The case

manager will then determine whether there is a satisfactory reason for the veteran's failure to enter a new or reenter the prior program. If the evidence of record does not establish a satisfactory reason, the veteran's case will be discontinued and assigned to "discontinued" status. (38 U.S.C. 1507)

(e) *Case management responsibility during a period of interruption.* The case manager shall maintain contact with the veteran during "interruption" and shall arrange for appropriate medical or other services the veteran needs to be able to enter or reenter a rehabilitation program or a program of employment services. (38 U.S.C. 1507)

Cross-Reference: See § 21.324 Reduction or termination date.

§ 21.198 "Discontinued" status.

(a) *Purpose.* The purpose of "discontinued" status is to identify situations in which termination of all services and benefits received under chapter 31 is necessary. (38 U.S.C. 1508, 1511)

(b) *Placement in "discontinued".* The VA will discontinue the veteran's case and assign the case to "discontinued" status following assignment to "interrupted" status as provided in § 21.197 for reasons including but not limited to the following:

(1) *Veteran declines to initiate or continue rehabilitation process.* If a veteran does not initiate or continue the rehabilitation process and does not furnish an acceptable reason for his or her failure to do so following assignment to "interrupted" status, the veteran's case will be discontinued and assigned to "discontinued" status. This includes:

(i) A case in "applicant" status;

(ii) A case in "evaluation and planning" status;

(iii) A case in "extended evaluation" status;

(iv) A case in "rehabilitation to the point of employability" status;

(v) A case in "independent living program" status;

(vi) A case in "employment services" status; or

(vii) A case in "interrupted" status; (38 U.S.C. 1508, 1511)

(2) *Unsatisfactory conduct and cooperation.* When a veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be discontinued and assigned to "discontinued" status as determined under provisions of §§ 21.362 and 21.364.

(3) *Eligibility and entitlement.* Unless the veteran desires employment assistance, the veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran reaches the basic twelve-year termination date, and there is no basis for extension; or

(ii) The veteran has used 48 months of entitlement under one or more VA programs, and there is no basis for extension of entitlement.

(4) *Medical and related problems.* A veteran's case will be discontinued and assigned to "discontinued" status when:

(i) The veteran will be unable to participate in a rehabilitation program because of a serious physical or emotional problem for an extended period; and

(ii) VA medical staff are unable to estimate an approximate date by which the veteran will be able to begin or return to the program.

(5) *Withdrawal.* Veteran voluntarily withdraws from the program.

(6) *Failure to progress.* The veteran's case will be discontinued and assigned to "discontinued" status if his or her failure to progress in a program is due to:

(i) Continuing lack of application by the veteran unrelated to any personal or other problems; or

(ii) Inability of the veteran to benefit from rehabilitation services despite the best efforts of the VA and the veteran. (38 U.S.C. 1508, 1511)

(c) *Termination of "discontinued" status.* Except as noted in paragraph (c)(3) of this section assignment of the veteran's case to the same status from which the veteran was discontinued or to a different one requires that the VA first find:

(1) The reason for the discontinuance has been removed; and

(2) The VA has redetermined his or her eligibility and entitlement under chapter 31.

(3) In addition to the criteria described in paragraphs (c) (1) and (2) of this section a veteran placed into "discontinued" status as a result of a finding of unsatisfactory conduct or cooperation under §§ 21.362 and 21.364 must also meet the requirements for reentrance into a rehabilitation program found in § 21.364. (38 U.S.C. 1511)

(d) *Followup of cases placed in "discontinued" status.* The VA shall establish appropriate procedures to follow-up on cases which have been placed in "discontinued" status. The purpose of such followup is to determine if:

(1) The reasons for discontinuance may have been removed, and reconsideration of eligibility and entitlement is possible; or

(2) The veteran is employed, and criteria for assignment to "rehabilitated" status are met. (38 U.S.C. 1507)

Cross-Reference: See § 21.324 Reduction or termination dates of subsistence allowance.

Center headings and §§ 21.200–21.209 [Removed]

37. Center headings "Vocational Rehabilitation Training Under Chapter 31, Title 38, United States Code" and "Status of Veterans Prior to Induction Into Training", and §§ 21.200 through 21.209 are removed.

Center headings and §§ 21.211, 21.221,1 21.223, 21.225, 21.226, 21.227 [Removed]

38. Center headings: "SELECTING THE TRAINING FACILITY", "THE INDIVIDUAL TRAINING PROGRAM" and "INDUCTING THE VETERAN INTO TRAINING" and §§ 21.211, 21.221, 21.223, 21.225, 21.226 and 21.227 are removed. A new center heading is added. Sections 21.210, 21.212, 21.220, 21.222, and 21.224 are revised, and sections 21.214, 21.216, 21.218 and 21.219 are added, so that the revised and added material reads as follows:

Supplies

§ 21.210 Supplies.

(a) *Purpose of furnishing supplies.* Supplies are furnished to enable a veteran to pursue rehabilitation and achieve the goals of his or her program. (38 U.S.C. 1504(a))

(b) *Definition.* The term "supplies" includes books, tools, and other supplies and equipment which the VA determines are necessary for the veteran's rehabilitation program. (38 U.S.C. 1504(a))

(c) *Periods during which supplies may be furnished.* Supplies may be furnished during:

(1) Extended evaluation;

(2) Rehabilitation to the point of employability;

(3) Employment services; and

(4) An independent living services program. (38 U.S.C. 1504(a))

(d) *Supplies precluded.* Notwithstanding the provisions of paragraph (c) of this section, supplies may not be furnished to a veteran who has elected, or is in receipt of, payment at the educational assistance rate paid under chapter 34. (38 U.S.C. 1508(a))

§ 21.212 General policy in furnishing supplies during periods of rehabilitation.

(a) *Furnishing necessary supplies during a period of rehabilitation services.* A veteran will be furnished supplies that are necessary for a program of rehabilitation services. For example, a veteran training in a school will be furnished the supplies needed to pursue the school course. If additional supplies are subsequently needed to secure employment, they will be

furnished during the period of employment services as provided in § 21.214(d). (38 U.S.C. 1504(a))

(b) *Determining supplies needed during a period of rehabilitation.* Subject to the provisions of §§ 21.210 through 21.222, the VA will authorize only those supplies which are required:

(1) To be used by similarly circumstanced non-disabled persons in the same training or employment situation;

(2) To mitigate or compensate for the effects of the veteran's disability while he or she is being evaluated, trained or assisted in gaining employment; or

(3) To allow the veteran to function more independently and thereby lessen his or her dependence on others for assistance. (38 U.S.C. 1504(a))

(c) *When supplies may be authorized.* Supplies should generally be authorized subsequent to the date of enrollment in training or beginning date of other rehabilitation services unless there are compelling reasons to authorize them earlier. Supplies may not be authorized earlier than the date the veteran's rehabilitation plan is approved by the VA and the veteran is accepted by the facility or individual providing services. (38 U.S.C. 1504(a))

(d) *Supplies needed, but not specifically required.* The VA may determine that an item, such as a calculator, while not required by the school for the pursuit of a particular school subject, is nevertheless necessary for the veteran to successfully pursue his or her program under the provisions of § 21.156 pertaining to incidental goods and services. The item may be authorized if:

(1) It is generally owned and used by students pursuing the course; and

(2) Students who do not have the item would be placed at a distinct disadvantage in pursuing the course. (38 U.S.C. 1504(a))

(e) *Supplies for special projects and theses.* The amount of supplies that the VA may authorize for special projects, including theses, may not exceed the amount generally needed by similarly circumstanced nonveterans in meeting course or thesis requirements. (38 U.S.C. 1504(a))

(f) *Responsibility for authorization of supplies.* The case manager is responsible for the authorization of supplies, subject to requirements for prior approval contained in § 21.258 and other instructions governing payment of program charges. (38 U.S.C. 1506(e))

§ 21.214 Furnishing supplies for special programs.

(a) *General.* A veteran pursuing one of the following types of vocational rehabilitation programs is eligible for any types of supplies listed in § 21.212. The following paragraphs clarify the applicability of the general provisions of § 21.212 to these special situations. (38 U.S.C. 1504(a))

(b) *Supplies furnished to veterans pursuing training in the home.* The VA may furnish to veterans training in the home:

(1) Books, tools, and supplies which schools or training establishments that train individuals outside the home for the objective the veteran is pursuing at home ordinarily require all students and trainees to personally possess;

(2) Supplies and equipment which are essential to the prescribed course of training because the veteran is pursuing the course at home. Equipment in this category consists of items which ordinarily are not required by a school or training establishment;

(3) Special equipment, such as a vise or drafting table;

(4) Supplies needed to enable the veteran to function more independently in his or her home and community. (38 U.S.C. 1504(a))

(c) *Supplies furnished to a veteran in farm cooperative training.* The books and related training supplies which the VA may furnish a veteran in farm cooperative training depend upon the type of instruction he or she is receiving:

(1) When organized, group instruction is part of a veteran's course, the VA will furnish those books and supplies which the school requires all students in the school portion of the course to own personally or on a rental basis;

(2) When all instruction is given on the veteran's farm by an individual instructor, the VA will furnish to a student only those textbooks and other supplies which would ordinarily be required by a school. (38 U.S.C. 1504(a)(7))

(d) *Obtaining and maintaining employment.* A veteran being furnished employment services may receive supplies which:

(1) The employer requires similarly circumstanced nonveterans to own upon begining employment to the extent that the items were not furnished during the period in which the veteran was training for the objective, or the items that were furnished for training purposes are not adequate for employment;

(2) The VA determines that special equipment is necessary for the veteran to perform his or her duties, subject to the obligation of the employer to make reasonable accommodation to the disabling effects of the veteran's condition. (38 U.S.C. 1504(a), 2012)

(e) *Self-employment.* The supplies and services which may be furnished, subject which may be furnished, subject to the requirements prescribed under § 21.258, to a veteran for whom self-employment has been approved as the occupational objective, are generally limited to those necessary to begin operations:

(1) Minimum stocks of materials, e.g., inventory of saleable merchandise or goods, expendable items required for day-to-day operations, and items which are consumed on the premises;

(2) Essential equipment, including machinery, occupational fixtures, accessories, and appliances; and

(3) Other incidental services such as business license fees. (38 U.S.C. 1504(a)(2))

(f) *Supplies and related assistance which may not be furnished for self-employment.* The VA may not authorize assistance for:

(1) Purchase of, or part payment for, land and buildings;

(2) Making full or part payment of leases or rentals;

(3) Purchase or rentals of trucks, cars, or other means of transportation;

(4) Stocking a farm for animal husbandry operations. (38 U.S.C. 1504(a)(12))

§ 21.216 Special equipment.

(a) *General.* Special equipment should be authorized as necessary to enable a veteran to mitigate or overcome the effects of disability in pursuing a rehabilitation program. The major types of special equipment which may be authorized include:

(1) *Equipment for educational or vocational purposes.* This category includes items which are ordinarily used by nondisabled persons pursuing evaluation or training, modified to allow for use by disabled persons. e.g., calculators with speech capability for blinded persons.

(2) *Sensory aids and prostheses.* This category includes items which are specifically designed to mitigate or overcome the effects of disability. They range from eyeglasses and hearing aids to closed-circuit TV systems which amplify reading material for veterans with severe visual impairments.

(3) *Modifications to improve access.* This category includes adaptations of environment not generally associated with education and training, such as adaptive equipment for automobiles or supplies necessary to modify a veteran's home to make either training or self-employment possible. (38 U.S.C. 1504(a))

(b) *Coordination with other VA elements in securing special equipment.* In any case in which the veteran needs special equipment and is eligible for

such equipment under other VA programs, such as medical care and treatment at VA medical centers, the items will be secured under that program. The veteran must be found ineligible for needed special equipment under other programs and benefits administered by VA before the item may be authorized under chapter 31. (38 U.S.C. 1515)

§ 21.218 Methods of furnishing supplies.

(a) *Supplies furnished by the school or facility.* The VA will make arrangements for the school or other facility furnishing a veteran training, rehabilitation assistance, or employment under chapter 31 to provide supplies to the extent practicable. This method is the one most likely to assure that supplies are available and can be secured expeditiously. A facility may be considered to be furnishing supplies when the facility itself is the supplier, or the facility has designated a supplier. Prior authorization of supplies by the case manager is required, except for standard sets of books, tools, or supplies which the facility requires all trainees or employees to have. (38 U.S.C. 1504(a))

(b) *Issuance of supplies not furnished by the facility.* The VA will issue authorized supplies directly to the veteran, if the supplies are not furnished by the facility providing training, rehabilitation services, or employment. (38 U.S.C. 1504(a))

Cross-Reference: See 48 CFR 831. Contract cost principles and procedures.

§ 21.219 Supplies consisting of clothing, magazines and periodicals, and items which may be personally used by the veteran.

(a) *Furnishing protective articles and clothing.* Protective articles or apparel worn in place of ordinary clothing will be furnished at VA expense, when the school or training establishment requires similarly circumstanced nonveterans to use the articles of apparel. No other clothing will be supplied. (38 U.S.C. 1504(a)(7))

(b) *Furnishing magazines and periodicals.* Appropriate past issues of magazines, periodicals, or reprints may be furnished in the same manner as text material, when relevant to the course or training. (38 U.S.C. 1504(a)(7))

(c) *Furnishing items which may be personally used.* Musical instruments, cameras, or other items which could be used personally by the veteran may only be furnished if required by the facility to meet requirements for degree or course completion. (38 U.S.C. 1504(a)(7))

§ 21.220 Replacement of supplies.

(a) *Lost, stolen, misplaced or damaged supplies.* The VA will replace articles which are necessary to further pursuit of the veteran's program and which are lost, stolen, misplaced, or damaged beyond repair through no fault of the veteran;

(1) The VA will make an advancement from the Vocational Rehabilitation Revolving Fund to a veteran to replace articles for which the VA will not pay, if the veteran is without funds to pay for them;

(2) If a veteran refuses to replace an article indispensable to the program after the VA determines that its loss or damage was his or her fault, the veteran's refusal may be considered as noncooperation under § 21.364;

(3) If the veteran's program is discontinued under provisions of § 21.364(b), he or she will be reentered into the program only when he or she replaces the necessary articles. (38 U.S.C. 1504(a))

(b) *Personally purchased supplies.* The VA will not generally reimburse a veteran who personally buys supplies. The VA may pay for the required supplies which a training facility or other vendor sells to a veteran, if the facility chooses to return to the veteran the amounts he or she paid, so that the charges stand as an unpaid obligation of the VA to the facility. If the facility does not agree to such an arrangement, the VA may still pay the veteran, if the facts and equities of the case are demonstrated. (38 U.S.C. 1515)

(c) *Supplies used in more than one part of the program.* Except as provided in paragraph (a) of this section, the VA will generally furnish any nonconsumable supplies only one time, even though the same supplies may be required for use by the veteran in another subject or in another quarter, semester, or school year. (38 U.S.C. 1504(a)(7))

§ 21.222 Release of, and repayment for, training and rehabilitation supplies.

The value of supplies authorized by the VA will be repaid under the provisions of this section, when the veteran fails to complete the program as planned.

(a) *Consumable supplies.* The VA will require reimbursement from a veteran for consumable supplies authorized, unless:

(1) The veteran fails to complete the rehabilitation program through no fault of his or her own;

(2) The employment objective of the rehabilitation plan is changed as a result of reevaluation by VA staff;

(3) The total value of the supplies for which repayment is required is less than $100; or

(4) The veteran dies. (38 U.S.C. 1504)

(b) *Nonconsumable supplies (general).* In addition to the exceptions noted in paragraph (c) of this section, the VA will not require reimbursement from a veteran for nonconsumable supplies authorized, if:

(i) The veteran and VA change the long-range goal of the rehabilitation plan and those supplies are not required for the veteran's pursuit of training for the new goal;

(ii) The veteran's failure to complete the program was not his or her fault;

(iii) The veteran was pursuing the program at a facility which recovers nonconsumable supplies from veterans through contractural arrangements with the VA, and the veteran returned to the facility all the nonconsumable supplies furnished at VA expense;

(iv) The veteran reenters the Armed Forces or is in the process of reentering the Armed Forces;

(v) The veteran satisfactorily completed one-half or more of a noncollege degree course (or at least two terms in the case of a college course) for which the VA furnished the supplies;

(vi) The veteran certifies that he or she is using in current employment the supplies furnished during training;

(vii) The total value of the supplies for which repayment is required is less than $100;

(viii) The veteran dies;

(ix) The veteran is furnished supplies during a period of employment services but loses the job through no fault of his or her own;

(x) A veteran discontinued from an "independent living services" program is using supplies and equipment to reduce his or her dependence on others; or

(xi) The veteran is declared rehabilitated.

(2) The amount which a veteran must repay will be the lesser of the current value of the supplies, or the original cost of the supplies. The VA will accept supplies in lieu of repayment of the value of the supplies if the VA has authorized a change of objective. (38 U.S.C. 1504(a))

(c) *Training in the home and self-employment.* In addition to the reasons for not requiring repayment or return of nonconsumable supplies listed in paragraph (b) of this section, the VA will not require a veteran to pay for or return nonconsumable supplies if: (1) In the case of a veteran training in the home:

(i) VA furnished such supplies to equip his or her home as a place of training; and

(ii) The veteran has completed enough of his or her training program to be considered employable, and has been declared rehabilitated to the point of employability;

(2) A veteran in a self-employment program not in the home is declared rehabilitated; or

(3) The veteran dies and the Director, VR&C Service determines that the facts and equities of the family situation warrant waiver of all or a part of the requirements for repayment. (38 U.S.C. 1504(a)(12)).

§ 21.224 Prevention of abuse.

Supplies are to be furnished under the most careful checks by the case manager as to what is needed by the veteran to pursue his or her program. Determinations of the supplies needed to enable the veteran to successfully pursue his or her rehabilitation program are made under the provisions of §§ 21.210 through 21.222. (38 U.S.C 1504, 1511)

Center heading and §§ 21.230–21.239 [Removed]

39. The center heading "SUPPLIES" and §§ 21.230 through 21.239 are removed.

Center heading and §§ 21.241, 21.243, 21.244 and 21.245 [Removed]

40. The center heading "SUPERVISION OF THE INDIVIDUAL VETERAN" and §§ 21.241, 21.243, 21.244 and 21.245 are removed: a new center heading is added; and §§ 21.240 and 21.242 are revised to read as follows:

Medical and Related Services

§ 21.240 Medical treatment, care and services.

(a) *General.* A chapter 31 participant shall be furnished medical treatment, care and services which the VA determines are necessary to develop, carry out and complete the veteran's rehabilitation plan. The provision of such services is a part of the veteran's entitlement to benefits and services under chapter 31, and is limited to the period or periods in which the veteran is a chapter 31 participant. (38 U.S.C. 1504, 1507)

(b) *Scope of services.* The services which may be furnished under chapter 31 include the treatment, care and services described in part 17 of this title. In addition the following services may be authorized under chapter 31 even if not included or described in part 17:

(1) Prosthetic appliances, eyeglasses, and other corrective or assistive devices;

(2) Services to a veteran's family as necessary for the effective rehabilitation of the veteran;

(3) Special services (including services related to blindness and deafness) including:

(i) Language training; speech and voice correction, training in ambulation, and one-hand typewriting;

(ii) Orientation, adjustment, mobility and related services;

(iii) Telecommunications, sensory and other technical aids and devices. (38 U.S.C. 1504)

(c) *Eligibility.* A veteran is eligible for the services described in paragraph (b) of this section during periods in which he or she is considered a chapter 31 participant. These periods include:

(1) Initial evaluation;

(2) Extended evaluation;

(3) Rehabilitation to the point of employability;

(4) Independent living services program;

(5) Employment services; and

(6) Other periods to the extent that services are needed to begin or continue in any of the statutes described in paragraphs (c)(1) through (5) of this section. Such periods include but are not limited to services needed to facilitate reentry into rehabilitation following:

(i) Interruption; or

(ii) Discontinuance because of illness or injury. (38 U.S.C. 1504)

Cross-Reference: See § 17.48(g). Participating in a rehabilitation program under chapter 31.

§ 21.242 Resources for provision of treatment, care and services.

(a) *General.* VA medical centers are the primary resources for the provision of medical treatment, care and services for chapter 31 participants which may be authorized under the provisions of § 21.240. The availability of necessary services in VA facilities shall be ascertained in each case. (38 U.S.C. 1515)

(b) *Hospital care and medical service.* Hospital care and medical services provided under chapter 31 shall only be furnished in facilities over which the VA has direct jurisdiction, except as authorized on a contract or fee basis under the provisions of part 17 of this title. (38 U.S.C. 1515(b))

Cross-References: See § 17.30(l). Hospital care. § 17.30(m) Medical services.

Center Heading and § 21.253 [Removed]

41. The center heading "VOCATIONAL REHABILITATION BOARD" and § 21.253 is removed;

§§ 21.250, 21.252, 21.254, and 21.256 are revised; a new center heading and new §§ 21.257 and 21.258 are added so that the revised and added material reads as follows:

Employment Services

§ 21.250 Overview of employment services.

(a) *General.* Employment services shall be provided if:

(1) Eligibility for employment services exists;

(2) The employment services which are needed have been identified; and

(3) The services which have been identified are incorporated in the veteran's IWRP (Individualized Written Rehabilitation Plan) or IEAP (Individualized Employment Assistance Plan). (38 U.S.C. 1507, 1517)

(b) *Definitions.* (1) The term "program (period) of employment services" includes the counseling, medical, social, and other placement and postplacement services provided to a veteran under 38 U.S.C. chapter 31 to assist the veteran in obtaining or maintaining suitable employment. The term "program of employment services" is used only if the veteran's eligibility under chapter 31 is limited to employment services.

(2) The term "job development" means a comprehensive professional service to assist the individual veteran to actually obtain a suitable job, and not simply the solicitation of jobs on behalf of the veteran. Continuing and mutually beneficial relationships with employers should be established by VA staff through referral of suitable employees and supportive services (e.g., adjustment counseling and job modification). Job development activities by VA staff are intended to provide disabled workers with a chance for suitable employment with cooperating employers. (38 U.S.C. 1501, 1507, 1516, 1517)

(c) *Determining eligibility for, and the extent of, employment services.*

(1) A veteran's eligibility for employment services shall be determined under provisions of § 21.47 if he or she is not found to have an employment handicap under provisions of § 21.52;

(2) The duration of the period of employment services is determined under provisions of § 21.72;

(3) An IEAP (Individualized Employment Assistance Plan) shall be prepared under provisions of § 21.88;

(4) A veteran shall be placed in and removed from "Employment Assistance Status" under provisions of § 21.194. (38 U.S.C. 1501, 1517)

§ 21.252 Job development and placement services.

(a) *General.* Job development and placement services may include:

(1) Direct placement assistance by the VA;

(2) Utilization of the job development and placement services of:

(i) DVOP (Disabled Veterans Outreach Program) specialists;

(ii) Programs authorized under the Rehabilitation Act of 1973, as amended;

(iii) The State Employment Services and the Veterans Employment Service of the Department of Labor;

(iv) The Office of Personnel Management; and

(v) The services of any other public or nonprofit organization having placement services available. (38 U.S.C. 1517)

(b) *Promotion of employment and training opportunities.* As funding permits, VA employees engaged in the administration of chapter 31 will promote the establishment of employment, training, and related opportunities to accomplish the purposes described in § 21.1. (38 U.S.C. 1501)

(c) *Advocacy responsibility.* The VA shall take reasonable steps to ensure that a veteran being provided employment services receives the benefit of any applicable provision of law or regulation providing for special consideration or emphasis or preference of the veteran in employment or training, especially programs and activities identified in the preceding paragraphs of this section. (38 U.S.C. 220)

(d) *Interagency coordination.* VA employees providing assistance to chapter 31 participants shall coordinate their job development, placement, promotional, and advocacy activities with similar or related activities of:

(1) The Department of Labor and State employment security agencies as provided by written agreement or other arrangement;

(2) The State approving agencies;

(3) Other public and nonprofit agencies providing employment and related services. (38 U.S.C. 1516, 1517)

§ 21.254 Supportive services.

(a) *General.* Supportive services which may be provided during a period or program of employment services include a broad range of medical treatment, care and services, supplies, license and other fees, special services, including services to the blind and deaf, transportation assistance, services to the veteran's family, and other appropriate services, subject to the limitations provided in VA regulations governing the provisions of these services under chapter 31. (38 U.S.C. 1504(a))

(b) *Exclusions.* The following benefits may not be provided to the veteran by the VA during a period or program of employment services:

(1) Subsistence allowance, or payment of an allowance at the educational assistance rate paid under chapter 34 for similar training;

(2) Education and training services, other than brief courses, such as review courses necessary for licensure;

(3) Revolving Fund Loan; and

(4) Work-study allowance. (38 U.S.C. 1504(a))

(c) *Disabled veterans trained for self-employment under a State rehabilitation agency.* A service-disabled veteran who has trained for self-employment under the auspices of a State rehabilitation agency may be provided supplemental equipment and initial stocks and supplies similar to the materials supplied to the most severely disabled veterans in self-employment programs under chapter 31, if the following conditions are met;

(1) The veteran is eligible for employment assistance under provisions of § 21.47;

(2) An official of the State rehabilitation program with responsibility for administration of self-employment programs certifies that:

(i) The veteran has successfully completed training for a self-employment program;

(ii) The assistance needed is not available through the State rehabilitation program, or other non-VA sources;

(iii) The assistance requested is a part of the veteran's IWRP (Individualized Written Rehabilitation Plan) developed by the State rehabilitation program;

(3) The requirements of § 21.258 pertaining to self-employment for the most severely disabled veterans are met; and

(4) The Director, VR&C Service approves the request, if the cost of supplies is more than $2,500. The approval of the Director is required prior to authorization of supplies. (38 U.S.C. 1517(b))

§ 21.256 Incentives for employers.

(a) *General.* The VA may make payments to employers to enable a veteran who has been rehabilitated to employability to begin and maintain employment or to provide on-job training. The purpose of such payment is to facilitate the placement of veterans who are generally qualified for employment but may lack some specific training or work experience which the employer requires or who are difficult to place due to their disability. The specific conditions which must be met before this option may be considered are contained in paragraphs (b) through (d) of this section. (38 U.S.C. 1516(b))

(b) *Requirements for payments to employers.* Payments may be made to employers to provide on-job training or to begin and maintain employment if all of the following conditions are met:

(1) The veteran is in need of an on-job training situation or is generally qualified for employment but such on-job situation or employment opportunity is not otherwise available despite repeated and intensive efforts on the part of VA and the veteran to secure such opportunities. These conditions are also considered to be met when:

(i) There are few employers within commuting distance of the veteran's home who can provide a training or employment opportunity consistent with the veteran's plan; and

(ii) The veteran reasonably could not be required to seek on-job or employment opportunities in other areas due to the effects of his or her disability, family situation, or other pertinent factors; and

(iii) The available local employers will only provide a training or employment opportunity if the VA agrees to reimburse for direct expenses to the degree permitted under this section.

(2) The training establishment or employer is in compliance with provisions of § 21.290 (a) and (b), pertaining to the approval of courses and facilities.

(3) The VA entered into an agreement with the employer in writing prior to the beginning of the period of on-job training or employment, whereby the employer will be reimbursed for direct expenses approved under provisions of paragraph (c) of this section.

(4) The on-job training program or employment of the veteran does not displace a current employee or prevent the recall of a laid-off employee. (38 U.S.C. 1516(b))

(c) *Limitation on payment.* Payments to the employer may be made only for the employer's direct expenses as a result of hiring the veteran and generally may not exceed one-half of the wage paid to other employees in the same or similar job. Direct expenses include:

(1) Instruction;

(2) Instructional aids;

(3) Training materials and supplies provided to the veteran;

(4) Minor modification of equipment to the special limitations of the veteran;

(5) Significant loss of productivity of the employer caused by using the

veteran as opposed to a nondisabled employee. (38 U.S.C. 1516(b))

(d) *Duration.* The period for which the employer is paid may not exceed the period necessary to accomplish on-job training or to begin and maintain employment at the journeyman level for at least 2 months. The period for which payment may be authorized may not exceed 9 months, unless the Director, VR&C Service, approves a longer period. (38 U.S.C. 1516(b))

(e) *Benefits and services.* (1) An eligible veteran on whose behalf payments are made to the employer shall be provided all other chapter 31 benefits and services furnished to other veterans receiving employment services. A veteran may not be paid a subsistence allowance during the period in which job training or work experience is furnished under this section.

(2) Notwithstanding any other provisions of these regulations, if the program in which the veteran is participating meets the criteria for approval of on-job training under chapter 34, the veteran may be paid educational assistance under chapter 34 to the extent that he or she has remaining eligibility and entitlement under chapter 34. (See § 21.264) (38 U.S.C. 1516(b))

(f) *Non-duplication.* The VA will not make payments under the provisions of this section to an employer receiving payments from any other program for the same training or employment expenses. (38 U.S.C. 1516(b))

§ 21.257 Self-employment.

(a) *General.* Vocational rehabilitation will generally be found to have been accomplished by the veteran when he or she achieves suitable employment in the objective selected, in an existing business, agency or organization in the public or private sector. Rehabilitation of the veteran may be achieved through self-employment in a small business, if the veteran's access to the normal channels for suitable employment in the puplic or private sector is limited because of his or her disability or other circumstances in the veteran's situation warrant consideration of self-employment as an additional option. (38 U.S.C. 1504(a)(12))

(b) *Self-employment plan.* VA staff will conduct a comprehensive survey and analysis of the feasibility of self-employment prior to authorization of a rehabilitation plan leading to self-employment. The analysis and self-employment plan developed on the basis of such analysis shall be made a part of the veteran's chapter 31 record. The survey and plan shall include:

(1) An analysis of the economic viability of the proposed small business plan;

(2) A cost analysis which specifies the amount and type of assistance, if any, which the VA would be committed to furnish;

(3) Provision for development of a market for the veteran's services during the period of rehabilitation to the point of employability, and/or employment services;

(4) A suitable occupational objective in which employment can normally be secured in the public or private sector;

(5) Training necessary for the operation of a successful small business;

(6) Availability of non-VA financing, including the veteran's financial resources, local banks and other sources;

(7) Coordination with the Small Business Administration to secure special consideration under section 8 of the Small Business Act, as amended;

(8) The location of the site selected for the business and the cost of the site, if any. (38 U.S.C. 1504(a)(12))

§ 21.258 Special assistance for veterans in self-employment.

(a) *General.* A veteran in a self-employment program is eligible for certain special assistance in addition to the services for which veterans in a vocational rehabilitation program are generally eligible under the provisions of § 21.252. A veteran may be provided the assistance described under § 21.214 to the extent of his or her eligibility for such services as determined under paragraphs (b) and (c) of this section and § 21.254(c). (38 U.S.C. 1516, 1517)

(b) *Special services for the most severely disabled veterans.* Special services listed in § 21.254(e) shall be provided as necessary for the most severely disabled veterans. The term "most severely disabled veteran" means a veteran who has been determined to have a serious employment handicap and limitations on employability arising from the effects of disability (service-connected and nonservice-connected), which necessitates selection of self-employment as the veteran's vocational goal. This category includes veterans requiring:

(1) Homebound training and self-employment; or

(2) Self-employment for other reasons even though the veteran is able to pursue training on other than a homebound basis, e.g., lack of suitable employment opportunities in the area. (38 U.S.C. 1504(a)(12))

(c) *Special services for other veterans.* Special services described in § 21.214(e) may be furnished to a veteran with a serious employment handicap if the veteran also meets the following conditions:

(1) Self-employment is clearly shown to be the soundest method of achieving rehabilitation, and the cost of assistance requested under the provisions of § 21.214(e) will not exceed $15,000, except as approved by the Director, VR&C Service; or

(2) Self-employment is selected as an alternative to retaining the veteran in another occupation, and the cost of a self-employment program will not exceed the cost of retraining in another occupation. (38 U.S.C. 1504(a)(12))

(d) *Assisting a veteran with an employment handicap to become self-employed.* A veteran with an employment handicap may not be furnished any of the special services described in § 21.214(e). However, if it is determined that consideration of self-employment is warranted, the VA may provide:

(1) Incidental training in the management of a small business;

(2) License or other fees required for employment and self-employment; and

(3) The tools and supplies which would ordinarily be required for the veteran to begin employment in the field in which the veteran has trained. (38 U.S.C. 1504(a)(12))

(e) *Approval of the Director, VR&C (Vocational Rehabilitation and Counseling) Service.* The prior approval of the Director, VR&C Service is required in all cases considered under this section in which the cost of special assistance furnished under § 21.214(e) will exceed $2,500. The approval of the Director is required prior to final agreement with the veteran on the inclusion of self-employment in the veteran's plan. (38 U.S.C. 1504(a)(12))

42. Section 21.260 and the center heading preceding the section are revised as follows:

Monetary Assistance Services

§ 21.260 Subsistance allowance.

(a) *General.* A veteran in a rehabilitation program under chapter 31 will receive a monthly subsistence allowance at the rates specified in paragraph (b), unless he or she has elected to receive payment at the rate of the monthly educational assistance allowance payable under chapter 34 for similar training. See § 21.264 and § 21.4136. (38 U.S.C. 1508(a))

(b) *Rate of payment.* Subsistence allowance is paid at the following rates effective October 1, 1980.

Type of program	Monthly rate of subsistence allowance			
	No dependents	One dependent	Two dependents	Additional amount for each dependent over two
Institutional:[1]				
Full-time	$282	$349	$411	$30
¾ time	212	262	306	23
½ time	141	175	206	15
Nonpay on-job training or experience in a federal agency; training in the home; vocational course in a rehabilitation facility or sheltered workshop; independent instructor: Full-time only	282	349	411	30
Farm cooperative: apprenticeship or other on-job training.[2] Full-time only	246	297	343	22
Combination (institutional and OJT) (Full-time only):				
Institutional ½ time or more	282	349	411	90
OJT ½ time or more	246	297	343	22
Non-farm cooperative (Full time only):				
Institutional	282	349	411	30
On-job	246	297	343	22
Improvement of rehabilitation potential: Full time only	282	349	411	30
Independent living: Extended evaluation:[3]				
Full time	282	349	411	30
¾ time	212	262	308	23
½ time	141	175	206	15
¼ time	71	87	103	8

[1] Measurement of rate of pursuit (§§ 21.4270–21.4275).
[2] For on-job training, subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective.
[3] Rates for extended evaluation effective April 1, 1981.

(c) *Subsistence allowance precluded.* A subsistence allowance may not be paid for any period during which the only authorized services being furnished to the veteran by the VA are:

(1) Initial evaluation;

(2) Employment services; or

(3) Counseling. (38 U.S.C. 1508(a))

§ 21.261 [Removed]

43. Section 21.261 is removed.

44. Section 21.262 is revised as follows:

§ 21.262 Procurement and reimbursement of cost for training and rehabilitation services, supplies, or facilities.

(a) *General.* Whenever services, supplies and facilities from source outside the VA are required by any of these regulations, they shall be provided through contract, agreement of other cooperative arrangement between the VA and the vendor. (38 U.S.C. 1515(b))

(b) *VA Acquisition Regulations.* Payments of charges for training and rehabilition services, supplies, or facilities, authorized under chapter 31 are subject to the provisions of applicable VA Acquisition Regulations especially 48 CFR Part 831 and Subpart 871.2. and (38 U.S.C. 1515(a))

§ 21.263 [Removed]

45. Section 21.263 is removed.

46. Section 21.264 is revised as follows:

21.264 Election of payment at the chapter 34 educational assistance rate.

(a) *Eligibility.* A veteran who applies for, and is found entitled, to training or education under chapter 31, may elect to receive payment at the educational allowance rate and other assistance furnished under chapter 34, for similar training in lieu of a subsistence allowance, provided the following criteria are met:

(1) The veteran has remaining eligibility for, and entitlement to, educational assistance under chapter 34;

(2) The veteran enrolls in a program of education or training approved for benefits under chapter 34;

(3) The program of education is part of an IWRP (Individualized Written Rehabilitation Plan) approved by the VA. (38 U.S.C. 1508)

(b) *Reelection of subsistence allowance.* Reelection of payment of benefits at the chapter 31 subsistence allowance rate may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(1) Chapter 34 eligibility or entitlement ends earlier;

(2) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program. (38 U.S.C. 1508(f))

(c) *Services precluded.* A veteran entitled to vocational rehabilitation training or education who elects payment at the educational assistance rate payable under chapter 34 shall be provided the same training and rehabilitation services as other veterans under chapter 31, but may not be provided:

(1) Subsistence allowances;

(2) Loans from the revolving fund loan;

(3) Payment of costs for:

(i) Vocational and other training services;

(ii) Supplies; or

(iii) Individualized tutorial assistance. (38 U.S.C. 1508(f)

(d) *Chapter 34 provisions applicable.* A veteran who has elected payment at the chapter 34 educational assistance rate must meet the same terms and conditions as other veterans pursuing similiar training under chapter 34. (38 U.S.C. 1508(f))

§ 21.265 [Removed]

47. Section 21.265 is removed.

48. Section 21.266 is revised as follows:

§ 21.266 Payment of subsistence allowance under special conditions.

(a) *Hospitalized veteran or serviceperson.* A veteran pursuing a VA rehabilitation program under chapter 31 while hospitalized in a VA medical center or in any other hospital at VA expense may receive the subsistence allowance otherwise payable. The subsistence allowance will be paid at the rates specified in § 21.260, except:

(1) The amount of subsistence allowance or the allowance provided under § 21.264 that may be paid to a veteran pursuing a rehabilitation program for any month for which the veteran receives compensation at the rate prescribed in § 3.401(h) of this title, as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the VA may not exceed, when added to any compensation to which such veteran is

entitled for the month, an amount equal to the greater of:

(i) The sum of: (A) the amount of monthly subsistence of the allowance payable under § 21.264, and (B) the amount of monthly disability compensation that would be paid to the veteran if he or she was not receiving compensation at the temporary 100 percent rate as the result of such hospital treatment or observation, or

(ii) The amount of monthly disability compensation payable under § 3.401(h) of this title.

(2) A veteran pursuing a rehabilitation program while in post hospital convalescence (§ 3.401(h)) will be paid the regular rate of subsistence allowance.

(3) A serviceperson pursuing a rehabilitation program under chapter 31 will not receive a subsistence allowance if he or she is hospitalized in a medical facility under the jurisdiction of the Secretary pending final discharge from the armed forces. (38 U.S.C. 1508(h))

(b) *Specialized rehabilitation facility.* (1) A veteran in a specialized rehabilitation facility will be paid the regular rate of subsistence allowance at the institutional rate. The VA may pay the cost of room and board in lieu of subsistence allowance when:

(i) The specialized rehabilitation facility requires that similarly circumstanced persons pay the same charges for room and board, and

(ii) The case manager finds and the veteran agrees that it is to the veteran's advantage for the VA to pay the cost of room and board.

(2) Even though the VA pays the cost of room and board, the veteran will be paid that portion of subsistence allowance otherwise payable for dependents. (38 U.S.C. 1508(e))

(c) *Non-pay work experience or training in a Federal agency.* A veteran in an on-job program or being provided work experience in a Federal agency at no or nominal pay shall receive subsistence allowance at the institutional rate. (38 U.S.C. 1508(c))

(d) *Extended evaluation and independent living program.* A veteran in a program of extended evaluation or independent living service program shall be paid subsistence allowance for full or part-time participation at the rate specified for institutional training in § 21.260. If an extended evaluation or independent living program is pursued on a less than a quarter-time basis, as measured under § 21.310(d), the VA will only pay established charges for services furnished. (38 U.S.C. 1508(h))

(e) *On-job training.* A veteran in an on-job training program will be paid subsistence allowance at the rate provided under § 21.260(b), except that subsistence allowance may not exceed the difference between the monthly training wage, exclusive of overtime, and the entrance journeyman wage for the veteran's objective. (38 U.S.C. 1508(c))

§ 21.267 [Removed]

49. Section 21.267 is removed.

50. Section 21.268 is revised as follows:

§ 21.268 Employment adjustment allowance.

(a) *General.* A veteran who completes a period of rehabilitation and reaches the point of employability will be paid an employment adjustment allowance for a period of two months at the full-time subsistence allowance rate for the type of program the veteran was last pursuing. (See §21.190(d)) (38 U.S.C. 1508(a))

(b) *Reelection of subsistence allowance.* A veteran who has elected payment at the chapter 34 educational assistance allowance rate may be paid an employment adjustment allowance only if he or she reelects subsistence allowance to become effective not later than the date following completion of the period of rehabilitation to the point of employability. (38 U.S.C. 1508(f))

(c) *Special programs.* An employment adjustment allowance will be paid at the institutional rate of subsistence allowance for veterans in any of the following programs:

(1) On-job training at no or nominal pay in a Federal agency;

(2) Training in the home program;

(3) Independent instructor program;

(4) Cooperative program; or

(5) Self-employment program. (38 U.S.C. 1508(a))

(d) *Combination program.* A veteran who has pursued a combination program will be paid an employment adjustment allowance at the full-time rate for the type of training the veteran was actually pursuing at the completion of the period of rehabilitation to the point of employability. (38 U.S.C. 1508(a))

(e) *Subsequent payments of employment adjustment allowance.* If a veteran has ever received an employment adjustment allowance following rehabilitation to the point of employability, he or she may, nevertheless, receive it again when completing an additional rehabilitation program to the point of employability if:

(1) The prior determination of rehabilitation to the point of employability is set aside; and

(2) The veteran is reinducted into a new vocational rehabilitation program as provided in § 21.282. (38 U.S.C. 1508(a))

(f) *Employment adjustment allowance not charged against entitlement.* An employment adjustment allowance will not be charged against the veteran's basic entitlement. (38 U.S.C. 1508(a))

51. Sections 21.270 and 21.272 are added as follows:

§ 21.270 Payment of subsistence allowance during leave and between periods of instruction.

(a) *Payment during leave.* The VA will pay an eligible veteran a subsistence allowance during any period of approved leave including a veteran:

(1) Receiving medical or rehabilitation services on an outpatient basis at a VA medical center, and who provides his or her own room and board;

(2) Receiving service department retirement or retained pay while not on active duty;

(3) Hospitalized at a VA medical center while on approved leave. If the veteran becomes eligible for payment of disability compensation at the temporary 100 percent rate, under § 3.401(h) of this title due to hospitalization, payment will be made under provisions of § 21.266(a). (38 U.S.C. 1510)

(b) *Payment for intervals between periods of instruction.* Subsistence allowance will paid to a veteran during the following periods unless the case manager and the veteran jointly determine that such payment is not in the veteran's interest:

(1) A period between consecutive terms within an emrollment period that does not exceed 1 full calendar month;

(2) A period between consecutive school terms, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in, and pursuing, the same objective at the second institution, provided the period does not exceed 30 days;

(3) A period which does not exceed 30 days, between a semester, term, or quarter, when the educational institution certifies the enrollment of the veteran on an individual semester, term, or quarter basis. (38 U.S.C. 1510, 1780(a))

(c) *Payment for other periods.* Subsistence allowance will be paid for:

(1) Weeekend and legal holidays, or customary vacation periods associated with them;

(2) Periods in which the school is closed temporarily under emergency conditions described in § 21.4138(f). (38 U.S.C. 1510, 1780(a))

§ 21.272 Veteran-student-services.

(a) *Eligibility.* Veterans who are pursuing full-time programs of education or training under chapter 31 are eligible to receive a work-study allowance. (38 U.S.C. 1504(a)(4), 1685)

(b) *Selection criteria.* Whenever feasible, the VA will give priority to veterans with service-connected disabilities rated at 30 percent or more disabling in selection of recipients of this allowance. The VA shall consider the following additional selection criteria:

(1) Need of the veteran to augment the subsistence allowance or payment made at the chapter 34 rate;

(2) Motivation of the veteran; and

(3) Compatibility of the work assignment with the veteran's physical condition. (38 U.S.C. 1504(a)(4), 1685)

(c) *Utilization.* Veteran-student services may be utilized in connection with:

(1) The VA outreach service program as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary VA papers and other documents at educational institutions, regional offices or other VA facilities;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of the VA. (38 U.S.C. 1504(a)(4), 1685)

(d) *Rate of payment.* (1) In return for the veteran's agreement to perform services for the VA totaling 250 hours during an enrollment period, the VA will pay an allowance in an amount equal to the higher of:

(i) The amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times 250; or

(ii) $625.

(2) The VA will pay a proportionately smaller allowance to a veteran who agrees to perform a lesser number of hours services. (38 U.S.C. 1504(a)(4), 1685)

(e) *Payment in advance.* The VA shall pay in advance an amount equal to 40 percent of the total amount payable under the contract. (38 U.S.C. 1504(a)(4), 1685(a))

(f) *Veteran reduces rate of pursuit.* In the even the veteran ceases to be a full-time student before completing an agreement, the veteran may, with the approval of the Director, or designee, of the VA field station, be permitted to complete the portion of the agreement that remains. The veteran must complete the remaining portion of the agreement in the same term, quarter or semester in which the veteran ceases to be a full-time student or within three months thereafter. (38 U.S.C. 1504(a)(4), 1685)

(g) *Veteran terminates training.* If the veteran terminates all training before completing an agreement, the VA:

(1) Will permit him or her to complete the portion of the agreement represented by the sum of money the VA has advanced to the veteran for which he or she has not performed any services; but

(2) Will not permit him or her to complete that portion of an agreement for which no advance has been made. (38 U.S.C. 1504(a)(4), 1685)

(h) *Indebtedness for unperformed service.* (1) If the veteran has received an advance for hours of unperformed service that remain after application of paragraphs (f) and (g) of this section, that advance:

(i) Will be a debt due the United States; and

(ii) Will be subject to recovery in the same manner as any other debt due the United States;

(2) For each hour of unperformed service, the amount of indebtedness shall equal the hourly wage upon which the contract was made. (38 U.S.C. 1504(a)(4), 1685)

(i) *Survey.* The VA will conduct an annual survey of its regional offices to determine the number of veterans whose services can be utilized effectively. (38 U.S.C. 1504(a)(4), 1685)

52. Section 21.274 is revised as follows:

§ 21.274 Revolving fund loan.

(a) *Establishment of revolving fund loan.* A revolving fund is established to provide advances to veterans who would otherwise be unable to begin or continue in a rehabilitation program without such assistance. (38 U.S.C. 1512)

(b) *Definition.* The term "advance" means a non-interest loan from the revolving fund. (38 U.S.C. 1512)

(c) *Eligibility.* A veteran is eligible for an advance if the following conditions are present:

(1) An Individualized Written Rehabilitation Plan, Individualized Extended Evaluation Plan, or Individualized Independent Living Plan has been prepared; and

(2) The veteran and VA staff agree on the terms and conditions of the plan. (38 U.S.C. 1512)

(d) *Advance conditions.* (1) An advance may be approved when the following conditions are met:

(i) The purpose of the advance is clearly and directly related to beginning, continuing, or reentering a rehabilitation program;

(ii) The veteran would otherwise be unable to begin, continue or reenter his or her rehabilitation program;

(iii) The advance does not exceed either the amount needed, or twice the monthly subsistence allowance for a veteran without dependents in full-time institutional training; and

(iv) The veteran has elected, or is in receipt of, subsistence allowance.

(2) An advance may not be made to a veteran who meets conditions described in paragraph (d)(1) of this section if the veteran:

(i) Has not fully repaid an advance;

(ii) Does not agree to the terms and conditions for repayment; or

(iii) Will not be eligible in the future for payments of pension, compensation, subsistence allowance, educational assistance, or retired pay. (38 U.S.C. 1512).

(e) *Determination of the amount of the advance.* (1) If the conditions described in paragraphs (c) and (d)(2) of this section are met, a counseling psychologist or vocational rehabilitation specialist in the VR&C Division will:

(i) Document the findings; and

(ii) Determine the amount of the advance.

(2) Loans will be made in multiples of $10. (38 U.S.C. 1512)

(f) *Repayment.* (1) *Offset possible.* The amount advanced will be repaid in monthly installments from future VA payments for compensation, pension, subsistence allowance, educational assistance allowance or retired pay.

(i) Repayment will begin on the earlier of the following dates:

(A) The first day of the month following the month in which the advance is granted; or

(B) The first day of the month after receipt of the advance in which the veteran receives a subsistence allowance

(ii) The VR&C staff person who approves the advance will determine the rate of repayment.

(iii) The monthly rate of repayment may not be less than 10 percent of the amount advanced unless the monthly benefit against which the advance is being offset is less than that amount. (38 U.S.C. 1512)

(2) *Offset not possible.* If the amount advanced cannot be repaid from the benefits cited in paragraph (f)(1) of this section because the veteran is not in receipt of any of these benefits, collection of the amount due will be made in the same manner as any other debt payable to the VA. (38 U.S.C. 1512)

53. Section 21.276 is added as follows:

§ 21.276 Incarcerated veterans

(a) *General.* The provisions contained in this section describe the limitations on payment of subsistence allowance and charges for tuition and fees for:

(1) Incarcerated veterans;

(2) Formerly incarcerated veterans in halfway houses; and

(3) Incarcerated and formerly incarcerated veterans in work release programs (38 U.S.C. 1508(g), 1780(a))

(b) *Definition.* The term "incarcerated veterans" means any veteran incarcerated in a Federal, State, or local prison, jail, or other penal institution for either:

(1) A felony (convicted or unconvicted); or

(2) A misdemeanor (convicted or unconvicted). (38 U.S.C. 1508(g), 1780(a))

(c) *Subsistence allowance not paid to an incarcerated veteran.* A subsistence allowance may not be paid to any incarcerated veteran, as that term is described in paragraph (b) of this section, if:

(1) Tuition and fees are paid by a non-VA Federal, State, or local government; or

(2) There are no charges for tuition and fees. (38 U.S.C. 1780(a))

(d) *Felony conviction.* A subsistence allowance may not be paid to an incarcerated veteran convicted of a felony, but the VA may pay all or part of the veteran's tuition and fees. (38 U.S.C. 1508(g))

(e) *Half-way house.* A subsistence allowance may not be paid to a veteran pursuing a rehabilitation program while residing in a halfway house as a result of a felony conviction when all of the veteran's living expenses are paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1780(a))

(f) *Work-release program.* A subsistance allowance may not be paid to a veteran in a work release program as a result of a felony conviction if all of the veteran's living expenses are being paid by a non-VA Federal, State, or local government program. (38 U.S.C. 1508(g), 1780(a))

(g) *Subsistence allowance paid.* When the conditions described in paragraphs (c) through (f) of this section do not preclude the payment of a subsistence allowance, the veteran will be paid at the rate applicable to the type of program and rate of pursuit of the program. (38 U.S.C. 1508(g))

(h) *Payment of tuition, fees, and other charges.* The VA may not pay tuition, fees, and other course costs if there are no charges for the course, but may pay tuition, fees and other course costs to the extent these costs are not paid by a non-VA Federal, State or local government program for similarly circumstanced non-veterans. (38 U.S.C. 1508(g), 1780(a))

(i) *Services.* The VA may provide other appropriate services, including but not limited to medical, reader service, and tutorial assistance necessary for the veterans to pursue his or her rehabilitation program. (38 U.S.C. 1508(a), 1780(a))

(j) *Apportionment.* (1) *Felony conviction.* Apportionment of subsistence allowance may be continued or made to dependents of an incarcerated veteran convicted of a felony if:

(i) The apportionment began before October 17, 1980, or

(ii) The convicted felon is in a halfway house or in a work-release program, and all of his or her living expenses are not being paid by a governmental agency other than the VA.

(2) *Not convicted of a felony.* Apportionment to dependents of a veteran not convicted of a felony may be made under § 21.330 if the veteran meets conditions for payment of subsistence allowance described in paragraphs (c) and (g) of this section. (38 U.S.C. 1508(g), 1780(a))

(k) *Payment of allowances at the rates paid under chapter 34.* An incarcerated veteran, or a veteran in a halfway house or work release program who elects payment at the educational assistance rate paid under chapter 34 shall be paid in accordance with the provisions of law applicable to other incarcerated veterans training under chapter 34. (38 U.S.C. 1780(a))

§§ 21.278 and 21.279 [Removed]

54. Sections 21.278 and 21.279 are removed.

§§ 21.280, 21.281 21.283, 21.286 and 21.287 [Removed]

55. The center heading "Termination of Training" and §§ 21.280, 21.281, 21.283, 21.286 and 21.287 are removed.

56. A new center heading "Entering a Rehabilitation Program," and §§ 21.282 and 21.284 are added to read as follows:

Entering a Rehabilitation Program

§ 21.282 Effective date of induction into a rehabilitation program.

(a) *General.* Except as provided in paragraph (b) the effective date of induction of a veteran into a rehabilitation program will be one of the dates provided in §§ 21.320 through 21.334. (38 U.S.C. 1508)

(b) *Retroactive induction.* (1) A veteran may be inducted into a vocational rehabilitation program retroactively when all of the following conditions are met:

(i) The period for which retroactive induction is requested is within the veteran's basic period of eligibility or extended eligibility as provided in §§ 21.41 through 21.44;

(ii) The veteran was entitled to disability compensation during the period for which retroactive induction is requested, and met the criteria of entitlement to vocational rehabilitation for that period; and

(iii) The training the veteran pursued during the period is applicable to the occupational objective that is confirmed in initial evaluation to be compatible with his or her disability, consistent with his or her abilities, interests, and aptitudes, and otherwise suitable for accomplishing vocational rehabilitation. (38 U.S.C. 3013)

(2) A veteran shall not be inducted into a vocational rehabilitation program retroactively if any of the following conditions exist even though all conditions of paragraph (b) of this section are met;

(i) Timely induction was prevented by the veteran's lack of cooperation in completing an initial evaluation;

(ii) The veteran has previously received benefits under another VA program of education or training for any period for which retroactive benefits are being requested under chapter 31;

(iii) A period of extended evaluation is authorized to determine the reasonable feasibility of a vocational goal; or

(iv) The veteran's claim is not received within the time limits described in § 21.31. (38 U.S.C. 1501(9))

(c) *Effective date of retroactive induction.* The effective date of a veteran's retroactive induction into training shall be no earlier than one year prior to the date of application for chapter 31 benefits but in no event may precede:

(1) The effective date of the establishment of the veteran's compensable service-connected disability; or

(2) The first date the veteran began training in the program leading to the occupational objective established in the veteran's plan. (38 U.S.C. 3013)

§ 21.284 Reentrance into a rehabilitation program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran who has been found "rehabilitated" under provisions of § 21.196 may be provided an additional period of training or services only if the following conditions are met:

(1) The veteran has a compensable service-connected disability and either;

(2) Current facts, including any relevant medical findings, establish that the veteran's service-connected disability has worsened to the extent that the effects of the service-connected disability considered in relation to other

facts precludes him or her from performing the duties of the occupation for which the veteran previously was found rehabilitated; or

(3) The occupation for which the veteran previously was found rehabilitated under chapter 31 is found to be unsuitable on the basis of the veteran's specific employment handicap and capabilities. (38 U.S.C. 1501(a))

(b) *Reentrance into a program of independent living services following a determination of rehabilitation.* A finding of rehabilitation following a program of independent living services may only be set aside, and an additional period of independent living services provided, if the following conditions are met:

(1) Either:

(i) The veteran's condition has worsened and as a result the veteran has sustained a substantial loss of independence; or

(ii) Other changes in the veteran's circumstances have caused a substantial loss of independence; and

(2) the provisions of § 21.162 pertaining to participation in a program of independent living services are met. (38 U.S.C. 1509)

(c) *Reentrance into rehabilitation to the point of employability during a period of employment services.* A finding of rehabilitation to the point of employability by the VA may be set aside during a period of employment services and an additional period of training and related services provided, if any of the following conditions are met:

(1) The conditions for setting aside a finding of rehabilitation under paragraph (a) of this section are found;

(2) The rehabilitation services originally given to the veteran are now inadequate to make the veteran employable in the occupation for which he or she pursued rehabilitation;

(3) Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or

(4) The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:

(i) To perform the duties of the occupation for which he or she trained, or in a related occupation; or

(ii) To secure employment in the occupation for which he or she trained, or in a related occupation. (38 U.S.C. 1517)

§ 21.291 [Removed]

57. The centerheading "Assisting Veterans in Obtaining Employment" and § 21.291 are removed.

58. A new heading is added, and § 21.290 is revised as follows:

Course Approval and Facility Selection

§ 21.290 Training and rehabilitation resources.

(a) *General.* For the purpose of providing training and rehabilitation services under chapter 31 the VA may:

(1) Use facilities, staff and other resources of the VA;

(2) Employ any additional personnel and experts needed;

(3) Use the facilities and services of any:

(i) Federal agency;

(ii) State agency;

(iii) Other public agency; or

(iv) Agency maintained by joint Federal and state contributions.

(4) Use the facilities and services of any:

(i) Public institution or establishment;

(ii) Private institution or establishment; or

(iii) Private individual. (38 U.S.C. 1515)

(b) *Agreement required.* Use of facilities and services provided under paragraph (a) of this section shall be procured through contract, agreement, or other cooperative arrangement. The specific requirements for use of contracts or other arrangements are described in 48 CFR 871.2. (38 U.S.C. 1515)

59. Section 21.292 is added as follows:

§ 21.292 Course approvals.

(a) *Courses must be approved.* Only those courses approved by the Veterans' Administration shall be utilized to provide training and rehabilitation services under chapter 31. (38 U.S.C. 1506)

(b) *General.* VA staff in consultation with the veteran will select courses and services needed to carry out the rehabilitation plan only from those which the VA determines are offered by a training or rehabilitation facility which:

(1) Meets the requirements of §§ 21.120 through 21.162;

(2) Meets the criteria of §§ 21.290 through 21.299; and

(3) Is in compliance with title VI of the Civil Rights Act of 1964, section 503(a) Veterans Readjustment Act of 1972, and sections 501–504 of the Rehabilitation Act of 1973. (38 U.S.C. 1515)

(c) *Obtaining information necessary for approval.* In determining whether services and courses may be approved for a veteran's training and rehabilitation under chapter 31, the Veterans' Administration may use information relevant to the approval or certification of such services and courses for similar purposes developed by:

(1) The State approving agencies;

(2) The Department of Labor;

(3) State vocational rehabilitation agencies;

(4) Nationally recognized accrediting associations;

(5) The Committee on Accreditation of Rehabilitation Facilities; and

(6) Other organizations and agencies. (38 U.S.C. 1515)

(d) *Course not approved.* If a course or program is not approved by one of the agencies identified in paragraph (c) of this section, VR&C staff shall develop necessary information to determine whether criteria given in paragraphs (a) and (b) of this section are met. (38 U.S.C. 1515)

(e) *Course disapproved.* Only the Director, VR&C Service may approve courses which have been disapproved by one of the agencies identified in paragraph (c) of this section. (38 U.S.C. 1515)

60. Section 21.294 is added as follows:

§ 21.294 Selecting the training or rehabilitation facility.

(a) *Criteria the facility must meet.* In addition to approval of the courses offered, all facilities which provide training and rehabilitation services under chapter 31 must meet the criteria contained in §§ 21.290 through 21.299 applicable to the type of facility. Each facility must:

(1) Have space, equipment, instructional material and instructor personnel adequate in kind, quality, and amount to provide the desired service for the veteran;

(2) Fully accept the obligation to give the training or rehabilitation services in all parts of the plan which call for the facility's participation;

(3) Provide courses or services which:

(i) Meet the customary requirements in the locality for employment in the occupation in which training is given when employment is the objective of the program; and

(ii) Meet the requirements for licensure or permit to practice the occupation, if such is required;

(4) Agree:

(i) To cooperate with the VA, and

(ii) To provide timely and accurate information covering the veteran's attendance, performance, and progress in training in the manner prescribed by the VA. (38 U.S.C. 1515)

(b) *Selecting a facility for provision of independent living services.* (1)

Facilities offering independent living services will be utilized to:

(i) Evaluate independent living potential;

(ii) Provide a program of independent living services to veterans for whom an IILP (Individualized Independent Living Plan) has been developed; or

(iii) Provide independent living services to veterans as part of an IWRP (Individualized Written Rehabilitation Plan) or an IEEP (Individualized Extended Evaluation Plan).

(2) The VA will only utilize public and nonprofit agencies to provide independent living services. These facilities must be:

(i) VA medical centers which provide independent living services;

(ii) Facilities which meet standards established by the State rehabilitation agency for rehabilitation facilities or for providers of independent living services; or

(iii) Facilities which are neither approved nor disapproved by the State rehabilitation agency, but are determined by the VA to be able to provide necessary services in an individual veteran's case. (38 U.S.C. 1515)

(c) The VA policy normally shall be to utilize VA facilities to provide rehabilitation services for veterans in a rehabilitation program under chaper 31. Non-VA facilities may be used to provide rehabilitation services only when necessary services are not readily availble at a VA medical center. (38 U.S.C. 1515)

(d) *Selection of individual to provide training or rehabilitation services.* Persons selected to provide individual instruction or other services as part of a program leading to the long-range goal of a veteran's plan must meet one of the following criteria:

(1) State requirements for teaching in the field or occupation for which training is being provided; or

(2) Expertise demonstrated through employment in the field in which the veteran is to be trained; or

(3) Requirements established by professional associations to provide the services needed by the veteran. (38 U.S.C. 1515)

(e) *Relatives.* Relatives of the veteran may not be selected to provide services, even if otherwise qualified, unless such use is specifically permitted by the VA regulation governing provision of the service. Selection of a training or rehabilitation facility owned by the veteran or a relative, or in which the veteran or a relative of the veteran has an interest is precluded, except for selection of a farm as provided in § 21.298. The term relative has the same meaning as in § 21.374. (38 U.S.C. 1515)

(f) *Contracts or agreements required.* The Veterans Administration will negotiate formal contracts for reimbursement to providers of services as requred by § 21.262. However, a letter contract will be effected immediately to permit the induction of the veteran into a program if:

(1) The veteran is immediately entered into a school with which a contract is required;

(2) The veteran's rehabilitation plan will be jeopardized by withholding services until a contract can be completed; and

(3) There are no known reasons to indicate that a contract may not be completed in a reasonable time. (38 U.S.C. 1515)

(g) *Training outside the United States.* The VA may only use those facilities and courses outside the United States to provide training under chapter 31 which meet requirements for approval under §§ 21.4250(c) and 21.4260. The conditions under which training outside the United States may be approved are contained in § 21.130. (38 U.S.C. 1514)

(h) *Flight training.* Flight training may only be provided in educational institutions which offer a standard college degree. The specific conditions under which flight training may be approved are contained in § 21.134. (38 U.S.C. 1515)

(i) *Additional consideration.* The case manager will consider the veteran's preference for a particular training or rehabilitation facility but the VA has final responsibility for selection of the facility. (38 U.S.C. 1515)

61. Section 21.296 is added as follows:

§ 21.296 Selecting a training establishment for on-job training.

(a) *Additional criteria for selecting a training establishment.* In addition to meeting all of the requirements of § 21.294 the training establishment must:

(1) Sign an agreement to provide on-job training to disabled veterans;

(2) Provide continuous training for each veteran without interruption except for normal holidays and vacation periods;

(3) Provide daytime training for the veteran except when the veteran cannot obtain necessary on-job or related training during the working hours of the day;

(4) Modify the program when necessary to compensate for the limitations resulting from the veteran's disability or needs;

(5) Organize training into definite steps or units which will result in progressive training;

(6) Encourage rapid progress of each veteran rather than limit the progress of the individual to the progress of the group;

(7) Not, during the period of training, use the veteran on production activities beyond the point of efficient training;

(8) Agree to pay the veteran during training (except as provided in paragraphs (b) and (c) of this section) a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor,

(ii) Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended, and

(iii) Not less than that customarily paid to nonveteran-trainees in the same or similar training situation;

(9) Agree to provide the veteran with employment at the end of the training program, provided the veteran's conduct and progress have been satisfactory; and

(10) Agree to furnish the VA a statement in writing showing wages, compensation, and other income paid directly or indirectly to each veteran in training under chapter 31 during the month. (38 U.S.C. 1508(c), 1515)

(b) *On-job training at subminimum wage rates.* A subminimum hourly wage rate for handicapped workers may be considered where necessary in order to prevent curtailment of opportunities for employment. Payment at the subminimum rate must be approved by the Wage and Hour Division of the Department of Labor. (38 U.S.C. 1515)

62. Section 21.298 and 21.299 are added as follows:

§ 21.298 Selecting a farm.

(a) *Control of the farm—farm operator.* A farm selected for farm cooperative training must be under the control of the veteran by ownership, lease or other written tenure arrangement. If the veteran does not own the farm, the lease or other written agreement shall:

(1) Afford the veteran control of the farm at least until the end of his or her course;

(2) Allow the veteran's control to be such that he or she is able:

(i) To carry out the provisions of the training program; and

(ii) To operate the farm in accordance with the farm and home plan developed by the case manager and the veteran in collaboration with the instructor, and when appropriate, the landowner or lessor;

(3) Permit instruction in the planning, management, and operation of farming enterprise in the veteran's farm and home plan;

(4) At least by the end of the necessary minimum period of training, assure the veteran a reasonably satisfactory living under normal economic conditions;

(5) Provide for the necessary buildings and equipment to enable the veteran to satisfactorily begin pursuit of the course of farm cooperative training;

(6) Provide for resources which give reasonable promise that any additional items required for the pursuit of the course, including livestock, will be available as they become necessary;

(7) Provide for capital improvements to be made which are necessary for carrying out the farm and home plan, with the veteran furnishing no greater portion of the costs than the benefits accruing to the veteran warrant; and

(8) Provide for the landowner or leasor to share the costs of improved practices put into effect in proportion to the returns he or she will receive from such practices. (38 U.S.C. 1515)

(b) *Farms on which more than one person trains—farm operator.* If a veteran in training is a partner of another person or if more than one person is involved in operating the farm, the farm shall be of such size and character that the firm:

(1) Together with the instruction part of the course will occupy the full time of the veteran; and

(2) Meets all requirements of paragraph (a) of this section. (38 U.S.C. 1515)

(c) *Selecting a farm—farm manager.* The farm on which a veteran trains to become a farm manager shall be of such size and character that, together with the group instruction part of the course the farm:

(1) Will occupy the full time of the veteran;

(2) Will permit instruction in all aspects of the management and operation of a farm of the type for which the veteran is being trained; and

(3) Meets the requirements of paragraph (a) of this section. (38 U.S.C. 1515)

(d) *Employer agreement.* The VA may approve a farm on which a veteran is to train to become a farm manager only if the employer-trainer agrees:

(1) To instruct the veteran in various aspects of farm management in accordance with the individual's plan;

(2) To pay the veteran for each successive period of training a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor; and

(ii) Not less than that customarily paid to a nonveteran trainee in the same or similar training situation in that community; and

(3) To employ the veteran as a manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or assure that the veteran will be employed as manager of a specified comparable farm. (38 U.S.C. 1515)

§ 21.299 Use of facilities of United States agencies for on-job training at no or nominal pay.

(a) *Use of facilities of United States agencies permitted.* Notwithstanding any other provision of regulations governing chapter 31, the facilities of any agency of the United States may be used to provide training or work experience at no or nominal pay as all or part of the veteran's program of vocational rehabilitation under § 21.123, provided the counseling psychologist and case manager determine the training or work experience is necessary to accomplish vocational rehabilitation. (38 U.S.C. 1515)

(b) *Employment status of veterans in facilities of United States agencies.* While pursuing training or work experience in a facility or agency of the United States, a veteran:

(1) Shall be deemed to be an employee of the United States for the purposes of benefits under chapter 81, Title 5, United States Code; but

(2) Shall not be deemed an employee of the United States for the purpose of laws administered by the Office of Personnel Management. (38 U.S.C. 1515)

63. New §§ 21.310 through 21.350 and center-headings are added as follows:

Rate of Pursuit

§ 21.310 Rate of pursuit of a rehabilitation program.

(a) *Programs offered at educational institutions.* This section provides policy for determining the full-time and part-time rate of pursuit of a rehabilitation program by a veteran whose ability to pursue a program has not been reduced by the effects of disability.

(1) *Measuring full and part-time training.* The VA will measure the full-time and part-time rate of pursuit of training offered at educational institutions according to the criteria found in §§ 21.4270 through 21.4275, except as provided in paragraphs (a) (2) and (3) of this section.

(2) *Independent study course.*

(i) For certain seriously disabled veterans described in subdivision (i)(A) of this subparagraph the VA may measure the veteran's enrollment:

(A) In an independent study course as half-time or greater training, or

(B) Both in independent study subjects and subjects requiring class attendance on the basis of the combined training load when the number of credit hours of independent study equals or exceeds the number of other credit hours.

(ii) To qualify for measurement described in paragraph (a)(2)(i) of this section:

(A) The seriously disabled veteran must have a disability or circumstances which preclude regular attendance at an institution of higher learning, and

(B) Independent study must be a sound method for providing the training necessary for restoring the veteran's employability.

(iii) In all other cases the VA will measure independent study according to the provisions of § 21.4280. (38 U.S.C. 1508(d))

(3) *Special school.* If training is pursued in a special school, such as those for persons with visual or hearing disabilities, the rate of pursuit will be measured under §§21.2470 through 21.4275 unless it is the established policy of the school to measure the rate of pursuit for full-time or particular level or part-time training based upon fewer semester, credit, or clock hours of attendance than prescribed in these regulations.

(4) *Farm cooperative.* If training in a farm cooperative program is provided by an educational institution, the rate of pursuit shall be determined the same as under § 21.4270 for that type of training.

(5) *Course offered under contract.* When a school or other entity furnishes all or part of a vocational rehabilitation program under contact with another school, the VA will measure the course or courses as appropriate for the school or other entity actually providing the training. (38 U.S.C. 1508(d))

(b) *Education or training not furnished by an educational institution.* The following types of training which are not furnished by an educational institution (§ 21.35(k)(3) may only be pursued full-time:

(1) *On-job training.* Full-time training in an on-job program is the lesser of the number of hours in the prevailing workweek for:

(i) Journeyman employees in the same job categories at the establishment where training is being provided;

(ii) Other persons in on-job training for the same or similar occupations at the facility where the veteran is training or at other facilities in the locality.

(2) *Farm cooperative training.* If training in a farm cooperative program is provided by an individual instructor, the full-time rate of pursuit must meet the requirements of § 21.126.

(3) *Independent instructor.* The full-time rate of pursuit for a veteran in an

independent instructor program must meet the requirements of § 21.146.

(4) *Training in the home.* The full-time rate for a training program provided in the veteran's home must meet the requirements of § 21.146.

(5) *Vocational course in a rehabilitation facility or sheltered workshop.* A vocational course of training offered by a rehabilitation facility or sheltered workshop (§ 21.35(k)(5) and (6)), will be measured under provisions of § 21.4270(b) for trade or technical nonaccredited courses, unless it is the established policy of the facility to measure the rate of pursuit for full-time or a particular level of part-time training based upon fewer clock hours of attendance than provided in that regulation. (38 U.S.C. 1508(d))

(c) *Combination and cooperative programs.* The rate of pursuit of a program which combines institutional training and on job training will be measured as follows:

(1) The institutional part will be assessed under §§ 21.4270 through 21.4275, and

(2) The on-the-job part will be assessed under paragraph (b)(1) of this section. (38 U.S.C. 1508(d))

(d) *Rehabilitative services.* Measurement of the rate of pursuit for veterans in programs consisting primarily of services designed to evaluate and improve physical and psychological functioning will be assessed under this paragraph.

(1) The services assessed under this paragraph include:

(i) Evaluation and improvement of the rehabilitation potential of a veteran for whom attainment of a vocational goal is reasonably feasible;

(ii) Extended evaluation to determine whether attainment of a vocational goal is reasonably feasible; or

(iii) A program of independent living services to enable a veteran to function more independently in his or her family and community when attainment of a vocational goal is not reasonably feasible.

(2) Measurement of the rate of pursuit for services and programs named in paragraph (d)(1) of this section will be:

(i) As provided in paragraph (a) of this section for services furnished by educational institutions; or

(ii) According to the noneducational facility's customary criteria for full-time and part-time pursuit. If the facility does not have established criteria for full-time and part-time pursuit, or services are being provided by more than one facility, the rate of pursuit will be assessed in the following manner:

Rate of pursuit	Clock hours per month
Full-time	120 or more.
Three-quarter time [1]	90–119.
Half-time [1]	60–89.
Quarter-time [1]	30–59.

[1] Extended evaluation and independent living. (38 U.S.C. 1508(d)).

§ 21.312 Reduced work tolerance.

(a) *General.* The VA will consider that a veteran with reduced work tolerance is pursuing a rehabilitation program full-time when the amount of time the veteran is devoting to his or her program is as great as the effects of his or her disability (service and nonservice-connected) will permit. (38 U.S.C. 1508(d))

(b) *Pursuit of a program.* A veteran with reduced work tolerance may pursue a rehabilitation program when the following conditions are met:

(1) Reduced work tolerance has been determined.

(2) Achievement of the goals of the program are reasonably feasible;

(3) The IWRP (Individualized Written Rehabilitation Plan) or other plan provides for completion of the program under chapter 31. (38 U.S.C. 1508(d))

(c) *Redetermination of work tolerance.* As necessary, but not less than once yearly, the veteran's work tolerance will be reevaluated. The rate of pursuit required to meet the standard of full-time pursuit will be modified if there is either an increase or decrease in the work tolerance of the veteran. (38 U.S.C. 1508(d))

(d) *Payment of allowance.* A veteran with a reduced work tolerance will be paid a subsistence allowance, at the full-time rate for the type of program being pursued, when the veteran meets the standard for full-time pursuit established for him or her in the Plan. A veteran with reduced work tolerance, who elects benefits at the chapter 34 rate, will have to meet normal attendance requirements for that chapter, however. (38 U.S.C. 1508(d))

(e) *Determining work tolerance.* A VA physician will make all determinations and redeterminations of work tolerance. (38 U.S.C. 1508(d))

§ 21.314 Pursuit of training under special conditions.

A veteran is required to pursue a rehabilitation program at a rate which meets the requirement for full- or part-time participation described in §§ 21.310 and 21.312. However, a veteran may pursue a rehabilitation program at a lesser rate, if such pursuit is a part of the veteran's plan. Subsistence allowance is not payable during such periods. (38 U.S.C. 1508(d))

Authorization of Subsistence Allowance and Training and Rehabilitation Services

§ 21.320 Awards for subsistence allowance and authorization of rehabilitation services.

Awards providing for payment of a subsistence allowance and authorization of services necessary for rehabilitation may be prepared when an IWRP (Individualized Written Rehabilitation Plan) or other plan has been completed and other requirements for entrance or reentrance into a rehabilitation program have been met.

(a) *Commencing date of subsistence allowance.* The commencing date of an award of subsistence allowance will be determined under the provisions of § 21.322. (38 U.S.C. 1508(a))

(b) *Commencing date of authorization of training and rehabilitation services.* The commencing date for authorization of training and rehabilitation services is the same as the effective date for awards for subsistence allowance under provisions of § 21.322, except when:

(1) The commencing date for authorization of a program of employment services is determined under provisions of § 21.326;

(2) An earlier commencement date is established in the veteran's plan or the veteran is entitled to earlier induction under § 21.282;

(3) The veteran elects payment at the educational assistance allowance rate, in which case the commencing date of payment is determined under provisions applicable to commencement of payment under chapter 34. (38 U.S.C. 1508(a))

(c) *Ending date of subsistence allowance.* The ending date of an award for subsistence allowance will be the earliest of the following dates:

(1) The ending date provided in the veteran's IWRP or other plan;

(2) The ending date of a period of enrollment as certified by a training or rehabilitation facility;

(3) The ending date specified in § 21.324. (38 U.S.C. 1508)

(d) *Ending date for training and rehabilitation services.* The ending date of training and rehabilitation services will be the same as the termination date for subsistence allowance under paragraph (c) of this section, except when:

(1) The ending date for a period of employment services is determined under provisions of § 21.326;

(2) A later termination date is established in the veteran's plan;

(3) A veteran has elected payment at the educational assistance rate paid under chapter 34. The ending date of the

award is determined under regulations applicable to termination of training under chapter 34. (38 U.S.C. 1508(a))

§ 21.322 Commencing dates of subsistence allowance.

(a) *General.* The VA will determine the commencing date of an award or increased award of subsistence allowance under this section. The VA will not authorize subsistence allowance for any period prior to the earliest date for which disability compensation is payable or would be payable but for the veteran's receipt of retired pay. (38 U.S.C. 1508, 3013)

(b) *Entrance or reentrance into vocational rehabilitation, extended evaluation, independent living services.* Except in the case of retroactive induction into a rehabilitation program, as provided in § 21.282, the commencing date of an award of subsistence allowance shall be the earlier of:

(1) The date the facility requires the veteran to report for prescribed activities; or

(2) The date training or rehabilitation services begin. (38 U.S.C. 1508)

(c) *Increase for dependents.* (1) The date of the entrance or reentrance if:

(i) The VA receives the claim for the increase within 1 year of the date of entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request.

(2) The date the VA receives notice of the dependent's existence if:

(i) The VA receives the claim for the increase more than 1 year after the date of the entrance or reentrance, and

(ii) The VA receives any necessary evidence within 1 year of its request. (38 U.S.C. 1508)

(d) *Correction of military records.* In accordance with the facts found, but not earlier than the date the change, correction, or modification was made by the service department, if eligibility of a veteran arises as the result of correction or modification of military records under 10 U.S.C. 1552, or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other competent military authority. (38 U.S.C. 1503(b))

(e) *Bar to benefits removed by the VA.* In accordance with the facts found, but not earlier than the date the change was made by the VA, if eligibility of a veteran arises as the result of review of the evidence of record regarding the character of discharge by the VA, when the veteran's discharge or dismissal was a bar to benefits under 38 U.S.C. 3101. (38 U.S.C. 1503(b))

(f) *Incarcerated veterans.* (1) Date of release from Federal, State, or local penal institution of a veteran incarcerated for conviction of a felony.

(2) Earlier of the following dates in the case of a veteran residing in a half-way house or participating in a work-release program as a result of a felony conviction.

(i) Date of release from the half-way house or work-release program, or

(ii) Date a veteran becomes obligated to pay part of his or her living expenses.

(3) Date a veteran who is incarcerated for other than a felony conviction in a Federal, State or local prison ceases to have all of his or her tuition and fees paid by a non-VA government agency or is first required to pay tuition and fees in a course for which no charges were made. (38 U.S.C. 1508(g), 1780(a))

(g) *Temporary 100 percent award terminated.* Date of reduction of a temporary award of disability compensation at the 100 percent rate because of hospitalization. (38 U.S.C. 1508(h))

(h) *Liberalizing laws and VA issues.* In accordance with facts found, but not earlier than the date of the act or administrative issue. (38 U.S.C. 3013)

§ 21.324 Reduction or termination dates of subsistence allowance.

(a) *General.* The effective date of the reduction of the amount paid or termination of payment of subsistance allowance will be the earliest of the dates specified in this section. If an award is reduced, the reduced rate will be effective the day following the date of termination of the greater benefit. (38 U.S.C. 3013)

(b) *Death of a veteran.* Date of death, if death occurs while the veteran is in attendance or authorized leave status; otherwise date of last attendance. (38 U.S.C. 3013)

(c) *Death of dependent.* Last day of the calender year in which death occurred, unless the veteran's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(d) *Divorce.* Last day of the calendar year in which divorce occurs, unless the veterans's program is terminated earlier under other provisions. (38 U.S.C. 3013)

(e) *Child.* (1) *Marriage.* Last day of the calendar year in which the marriage occurs, unless the veteran's program is terminated earlier under other provisions.

(2) *Age 18.* Day preceding the child's 18th birthday.

(3) *School attendance.*

(i) Last day of the month in which the child ceases attending school; or

(ii) The day preceding the child's 23rd birthday, whichever is earlier.

(4) *Helplessness.* Last day of the month in which 60 days has passed from the VA's notice to the payee that the child's helplessness has ceased. (38 U.S.C. 3013)

(f) *Interrupted, rehabilitation to the point of employability, independent living program completed, and extended evaluation completed status.* Last day of attendance, or approved leave status, whichever is applicable. (38 U.S.C. 3013)

(g) *Discontinued.* Last day of attendance or approved leave status, whichever is applicable, except as follows:

(1) If the VA places the veteran in "discontinued" status following the veteran's withdrawal from all courses with nonpunitive grades or following his or her completion of all courses with nonpunitive grades and the case manager does not find mitigating circumstances, the VA will terminate subsistence allowance effective:

(i) The first date of the term, or

(ii) December 1, 1976, whichever is later.

(2) If the VA places the veteran in "discontinued" status following a term in which the grades the veteran receives include both those that count in the grade point average and nonpunitive grades, and the case manager does not find mitigating circumstances:

(i) The VA will terminate subsistence allowance for courses in which the veteran receives nonpunitive grades effective the first day of the term or December 1, 1976, whichever is later.

(ii) The VA will terminate subsistence allowance for courses in which the veteran receives grades that will count in the grade point average effective the veteran's last day of attendance or approved leave status, whichever is applicable. (38 U.S.C. 1780(a))

(h) *Wages or salary received in apprentice or on-job training.* (1) If the sum of the training wage plus the scheduled subsistence allowance is more than the journeyman wage when the training commences, the subsistence allowance will be decreased by the VA effective the first day of the second month following the month in which the veteran enters on-job training.

(2) Subsequent adjustments will be effective the first day of the second month following the month in which wages or salary changes are made which justify the adjustment under provisions of § 21.266(e). (38 U.S.C. 1508)

(i) *Reduction in rate of pursuit of the program.* End of month in which reduction occurs, except that if the rate of pursuit is reduced as a result of the veteran's withdrawal from a unit course or courses with nonpunitive grade(s) or as a result of the veteran's completion of a unit course or courses with nonpunitive grade(s) (§ 21.4200(j)), the

VA will reduce subsistence allowance as follows:

(1) If it is determined that there are mitigating circumstances:

(i) Withdrawal with nonpunitive grades: The end of the month or the end of the term in which the veteran withdraws, whichever is earlier; if the reduction occurs at the beginning of the term benefits will be reduced the first day of the term in which the veteran withdraws or December 1, 1976, whichever is the later.

(ii) Completion with nonpunitive grades. No reduction required.

(2) If it is determined there are no mitigating circumstances the VA will reduce the veteran's subsistence allowance effective the first day of the term in which the veteran withdraws or which the veteran completes with nonpunitive grades, or December 1, 1976, whichever is later. (38 U.S.C. 1780(a))

(j) *Severance of service-connection.* Last day of the month in which the severance becomes final. (38 U.S.C. 3013)

(k) *Fraud.* The later of the following dates:

(1) The beginning date of the award of subsistence allowance, or

(2) The day preceding the date of the fraudulent act. (38 U.S.C. 3503(a))

(l) *Error.* (1) *Payee error.* Effective date of the award of subsistence allowance or day preceding the act, whichever is later, but not prior to the date the veteran's entitlement ceases, on an erroneous award based on an act of commission or omission by a payee with his or her knowledge.

(2) *Administrative error.* Except as provided in paragraph (j) of this section, date of last payment on an erroneous award based solely on administrative error or an error in judgment by a VA employee. (38 U.S.C. 3013)

(m) *Treasonable acts, subversive activities.* The later of the following dates:

(1) Beginning date of the award of subsistence allowance, or

(2) Day preceding the date of commission of the treasonable act or subversive activities for which the veteran is convicted. (38 U.S.C. 3013)

(n) *Incarceration in prison or jail.* (1) *Felony conviction.* If a veteran's subsistence allowance must be reduced because of incarceration for a felony conviction under provisions of § 21.276, his or her rate of payment will be reduced the later of:

(i) The date of his or her incarceration in a prison or jail; or

(ii) The commencing date of his or her award as determined by § 21.322.

(2) *Non-felony incarceration.* If a veteran's subsistence allowance must be reduced because of incarceration for reasons other than a felony conviction under provisions of § 21.276, his or her rate will be reduced the date a non-VA government program either begins paying or would normally begin paying the tuition and fees which are required to be paid for similarly circumstanced nonveterans, but not earlier than the date of incarceration.

(3) *Half-way house or work-release program.*

(i) The subsistence allowance of a veteran in a half-way house or work-release program as a result of conviction of a felony will be reduced under the provisions of § 21.276 the latest of the following dates:

(A) The date the veteran enters the half-way house;

(B) The commencing date of the award, as determined by § 21.322; or

(C) The date on which the Federal government, or a State or local government, pays all the veteran's living expenses.

(ii) The subsistence allowance of a veteran incarcerated for reasons other than conviction of a felony will be reduced:

(A) The date on which the Federal government pays all of the veteran's tuition and fees; or

(B) The first date of any period for which the veteran incurs no charges for tuition and fees. (38 U.S.C. 1508(a), 1780(a))

(o) *Specialized rehabilitation facility.* Date payment for room and board by VA begins, reduce the rate paid to the amount payable for dependents. (38 U.S.C. 1508(i))

(p) *Termination of subsistence allowance while hospitalized at VA expense.* Date before the beginning date of the increased disability compensation award, which results in a reduced subsistence allowance under the provisions of § 21.266. (38 U.S.C. 1508(h))

§ 21.326 Authorization of employment services.

(a) *General.* Authorization of employment services shall be based upon the services identified and goals established in an IEAP (Individualized Employment Assistance Plan) under provisions of § 21.88. The effective dates for the commencement, or termination of such services will be determined under this section. (38 U.S.C. 1517(a))

(b) *Commencing date.* The commencing date authorizing a period of employment services will be the later of:

(1) The date following completion of the period of rehabilitation to the point of employability; or

(2) The date of the original IEAP. (38 U.S.C. 1507, 1517(a))

(c) *Termination of the authorization of employment services.* Authorization for employment services will be terminated the earliest of:

(1) The last day employment services are provided under the terms of an IEAP when employment services are interrupted, discontinued, or the veteran is rehabilitated;

(2) The date the authorization is found to be erroneous because of an act of omission or commission by the veteran, or with his or her knowledge;

(3) The last day of the month in which severance of service connection becomes final;

(4) The day proceding the date of a fraudulent act;

(5) The date preceding the commission of a treasonable or subversive act for which the veteran is convicted. (38 U.S.C. 1508, 3013)

§ 21.328 Two veteran cases—dependents.

If both partners in a marriage are veterans, and if each is receiving either subsistence allowance for a vocational rehabilitation program or an educational assistance allowance under another VA program, each is entitled to receive the additional allowances payable for each other and for their children. (38 U.S.C. 1508(a))

§ 21.330 Apportionment.

(a) *General.* Where in order, the VA will apportion subsistence allowance in accordance with § 3.451 of this title, subject to the limitations of § 3.458 of this title. If the veteran is in receipt of benefits at the chapter 34 rate, apportionments shall be in accordance with § 21.4140. (38 U.S.C. 3107(c))

(b) *Effective date.* The effective date of apportionment will be as prescribed in § 3.400(e) of this title. (38 U.S.C. 3107(c))

(c) *Child adopted out of family.* Where evidence establishes that a veteran is the natural parent of a child or children legally adopted outside of the veteran's family, the VA will apportion in favor of the child or children only that additional amount of subsistence allowance payable on account of the existence of the child or children. The veteran is not entitled in his or her own right to the additional amount of subsistence allowance payable for the child because of the existence of the child unless the veteran is contributing to the child's support. (38 U.S.C. 3107(c))

(d) *Veteran convicted of a felony.* The subsistence allowance of a veteran in a rehabilitation program after October 17, 1980, may not be apportioned if the veteran is incarcerated because of

conviction for a felony. (38 U.S.C. 1508(g))

§ 21.332 Payments of subsistence allowance.

(a) *Eligibility.* At the end of the month, the VA shall pay to an eligible veteran enrolled in a rehabilitation program, subsistence allowance at the rates specified in § 21.260 for the type of program pursued during the month, unless advance payment is approved. The VA will continue payments during those intervals described in § 21.270. (38 U.S.C. 1508)

(b) *Advance payment criteria.* The VA will make an advance payment of subsistence allowance only when:

(1) The veteran specifically requests an advance payment; and

(2) The educational institution at which the veteran is accepted or enrolled has agreed to, and can carry out, satisfactorily, the provisions of 38 U.S.C. 1780(d) (4) and (5) pertaining to:

(i) Receipt, delivery or return of advance checks; and

(ii) Certifications of delivery and enrollment. (38 U.S.C. 1780(d))

(c) *Advance payment.* (1) The amount of advance payment is not to exceed:

(i) The veteran's subsistence allowance for the month or part of a month in which his or her course will begin; plus

(ii) The veteran's subsistence allowance for the following month.

(2) Upon application and completion of arrangements for enrollment of a veteran who meets the criteria for an advance payment, the VA shall mail a check payable to the veteran to the unstitution for delivery to the veteran upon registration.

(3) An institution shall not deliver an advance payment check to a veteran more than 30 days in advance of commencement of his or her program. (38 U.S.C. 1780(d))

(d) *Certification for advance payment.* The VA will authorize advance payment upon receipt of the institution's certification of the following information:

(1) The veteran is eligible for benefits;

(2) The institution has accepted the veteran or he or she is eligible to continue his or her training;

(3) The veteran has notified the institution of his or her intention to attend or to reenroll;

(4) The number of semester or clock hours the veteran will pursue; and

(5) The beginning and ending dates of the enrollment period. (38 U.S.C. 1780(d))

(e) *Time of advance payment.* The VA will authorize advance payment only:

(1) At the beginning of an ordinary school year; or

(2) At the beginning of any other enrollment period which begins after a break in enrollment of one full calendar month or longer. (38 U.S.C. 1780(d))

(f) *Other payments.* (1) The VA will make all payments other than advance payments at the end of the month for the veteran's training during that month.

(2) The VA may withhold final payment until:

(i) The VA receives certification that the veteran has completed his or her course; and

(ii) The VA makes all necessary adjustments in the veteran's award resulting from that certification. (38 U.S.C. 1780(g))

(g) *Payments for courses which are repeated.* The VA may pay subsistence allowance to a veteran who repeats a course under conditions described in § 21.132. (38 U.S.C. 1780(a))

§ 21.334 Election of payment at the chapter 34 rate.

(a) *Election.* When the veteran elects payment of an allowance at the chapter 34 rate, the effective dates for commencement or reduction and termination shall be in accordance with §§ 21.4130 through 21.4135. (38 U.S.C. 1508, 1780)

(b) *Election of payment at the chapter 34 rate subsequent to induction into a rehabilitation program.* Election of payment at the chapter 34 rate subsequent to induction into training is permissible under provisions of § 21.264 (a) and (b). The effective date of the election is the latest of the following dates:

(1) The commencing date of the program under provisions of § 21.4131; or

(2) The day following the end of the period for which the VA paid tuition, fees or other program charges under this chapter. (38 U.S.C. 1508(f))

(c) *Reelection of subsistence allowance subsequent to induction.* If a veteran reelects subsistence allowance under provisions of § 21.264(b), the effective date of the change is earliest of the following:

(1) The date following completion of the term, semester, quarter, or other period of instruction in which the veteran is currently enrolled;

(2) The veteran's chapter 34 delimiting date;

(3) The day after exhaustion of chapter 34 entitlement; or

(4) The day following the date of a VA determination that failure to approve reelection would prevent the veteran from continuing the rehabilitation program. (38 U.S.C. 1508(f))

(d) *Election or reelection during leave or between periods of instruction.* (1) *Payment at the chapter 34 rate.* If an otherwise eligible veteran elects payment at the chapter 34 rate during a period between periods of instruction, the effective date of the election shall be the first day of the next period of instruction.

(2) *Subsistence allowance.* If an otherwise eligible veteran reelects subsistence allowance during leave or between periods of instruction following election of payment at the chapter 34 rate, the effective date of the change will be the date of the reelection or the beginning of the next period of training, whichever is to the veteran's benefit. (38 U.S.C. 1508(b))

Leaves of Absence

§ 21.340 Introduction.

(a) *General.* The VA may approve leaves of absence under certain conditions. During approved leaves of absence, a veteran in receipt of subsistence allowance shall be considered to be pursuing a rehabilitation program. Leave may be authorized for a veteran during a period of:

(1) Rehabilitation to the point of employability;

(2) Extended evaluation; or

(3) Independent living services. (38 U.S.C. 1510)

(b) *Election of subsistence allowance.* If a veteran elects to receive subsistence allowance and payment of rehabilitation services by the VA, he or she may be authorized leave of absence under §§ 21.342 through 21.350. (38 U.S.C. 1510)

(c) *Election of payment at the chapter 34 rate.* If a veteran elects to receive an allowance and other assistance equivalent to that provided under chapter 34, the effect of absences is determined under provisions of §§ 21.4204 and 21.4205. (38 U.S.C. 1510)

§ 21.342 Leave accounting policy.

(a) *Amount of leave.* A veteran pursuing one of the programs listed in § 21.340(a) may be authorized up to 30 days of leave by the case manager during a twelve-month period. The beginning date of the first twelve-month period is the commencing date of the original award, and the ending date is twelve months from the beginning date, with subsequent twelve-month periods running consecutively thereafter. (38 U.S.C. 1510)

(b) *Additional leave under exceptional circumstances.* A veteran in a program offered by an institution of higher learning which leads to a standard college degree may be

authorized up to 15 additional days of leave during the twelve-month period by the case manager under exceptional circumstances, such as extended illness of family problems. (38 U.S.C. 1510)

(c) *Absence.* For the purpose of determining when a leave of absence may be authorized, a veteran who elects subsistence allowance shall be considered absent during any period in which he or she is:

(1) Not in attendance under the rules and regulations of the educational institution, rehabilitation center, or sheltered workshop;

(2) Not considered at work under the rules of the training establishment; or

(3) Not present at a scheduled period of individual instruction. (38 U.S.C. 1510)

(d) *System of records.* An educational institution, training establishment, rehabilitation center, or other facility or individual providing training and rehabilitation services under chapter 31 may utilize the same system of records to determine absence as the one used for similarly circumstanced nonveterans. (38 U.S.C. 1510)

(e) *Change in rate of pursuit.* The amount of approved leave is not affected by the veteran's rate of pursuit of a rehabilitation program. (38 U.S.C. 1510)

(f) *Charging leave.* The VA shall charge 1 day of leave for each day or part of a day of absence from pursuit of a rehabilitation program. (38 U.S.C. 1510)

(g) *Limitation on carrying leave over to another period.* The veteran may not carry over unused days of leave from one twelve-month period to another. (38 U.S.C. 1510)

§ 21.344 Facility offering training or rehabilitation services.

(a) *Approval of leaves of absence required.* Leaves of absence normally must be approved in advance by the case manager when the facility offering training or rehabilitation services arranges for the leave. The approval of the case manager is required:

(1) During periods in a rehabilitation program identified in § 21.342(c); or

(2) A period of hospitalization at VA expense during one of the periods identified in § 21.342(c). (38 U.S.C. 1510)

(b) *Responsibility of the veteran in obtaining leave.* The VA will not authorize leave without a verbal or written request by the veteran, and the approval of the facility. (38 U.S.C. 1510)

(c) *Conditions permitting approval of leaves of absence.*

(1) The case manager may approve leaves of absence up to a total of 30 days during a twelve-month period if the facility certifies that the use of the leave does not interfere materially with the veteran's progress;

(2) An additional period of up to 15 days of leave in the same twelve-month period under exceptional circumstances may be approved by the case manager for a veteran in a program leading to a standard college degree if failure to approve leave will:

(i) Result in personal hardship, or

(ii) Adversely affect the veteran's ability to continue in his or her rehabilitation program. (38 U.S.C. 1510)

§ 21.346 Facility temporarily not offering training or rehabilitation services.

(a) *Approval of leave of absence not required.* A veteran may receive subsistence allowance, during a period when the facility temporarily is not offering services, without the veteran's being charged with leave when:

(1) The facility is closed temporarily under an executive order of the President or due to an emergency situation;

(2) The veteran is pursuing on-job training and he or she receives holidays established by Federal or State law;

(3) The veteran is pursuing farm cooperative training and is required in the ordinary day to day conduct of farm business to be absent:

(i) From the farm; or

(ii) From that part of a farm cooperative course which is given at the educational institution.

(4) The veteran is pursuing a standard college degree; and

(i) There is an interval between consecutive semesters, terms, quarters or periods of instruction *within a certified enrollment period* which does not exceed a full calendar month;

(ii) There is an interval, which does not exceed a full calendar month between semesters, terms or quarters when the educational institution only certifies enrollment on a semester, term, or quarter basis; or

(iii) There is an interval, which does not exceed 30 days, when the veteran, as part of his or her approved program of vocational rehabilitation, transfers from one educational institution to another for the purpose of enrolling in and pursuing a similar program at the second institution;

(5) The veteran is pursuing a non-college-degree course and there is a period of up to 5 days per twelve-month period during which the school offering non-college-degree courses is not operating, because instructors are attending professional meetings. (38 U.S.C. 1510)

(b) *Case manager responsibility.* The case manager may disapprove leave under paragraph (a)(4) of this section if:

(1) Approval would result in or lead to use of more than 48 months of entitlement under chapter 31, alone; or

(2) Approval would require extension of the scheduled completion date of the veteran's program. (38 U.S.C. 1510)

(c) *Approval of leaves of absence required.* A veteran, who wishes to receive subsistence allowance while the facility temporarily is not offering training under conditions other than those identified in paragraph (a) of this section, must seek an approved leave of absence and be charged leave. (38 U.S.C. 1510)

§ 21.348 Leave following completion of a period of training or rehabilitation services.

(a) *Leave following completion of training or rehabilitation services.* Leave may not be approved following completion of a period of rehabilitation services described in § 21.340(a). (38 U.S.C. 1510)

(b) *Postponement of the date of completion of a period of rehabilitation services prohibited.* The date of completion of the veteran's program may not be extended for the purpose of allowing the veteran to use leave. (38 U.S.C. 1510)

§ 21.350 Unauthorized absences.

A veteran who is unable to obtain an authorized leave of absence in advance may seek to have the unauthorized absence excused.

(a) *Excusing unauthorized absences.* The VA may excuse an unauthorized absence and make proper charges against the veteran's leave when:

(1) The veteran has absented himself or herself when advance approval from the VA is impracticable; and

(2) Conditions for approval of leave are otherwise met. (38 U.S.C. 1510)

(b) *Unexcused, unauthorized absences.* When an unauthorized absence is not satisfactorily explained, the VA will take necessary action, including recoupment of subsistence allowance for that period of absence. (38 U.S.C. 1510)

64. The following new centerheading and § 21.362 are added to read as follows:

Conduct and Cooperation

§ 21.362 Satisfactory conduct and cooperation.

(a) *General.* The successful development and implementation of a program of rehabilitation services require the full and effective participation of the veteran in the rehabilitation process.

(1) The veteran is responsible for satisfactory conduct and cooperation in

developing and implementing a program of rehabilitation services under chapter 31;

(2) The staff is responsible for insuring satisfactory conduct and cooperation on the veteran's part; and

(3) The VA staff shall take required action when the veteran's conduct and cooperation are not satisfactory. (See § 21.364) (38 U.S.C. 1511)

(b) *VA responsibility.* The VA shall make a reasonable effort to inform the veteran and assure his or her understanding of:

(1) The services and assistance which may be provided under chapter 31 to help the veteran maintain satisfactory cooperation and conduct and to cope with problems directly related to the rehabilitation process, especially counseling services;

(2) Other services which VR&C staff can assist the veteran in securing through non-VA programs; and

(3) The specific responsibilities of the veteran in the process of developing and implementing a program of rehabilitation services, especially the specific responsibility for satisfactory conduct and cooperation. (38 U.S.C. 1511)

(c) *Veteran's responsibility.* A veteran requesting or being provided services under chapter 31 must:

(1) Cooperate with VA staff in carrying out the initial evaluation and developing a rehabilitation plan;

(2) Arrange a schedule which allows him or her to devote the time needed to attain the goals of the rehabilitation plan;

(3) Seek the assistance of VA staff, as necessary, to resolve problems which affect attainment of the goals of the rehabilitation plan;

(4) Conform to procedures established by the VA governing pursuit of a rehabilitation plan including:

(i) Enrollment and reenrollment in a course;

(ii) Changing the rate at which a course is pursued;

(iii) Requesting a leave of absence;

(iv) Requesting medical care and treatment;

(v) Securing supplies; and

(vi) Other applicable procedures.

(5) Conform to the rules and regulations of the training or rehabilitation facility at which services are being provided. (38 U.S.C. 1511)

(d) *Responsibility for determining satisfactory conduct and cooperation.* VR&C staff with case management responsibility in the veteran's case will:

(1) Monitor the veteran's conduct and cooperation as necessary to assure consistency with provisions of paragraph (c) of this section.

(2) Provide assistance which may be authorized under chapter 31, or for which arrangements may be made under other programs to enable the veteran to maintain satisfactory conduct and cooperation. (38 U.S.C. 1511)

65. Section 21.364 is added as follows:

§ 21.364 Unsatisfactory conduct and cooperation.

(a) *General.* If the VA determines that a veteran has failed to maintain satisfactory conduct or cooperation, the VA may, after determining that all reasonable counseling efforts have been made and are found not reasonably likely to be effective, discontinue services and assistance to the veteran, unless the case manager determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the VA may reinstitute such services and assistance only if the counseling psychologist determines that:

(1) The unsatisfactory conduct or cooperation of such veteran will not be likely to recur; and

(2) The rehabilitation program which the veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests. (38 U.S.C. 1511)

(b) *Unsatisfactory conduct or cooperation exists.* When the case manager determines that the veteran's conduct and/or cooperation are not in conformity with provisions of § 21.362(c), the case manager will:

(1) Discuss the situation with the veteran;

(2) Arrange for services, particularly counseling services, which may assist in resolving the problems which led to the veteran's unsatisfactory conduct or cooperation;

(3) Interrupt the program to allow for more intense efforts, if the unsatisfactory conduct and cooperation persist. If a reasonable effort to remedy the situation is unsuccessful during the period in which the program is interrupted, the veteran's case will be discontinued and assigned to "discontinued" status unless mitigating circumstances are found. When mitigating circumstances exist the case may be continued in "interrupted" status until VA staff determines the veteran may be reentered into the same or a different program because the veteran's conduct and cooperation will be satisfactory, or if a plan has been developed, to enable the veteran to reenter and try to maintain satisfactory conduct and cooperation. Mitigating circumstances include:

(i) The effects of the veteran's service and nonservice-connected condition;

(ii) Family or financial problems which have led the veteran to unsatisfactory conduct or cooperation; or

(iii) Other circumstances beyond the veteran's control. (38 U.S.C. 1511)

66. The following new centerheading and § 21.370 are added as follows:

Interregional and Intraregional Travel of Veterans

§ 21.370 Intraregional travel at government expense.

(a) *Introduction.* The VA may authorize transportation expenses for intraregional travel to a veteran in a rehabilitation program or a program of employment services for the purposes presented in paragraph (b) of this section. When approved for purposes stated in paragraph (b) of this section, authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents, or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))

(b) *Necessary condition for intraregional travel at government expense.* The VA may authorize a veteran to travel at government expense within the regional territory of the VA field station of jurisdiction when:

(1) The VA determines that the travel is necessary in the discharge of the government's obligation to the veteran; and

(2) The veteran is instructed to travel for any of the following reasons:

(i) To report to the chosen school or training facility for the purpose of starting training;

(ii) To report to a prospective employer-trainer for an interview prior to induction into training, when there is definite assurance in advance of approving the travel that, upon interview, the employer will start the veteran in training, if the employer finds the veteran acceptable, or

(iii) To report to the chosen school for a personal interview prior to induction into training when:

(A) The school requires the interview as a condition of admission,

(B) There is assurance before the travel is approved that the veteran's records (school, counseling, etc.) show he or she meets all basic requirements for induction under § 21.282; and

(C) The veteran submits to the school a transcript of his or her high school credits and a transcript from any school he or she attended following high school.

(iv) To report to a rehabilitation facility or sheltered workshop;

(v) To return to his or her home from the training or rehabilitation facility when:

(A) Services are not available for a period of 30 days or more (including summer vacation periods), and

(B) Travel from his or her home to the training or rehabilitation facility was at government expense;

(vi) To return to the training or rehabilitation facility from his or her home, when:

(A) The purpose of the travel is to continue the rehabilitation program, and

(B) Travel from the training or rehabilitation facility to the veteran's home was at government expense;

(vii) To return to the point from which he or she was transported at government expense, upon being placed in "discontinued" or "interrupted" status for any reason, except abandonment of training by the veteran without good reason;

(viii) To report to a place of prearranged satisfactory employment upon completion of vocational rehabilitation for the purpose of beginning work;

(ix) To return to his or her home from the place of training following rehabilitation to the point of employability, when suitable employment is not available;

(x) To return from the place of training to the veteran's prior location, when the VA could have approved travel to the place of training at government expense, but did not issue the necessary travel authorization; and

(xi) To report to a place to take a scheduled examination required to practice the trade or profession for which the veteran has been trained. This travel shall be limited to points within the state in which the veteran has pursued his or her training or, if the veteran returned to the state from which he or she was sent to pursue training, he or she may be sent at government expense to a place within that state to take the examination. If there is more than one place within the state at which the veteran may take the examination, travel shall be limited to the nearest place. (38 U.S.C. 11)

(c) *Approval of intraregional transfer.* Intraregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13))

67. Section 21.372 is added as follows:

§ 21.372 Interregional transfer at government expense.

(a) *Introduction.* A veteran may need to transfer from the jurisdiction of one VA field station to another in order to accomplish rehabilitation. This section states the conditions which will permit the transfer to be made at government expense. Authorization of travel is limited to the veteran's transportation, and does not include transportation for the veteran's dependents or for moving personal effects. (38 U.S.C. 111, 1504(a)(13))

(b) *Conditions which permit interregional transfers at government expense.* A veteran may be provided travel at government expense when it has been determined that such travel is necessary to accomplish rehabilitation. The VA will authorize an interregional transfer at government expense only to allow the veteran:

(1) To enter training in the nearest satisfactory facility if:

(i) The nearest satisfactory facility is within the jurisdiction of another VA field station; or

(ii) There are no satisfactory facilities within the jurisdiction of the field station in which the veteran resides.

(2) To enter training in the state in which the veteran has long-standing family and social ties, and in which he or she plans to live following rehabilitation;

(3) To report to an employer-trainer when all necessary steps have been taken to establish an on-job training program;

(4) To report to rehabilitation facility or sheltered workshop;

(5) To return to his or her home from the place of training when:

(i) Training is not available for a period of 30 days or more (including summer vacation periods), and

(ii) Travel from his or her home to the place of training or rehabilitation services was at government expense;

(6) To return to the place of training or rehabilitation services from his or her home, when;

(i) The purpose of the travel is to continue training or rehabilitation services; and

(ii) Travel from the place of training or rehabilitation services to the veteran's home was at government expense;

(7) To return to the point from which he or she was transferred at government expense, upon being assigned to "discontinued" or "interrupted" status, for any reason, except abandonment of training by the veteran without good reason;

(8) To report to a place of prearranged satisfactory employment or for a prearranged employment interview following completion of his or her program of vocational rehabilitation, when:

(i) There is no satisfactory opportunity for employment in the veteran's occupation within the jurisdiction of the field station which has jurisdiction over his or her residence, and

(ii) The veteran has a serious employment handicap.

(9) To return to his or her home, from which he or she was transferred at government expense to pursue training, when, upon completion of his or her course, satisfactory employment is not available;

(10) To return to the location from which he or she traveled without authorization because the VA did not issue the necessary travel authorization on a timely basis. (38 U.S.C. 111)

(c) *Approval of interregional transfer.* Interregional travel must be approved by the case manager. (38 U.S.C. 1504(a)(13))

68. Section 21.374 is added as follows:

§ 21.374 Authorization for travel of attendants.

(a) *Travel for attendants.* The services of an attendant to accompany a veteran while traveling for rehabilitation purposes may be provided when such services are necessitated by the severity of the veteran's disability. Attendants may only be used to enable a veteran to attend appointments for initial evaluation, counseling, or intraregional or interregional travel at government expense under § 21.370 and § 21.372. (38 U.S.C. 111)

(b) *Attendants not employed by the Federal government.* (1) The VA may authorize persons not in regular civilian employment of the Federal government to act as attendants. Payment of travel expenses for attendants will be authorized on the same basis as for the veteran the attendant is accompanying. The VA:

(i) Will furnish the attendant with common-carrier transportation, meal and lodging expenses; or

(ii) Will grant the attendant a mileage allowance in lieu of furnishing the assistance cited in paragraph (b)(1)(i) of this section.

(2) The VA will not pay the attendant a fee if he or she is a relative of the veteran. A relative, for this purpose, is a person who by blood or marriage is the veteran's

(i) Spouse,

(ii) Parent,

(iii) Child,

(iv) Brother,

(v) Sister,

(vi) Uncle,

(vii) Aunt,

(viii) Niece, or

(ix) Nephew. (38 U.S.C. 111)

(c) *Attendant employed by the Federal government.* (1) The VA may authorize a person in the regular civilian

employment of the Federal government to act as an attendant. When assigned, the attendant:

(i) Will be entitled to transportation and expenses, or

(ii) May be allowed per diem in place of subsistence in accordance with the provisions of the Federal Travel Regulations. (15 U.S.C. chapter 571)

(2) The VA will pay no fee to civilian employees of the Federal government who act as attendants. (38 U.S.C. 111)

69. Section 21.376 is added as follows:

§ 21.376 Travel expenses for initial evaluation and counseling.

When the VA asks a disabled veteran to report to a designated place for an initial evaluation, reevaluation or counseling (including personal or vocational adjustment counseling), the veteran will travel to and from the place of evaluation and counseling at government expense. When a veteran, because of a severe disability, requires the services of an attendant while traveling, the VA will authorize payment of travel expenses for the attendant under the provisions of § 21.374. (38 U.S.C. 111)

70. New center headings and new §§ 21.380, 21.382, 21.390, 21.400, 21.402, 21.420, and 021.430 are added as follows:

Personnel Training and Development

§ 21.380 Establishment of qualifications for personnel providing assistance under chapter 31.

(a) *General.* Notwithstanding any other provision of law or regulation, the VA shall establish qualification standards for DVB personnel providing evaluation, rehabilitation, and case management services to eligible veterans under chapter 31, including:

(1) Counseling psychologists;

(2) Vocational rehabilitation specialists; and

(3) Other staff providing professional and technical assistance. (38 U.S.C. 1518(c))

(b) *Rehabilitation Act of 1973.* The VA shall consider qualification standards established for comparable personnel under the Rehabilitation Act of 1973, when setting agency standards. (38 U.S.C. 1518(c))

§ 21.382 Training and staff development for personnel providing assistance under chapter 31.

(a) *General.* The VA shall provide a program of ongoing professional training and development for staff of the VR&C Service engaged in providing rehabilitation services under chapter 31. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of disabled persons. The areas in which training and development services may be provided to enhance staff skills include:

(1) Evaluation and assessment;

(2) Medical aspects of disability;

(3) Psychological aspects of disability;

(4) Counseling theory and techniques;

(5) Personal and vocational adjustment;

(6) Occupational information;

(7) Placement processes and job development;

(8) Special considerations in rehabilitation of the seriously disabled;

(9) Independent living services;

(10) Resources for training and rehabilitation; and

(11) Utilizing research findings and professional publications. (38 U.S.C. 1518)

(b) *Training and development resources.* For the purpose of carrying out the provisions of paragraph (a) of this section the VA may:

(1) Employ the services of consultants;

(2) Make grants to and contract with public and private agencies, including institutions of higher learning, to conduct workshop and training activities;

(3) Authorize individual training at institutions of higher learning and other appropriate facilities; and

(4) Utilize chapter 41 of title; 5, U.S.C., and related instructions to provide training and staff development activities on a group and individual basis. (38 U.S.C. 1518(b))

(c) *Interagency coordination.* VA shall coordinate with the Commissioner of the Rehabilitation Services Administration and the Assistant Secretary for Veterans' Employment in planning and carrying out personnel training in areas of mutual programmatic concern. (38 U.S.C. 1518(c))

Rehabilitation Research and Special Projects

§ 21.390 Rehabilitation research and special projects.

(a) *General.* The VA shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the VA may conduct research and development, provide support for research and development, or both conduct and provide support for the development and conduct of:

(1) Studies and research concerning the psychological, educational, social, vocational, industrial, and economic aspects of rehabilitation; and

(2) Projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans. (38 U.S.C. 1519(a))

(b) *Grants.* The VA may make grants to, or contract with, public on nonprofit agencies, including institutions of higher learning, to carry out the provisions of paragraph (a) of this section. (38 U.S.C. 1519(b))

(c) *Research by VR&C (Vocational Rehabilitation and Counseling) Service.* Research by the staff of the VR&C Service directed to problems affecting service delivery, initiation and continuation in rehabilitation programs, and other areas directly affecting the quality of service to veterans being provided assistance under chapter 31 shall be encouraged. (38 U.S.C. 1519(a))

(d) *Interagency coordination.* The VA shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the National Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern. (38 U.S.C. 1519(c))

Veterans' Advisory Committee on Rehabilitation

§ 21.400 Veterans' Advisory Committee on Rehabilitation.

(a) *General.* The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation. (38 U.S.C. 1521(a))

(b) *Purpose.* The purposes of the Veterans' Advisory Committee on Rehabilitation, hereafter referred to as the committee, are to:

(1) Assess the rehabilitation needs of service and nonservice-disabled veterans; and

(2) Review the programs and activities of the VA designed to meet such needs; (38 U.S.C. 1521(c))

(c) *Members.* The committee shall include:

(1) Members of the general public;

(2) Appropriate representation of veterans with service-connected disabilities; and

(3) Persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation, and employment and training programs. (38 U.S.C. 1521(a))

(d) *Members terms.* The Administrator shall appoint members of

the committee for three-year terms. Members may be reappointed for additional three-year terms. (38 U.S.C. 1521(a))

(e) *Chairperson.* The Administrator will designate one of the members of the committee to chair the committee. (38 U.S.C. 1521(a))

(f) *Ex-officio members.* The committee shall also include ex-officio members named by the following agencies. The ex-officio members shall include one representative from:

(1) The Department of Medicine and Surgery;

(2) The Department of Veterans Benefits;

(3) The Rehabilitation Services Administration and one from the National Institute for Handicapped Research of the Department of Education; and

(4) The Assistant Secretary of Labor for Veterans' Employment of the Department of Labor. (38 U.S.C. 1521(a))

§ 21.402 Responsibilities of the Veterans' Advisory Committee on Rehabilitation.

(a) *Consultation with the Administrator.* The Administrator shall regularly, but not less than twice yearly, consult with and seek the advice of the committee with respect to the administration of veterans' rehabilitation programs authorized under title 38, United States Code. (38 U.S.C. 1521(b), (c))

(b) *Submission of an annual report.* The committee shall:

(1) Submit to the Administrator an annual report on the rehabilitation programs and activities of the VA; and

(2) Submit such other reports and recommendations to the Administrator as the committee determines appropriate. (38 U.S.C. 1521(c))

(c) *Contents of the committee's annual report.* The committee's annual report shall include:

(1) An assessment of the rehabilitation needs of veterans; and

(2) A review of the programs and activities of the VA designed to meet needs identified in subparagraph (1) of this paragraph. (38 U.S.C. 1521(c))

(d) *Administrator's annual report.* The findings of the committee shall be incorporated in the Administrator's annual report submitted to the Congress under 38 U.S.C. 214. In addition the Administrator shall submit, together with this annual report, a copy of all reports and recommendations of the committee submitted to the Administrator since the previous annual report was submitted to the Congress. (38 U.S.C. 1521(c))

71. A new centerheading and § 21.410 are added as follows:

Additional Administrative Consideration

§ 21.410 Delegation of authority.

Authority is delegated to the Chief Benefits Director, and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Counseling Service designated by the Chief Benefits Director, to make findings and decisions under 38 U.S.C. chapter 31 and the applicable regulations, precedents and instructions, as to rehabilitation services for disabled veterans. (38 U.S.C. 212(a))

Cross-Reference: See § 21.4001 Delegation of authority.

72. Section 21.412 is added as follows:

§ 21.412 Finality of decisions.

(a) *Field station of original jurisdiction.* The decision of a VA field station in a given veteran's case:

(1) Will be final and binding upon all field stations of the VA as to conclusions based on evidence on file at that time; and

(2) Will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided in §§ 21.410 and 21.414. (See §§ 19.153, 19.154, and 19.155. (38 U.S.C. 212(a), 4003)

(b) *Adjudicative determinations.* Current determinations of line of duty, character of discharge, relationship, and other pertinent elements affecting eligibility for training and rehabilitation services or payment of subsistence allowance under chapter 31, made by an adjudicative activity by application of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error. (38 U.S.C. 212(a))

73. Section 21.414 is added as follows:

§ 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

(a) Clear and unmistakable error, § 3.105(a);

(b) Difference of opinion, § 3.105(b);

(c) Character of discharge, § 3.105(c);

(d) Severance of service-connection, § 3.105(d);

(e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.48, 21.322, and 21.324) (38 U.S.C. 3012)

74. Sections 21.420 and 21.430 and center headings are added as follows:

Informing the Veteran

§ 21.420 Informing the veteran.

(a) *General.* The VA will inform a veteran in writing of findings affecting receipt of benefits and services under chapter 31. This includes veterans:

(1) Requesting benefits and services; or

(2) In receipt of benefits and services. (38 U.S.C. 1502)

(b) *Notification.* (1) Each notification should include the decision or finding, the reasons, including fact and law, for the decision, the effective date of the decision or finding; and

(2) The veteran's appeal rights, if any. (38 U.S.C. 1502)

(c) *Adverse action.* An adverse action is one, other than an interim action such as a suspension of benefits pending development, which:

(1) Denies chapter 31 benefits, when such benefits have been requested;

(2) Reduces or otherwise diminishes benefits being received by the veteran; or

(3) Terminates receipt of benefits for reasons other than scheduled interruptions which are a part of the veteran's plan. (38 U.S.C. 1502)

(d) *Prior notification of adverse action.* The VA shall give the veteran a period of at least 30 days to indicate his or her disagreement with an adverse action other than one which arises as a consequence of a change in dependency, training time, or other such alteration in circumstances. If the veteran disagrees, he or she shall be given the opportunity, before appealing the adverse action as provided in § 21.59, to:

(1) Meet informally with a representative of the VA;

(2) Review the basis for the VA decision, including any relevant written documents or material; and

(3) Submit to the VA any material which he or she may have relevant to the decision. (38 U.S.C. 1502)

Accountability

§ 21.430 Accountability for authorization and payment of training and rehabilitation services.

(a) *General.* The VA shall maintain policies and procedures which provide accountability in the authorization and payment of program costs for training and rehabilitation services. The procedures established under this section are applicable to all program costs except subsistence allowance (or the optional allowance at chapter 34 rates). Policies and procedures governing payment of subsistence allowance are governed by §§ 21.260 through 21.276, and §§ 21.320 through 21.334. (38 U.S.C. 1515(a)(4))

(b) *Determining necessary costs for training and rehabilitation services.* The estimates of program costs during a calendar year or lesser period shall be

based upon the services necessary to carry out the veteran's rehabilitation plan during that period (§§ 21.80 through 21.98). The estimates will be developed by the DVB case manager. If additional approval is required, the DVB case manager shall secure such additional approval prior to authorization of services. (38 U.S.C. 1515(a)(4))

(c) *Limitations.* The limitations for authorization of program costs, exclusive of subsistence allowance (optional allowance) are:

(1) The DVB case manager may not authorize payment of program costs which will exceed $2,500 per year. If program costs for a year exceed $2,500, additional concurrence is required as specified in paragraphs (c) (2) through (4) of this section;

(2) Program costs which will be greater than $2,500 but not more than $7,500 per year, may be approved by the Vocational Rehabilitation and Counseling officer;

(3) Program costs which will be greater than $7,500 per year, but not more than $15,000 per year, may be approved by the Director, VA Regional Office; and

(4) Program costs which will exceed $15,000 per year, may be approved by the Director, VR&C Service. (38 U.S.C. 1515(a)(4))

Cross-References: See § 21.156. Other incidental goods and services. § 21.258. Special assistance for veterans in self-employment.

Center heading and §§ 21.700–21.735 [Removed]

75. The center heading "COUNSELING" and §§ 21.700 through 21.735 are removed.

[FR Doc. 84-27438 Filed 10-17-84; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to expand the Protection of Information clause, to include Asian-Indian Americans in the definition of Minority Business Enterprise, to delete the particular approval now required for certain procurements from minority business enterprises, to raise the threshold at which brand name or equal purchase descriptions must be approved, to expand the clause entitled "Drawings and other Data to Become Property of Postal Service," and to make certain minor, editorial and technical amendments.

EFFECTIVE DATE: October 4, 1984.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 84–5, dated October 4, 1984.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorporation by reference.

Explanation of Changes

1–324.7 The Protection of Information clause is expanded. (The heading of 1–324 is changed to reflect the additional coverage.)

1–701.7 The definition of Minority Business Enterprise is revised to include Asian-Indian Americans.

1–704.2(a) This section is revised to delete the requirement for approval by the Assistant Postmaster General, Procurement and Supply Department, to select more than 20 percent of the estimated annual dollar amount of any requirement for procurement from minority business enterprises. The blanket deviation dated May 21, 1982, signed by the Assistant Postmaster General, Procurement and Supply Department, is cancelled.

1–1105.2(a) The threshold at which brand name or equal purchase descriptions must be approved by the General Manager, Procurement Technical Support Division, Procurement and Supply Department, is raised to $50,000 from $30,000.

Section 7 Several obsolete paragraphs are deleted.

7–603.2 The definition of Minority Business Enterprise is revised to be consistent with the definition at 1–701.7.

9–105.10(b) The clause entitled "Drawings and Other Data to Become Property of Postal Service," required in contracts for architect-engineer services, is expanded to encompass software and other media on which drawings and data might be reproduced or stored.

18–101 This section on relocation policy is revised to reflect postal policy more accurately and to direct readers to governing postal regulations.

(5 U.S.C. 552(a); 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-27510 Filed 10-17-84; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No. 83-992; FCC 84-353]

Amendment of the Commission's Rules With Regard to Tariffs

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission revises Part 61 and § 1.773 of its Rules, governing tariffs, which implement section 203 of the Communications Act. These revisions are intended to clarify and reorganize the Rules, and to ensure that formal agency procedures reflect contemporary tariff practices in the telecommunications industry. The most important changes to these rules are the reduced notice periods for dominant carriers and the increase in exemption amount for provision of cost support materials. This major revision, the first since 1939, will greatly reduce the administrative burdens associated with tariff filings.

EFFECTIVE DATE: November 19, 1984.

FOR FURTHER INFORMATION CONTACT: Joanne M. Salvatore, Tariff Division, Common Carrier Bureau, (202) 632–6917.

SUPPLEMENTARY INFORMATION:

Lists of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 61

Communications common carriers, Radios, Tariffs, Telegraph, Telephone.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 1 and 61 of the Commission's Rules; CC Docket No. 83–992.

Adopted: July 26, 1984.
Released: October 9, 1984.

By the Commission.

I. Introduction

1. On October 5, 1983, the Commission released a Notice of Proposed Rulemaking [1] (NPRM) proposing a

[1] Amendment of Parts 1 and 61 of the Commission's Rules, 95 FCC 2d 45 (1983).

recodification and revision of Part 61 of the Commission's Rules, 47 CFR 61.1 *et seq.*, and a single amendment to § 1.773 of Part 1, 47 CFR 1.773. Part 61 provides the procedures that common carriers must follow when filing tariffs with the Commission pursuant to Section 203 of the Communications Act of 1934, 47 U.S.C. 203. This recodification and revision represents the first overall review of these rules since 1939. It eliminates unnecessary regulations, clarifies remaining regulations and adopts more flexible procedural options which will ease carriers' compliance burdens. These revised rules will enable the Commission to meet its statutory oversight obligations while allowing subject carriers to operate more efficiently and to respond more effectively to competition. After careful consideration of the comments filed in this proceeding, we conclude that this revision of the rules, substantially as proposed, will benefit the public interest.

2. Eighteen parties filed comments in response to our NPRM, and thirteen parties filed reply comments.[2] These comments generally favored the proposed revisions of Part 61. The majority of the comments pertained to the proposed notice period reductions and customer notification requirements in Section 61.58, the increase in exemption amount for Section 61.38 submissions, and the tariff posting requirement in Section 61.72. The comments did not address all of the proposed revisions, but several commenters suggested further changes to certain rules. These proposals will be discussed in the following paragraphs in a section-by-section review. Appendix A contains the final text of the rules as amended.[3]

II. Analysis

3. *Section 61.12(a), (b) and (f):*[4] *Definitions of concurring carrier, connecting carrier, and other participating carrier.* In the NPRM, we clarified the "concurring carrier" definition and added definitions of "connecting carrier" and "other participating carrier." The BOCs[5] comment that these categories may no longer be distinguishable in light of AT&T's divestiture of the BOCs pursuant to the Modification of Final Judgment.[6] The BOCs contended that after divestiture carriers who were considered to be "connecting carriers" will not either be "issuing carriers" or "connecting carriers". The BOCs also argue that the term "through service" used in the definition of "other participating carrier" is no longer applicable "in the end-on-end environment created by access charges."

4. We disagree with the BOCs. These definitions are unaffected by AT&T's divestiture of the operating companies and serve as necessary administrative categories to determine carrier participation and responsibility for the offering of a given service. Divestiture only affected the BOCs and other carriers continue to enter into service arrangements defined by these terms. Accordingly, we shall adopt these definitions as proposed in the NPRM.

5. *Section 61.12(c): Definition of dominant carrier.* In the NPRM, we proposed the deletion of the "dominant carrier" definition in Section 61.15a(a) because we determined that it was unnecessary in light of the "non-dominant carrier" definition in proposed Section 61.12(e).[7] Commenting parties suggested that this definition be retained. SNET stated that the omission of this definition might give rise to an erroneous presumption as to how dominant carrier status is attained. In order to reduce confusion concerning this term, we have decided not to eliminate a definition of "dominant carrier."

6. *Section 61.12(e): Non-Dominant Carrier.* The proposed definition of "non-dominant carrier" replaces existing Section 61.15a(b) and reflects the language used in the Competitive Carrier Rulemaking[8] for a "dominant carrier."[9] A "non-dominant carrier" is "one found by the Commission not to have market power (*i.e.* power to control price)". The BOCs proposed the following definition of a "non-dominant carrier": "a carrier found by the Commission not to have market power over a service (*i.e.* power to control prices of a particular service)."

7. In the Fourth Report and Order in the Competitive Carrier Rulemaking, the Commission found that a firm's market power was indicated by the level and change in its share of a relevant market and that "* * * all interstate, domestic, interexchange telecommunications services comprise a single relevant product market with no relevant submarket."[10] The proposed definition could amount to a substantive change in the Commission's treatment of certain carriers under the Competitive Carrier proceeding. In order to avoid confusion in this Part 61 rulemaking, we have decided to retain the existing definition that was determined in the First Report and Order of the Competitive Carrier Rulemaking.[11] See Appendix A.

8. *Proposed Section 61.18:* "Minor tariff filing." AT&T proposed that a new category of "minor tariff filings" be added to the rules. This category was defined as: "a filing proposing a rate

[2] The following parties filed comments: American Broadcasting Companies, Inc., National Broadcasting Company, Inc. and CBS Inc. (Networks), American Telephone and Telegraph Company (AT&T), Association of Data Processing Service Organizations, Inc. (ADAPSO), Bell Operating Companies (BOCs), Communications Satellite Corporation (COMSAT), FTC Communications, Inc. (FTCC), GTE Service Corporation (GTE), Home Box Office, Inc. (HBO), International Communications Association (ICA), MCI Communications Corporation (MCI), Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company and Northwestern Bell Telephone Company (U S West), National Telephone Cooperative Association (NTCA), RCA Communications, Inc. (RCA), Satellite Business Systems (SBS), Southern New England Telephone Company (SNET), Tele-Communications Association (TCA), United States Telephone Association (USTA) and Western Union Telegraph Company (Western Union). Reply comments were filed by: Aeronautical Radio, Inc. (ARINC), Alascom, Inc. (ALASCOM), AT&T, ADAPSO, BOCs, ICA, Networks, MCI, RCA, SBS, Teltec Saving Communications Co. (Teltec), U S West, and Western Union.

[3] Appendix A contains the final text of Part 61 rules. Appendix B contains the single rule amendment of Part 1. Appendix A includes Section 61.40 which was added to the Commission's Rules in Private Line Rate Structure and Volume Discount Practices, CC Docket No. 79-248, FCC 84-147, released April 24, 1984, 49 FR 18107 (April 27, 1984). Petition for recon. pending.

[4] Section 61.12(f) is the same as former § 61.12(e) in the NPRM. This rule was relettered because the definition for dominant carrier was inserted. See discussion in Section 61.12(c).

[5] The comments in this proceeding were filed prior to AT&T's divestiture of its operating companies on January 1, 1984. The current seven regional holding companies filed one set of comments under the name "Bell Operating Companies" and will be referred to as the "BOCs" in this Report and Order.

[6] United States v. American Telephone and Telegraph Co., 552 F. Supp. 131 (D.D.C.1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). (Modification of Final Judgment or MFJ).

[7] The "non-dominant carrier" definition was Section 61.12(d) in the NPRM and is now Section 61.12(e) because we added the "dominant carrier" definition to this section.

[8] Policy and Rules Concerning Rates and Facilities Authorizations for Competitive Carrier Services (CC Docket No. 79-252), Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), First Report and Order, 85 FCC 2d 1 (1980), Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), Second Report and Order, 91 FCC 2d 59 (1982), *recon.*, FCC No. 83-69, released March 21, 1983, Second Further Notice of Proposed Rulemaking, FCC No. 82-187, released April 21, 1982, Third Further Notice of Proposed Rulemaking, Mimeo No. 33547, released June 14, 1983, 48 FR 28292 (June 21, 1983), Third Report and Order, Mimeo No. 012, released October 6, 1983, 48 FR 46791 (October 15, 1983), Fourth Report and Order, 95 FCC 2d 554 (1983), Fourth Further Notice of Proposed Rulemaking, FCC No. 84-82, released March 22, 1984, 49 FR 11856, March 28, 1984. (Competitive Carrier Rulemaking).

[9] *Id.*

[10] Fourth Report and Order at paras. 5 and 14.

[11] First Report and Order at 51-52.

change which (1) results in an annual revenue change of less than $5,000,000 and (2) less than a 10% change in any existing rate structure." AT&T argued that the addition of this category would increase its ability to compete without compromising the Commission's review functions and the Commission could apply full regulatory treatment when necessary through investigations, requests for additional information and the complaint procedures under Sections 206–208 of the Communications Act, 47 U.S.C. 206–08. Several parties urged the Commission to reject AT&T's proposed section as imprecise. They also stated that creation of such a category goes beyond the scope of this proceeding and would be more properly dealt with in the Competitive Carrier Rulemaking or in the Commission's proceeding on Long-Run Regulation of AT&T.[12]

9. "Minor tariff filings" might well be major in terms of their impact on particular customer groups or on relatively small services. Possible reforms of this type are under consideration in the Long-Run Regulation proceeding. For these reasons, AT&T's proposed section on "minor tariff filings" will not be adopted.[13]

10. *Section 61.22: Supplement.* As a result of comments we received pertaining to the scope of § 61.56, we have redefined "supplement" to be consistent with the language in § 61.56.[14] Section 61.56 only allows a supplement to be filed for a suspension or cancellation of a tariff publication. The § 61.22 definition to be adopted as a final rule shall be: "a publication filed as part of a tariff for the purpose of suspending or cancelling that tariff or tariff publication, and numbered independently from the tariff page series."

11. *Section 61.33(b): Letters of Transmittal.* In the NPRM, we simplified the language of this rule and directed carriers to furnish a reference to any facility authorizations necessary to implement the proposed tariff. FTCC sought either to delete this facility authorization list requirement or to allow a carrier to state generally that it is authorized to serve the point or points included in the tariff or that it has such an authorization pending.

12. We agree that the listing of facility authorizations could be burdensome to carriers. Accordingly, we shall delete the reference to facility authorizations from this section. See Appendix A for the final rule.

13. *Section 61.33(c): Letters of Transmittal.* In the NPRM we set forth the information that must be routinely submitted with tariff transmittals and specified the exact letter format required. FTCC commented that the actual letter of transmittal form did not need to be included in the rules and should be replaced by a list of requirements.

14. The Commission has had difficulty in obtaining the proper information necessary for tariff review. By following the form provided in the rules, carriers will save the Commission staff time, reduce the need for Commission requests for further information and reduce tariff processing delays. This requirement will impose no significant additional burden on the carriers. The letter of transmittal format in § 61.33(c) will appear in Part 61 as proposed.

15. *Section 61.38(a): Supporting Information to be submitted with letters of transmittal—Scope.* The major proposed revision to this rule was the expansion of the exemption to carriers with annual revenues of less than $500,000. This rule presently exempts carriers with annual revenues of less than $200,000. Most of the commenting parties approved of an increase in the exemption amount. They disagreed, however, as to the level to which it should be raised. MCI, COMSAT, and ICA supported the proposed exemption increase to $500,000 but MCI and ICA agreed that this exemption should not apply to access charge tariffs. In reply comments, MCI supported a $1,000,000 exemption but emphasized that revenues of affiliated companies must be aggregated before an exemption is applied.

16. The BOCs suggested that the exemption be in the range of $2,000,000 to $2,500,000 while U S West[15] and NTCA[16] recommended a $2,500,000 exemption. U S West additionally suggested that the Commission should forbear from regulation when a carrier has in place state tariffs covering the same type of service and at the same rates. USTA commented that a $5,000,000 exemption would be appropriate but questioned the use of revenue as a determination for this exemption. USTA suggested that some other measure such as number of access lines be used. Finally, FTCC suggested that an additional clause be added to § 61.38 exempting "de minimis rate changes" from its coverage.[17]

17. We have carefully considered the above arguments but are not persuaded that the exemption should be increased over the proposed amount of $500,000. Several commenters provided statistics to substantiate an increase to the proposed $500,000 exemption.[18] These figures, however, were in conflict with each other and did not provide any hard evidence as to which specific carriers or categories of carriers now required to file tariffs with the Commission would be exempted at annual gross revenue levels that exceed $500,000. While our proposal will substantially reduce the burden of compliance for small carriers, we cannot justify increasing the exemption over the proposed $500,000 without more specific information as to what types of carriers will be exempted and whether the cost of compliance outweighs the public benefit.

18. In light of the new and untested environment after divestiture, we shall not apply this exemption to exchange access tariff filings. The importance to the Commission of obtaining as much information as possible to determine accurate access charges outweighs the burden on the carriers in this instance. Although this rule contains no specific exception as to exchange access tariff filings, the Commission invokes its right to require a carrier to submit such information as may be necessary for review of a tariff filing pursuant to § 61.38(a).

19. We will not change the exemption criterion from annual gross revenue to some other measure for the exemption as USTA proposed. Annual gross revenue is a standard measure that can be easily determined. No substantive reasons have been presented to illustrate any inadequacy of the current measure. Nor shall we adopt U S West's

[12] Long-Run Regulation of AT&T's Domestic Services, CC Docket 83–1147, Notice of Inquiry, FCC 83–482, released October 27, 1983, 48 FR 51340, November 8, 1983. (Long-Run Regulation)

[13] AT&T also suggested several rule changes that incorporated references to the proposed Section 61.18 on "minor tariff filings." For the reasons cited in the text, AT&T's proposed changes to Sections 61.38(a) and 61.58(c) and the additions of Sections 1.773(a)(iii) and 61.58(c)(1)(iv) will not be adopted.

[14] For further clarification of this matter, see discussion in Section 61.56 at paras. 42 and 43, *infra*.

[15] U S West (Mountain States Telephone and Telegraph Company, Pacific Northwest Bell Telephone Company and Northwestern Bell Telephone Company) concurred and joined in the BOC's comments but also filed supplemental comments to propose additional changes to the rules.

[16] NTCA also recommended that the Commission consider creating a simplified cost justification form for the remaining nonexempt "small companies." NTCA had no specific recommendations for this form and did not define "small companies." The proposal will not be adopted.

[17] This suggestion was very similar to AT&T's proposal on "minor tariff filings." FTCC's proposal for exemption of "de minimis rate changes" will not be adopted.

[18] These statistics included figures from the 1982 REA Statistical Report Rural Telephone Borrowers and the USITA Annual Statistics Volume II.

suggestion that we exempt tariffs that duplicate state filings. Non-exempt carriers can apply for waivers of these cost support requirements when good cause exists.

20. *Section 61.38(b): Explanation and data supporting either changes or new tariff offerings.* The NPRM proposed no change in the first paragraph of this rule. This paragraph outlines the materials to be submitted for "a tariff change which affects rates or changes or for a tariff offering a new service." These materials include an "explanation of the changed or new matter, reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter." FTCC commented that the phrase "basis of ratemaking employed" used in this provision is vague and should be more specifically defined.

21. The phrase "basis of ratemaking employed" simply requires the carrier to explain the process it used to derive the rates set forth in the tariff. It is impossible to list in the rules all the factors that could be considered by carriers when formulating a rate. For this reason, the phrase "basis of ratemaking employed" will not be more specifically defined.

22. *Section 61.38(b)(2)(ii): Explanation and data supporting new tariff offerings.* We did not propose to revise this provision in the NPRM. It requires a carrier submitting a tariff filing for a new service offering to provide "estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues." SNET questions the meaning of the term "other service classifications" as it is used in this provision and how it relates to information required about a carrier's unregulated activities.

23. Part 61 only prescribes rules for a carrier's regulated activities. A carrier's "other service classifications" are those services that are regulated under the Communications Act that may be affected by the proposed rate change. We need information as to effects of tariff filings on these "other service classifications" in order to check for cross-subsidies or any cross-elastic effects. For example, a reduction in an MTS rate may reduce the demand for WATS or private line service.

24. *Section 61.38(c)(1): Working papers and statistical data.* This provision requires the filing carrier to supply the Tariff Review Branch with "two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section". Although the language in this proposed rule was streamlined, the substance of this section remains the same as the existing rule. FTCC commented that the above statement is unclear as to the quantity and type of information required. It also suggested that the Commission consider requiring this information only upon special request of the Commission staff.

25. This proposed rule does not delineate specific working paper requirements for carriers. It was intended that this rule be a flexible one in order to accommodate differing amounts of information necessary to support different tariff filings and to avoid disproportionate burdens of compliance on the carriers. Each carrier, therefore, must present the amount of supporting data necessary for compliance according to the individual circumstances of the carrier and tariff filing in question. The proposed rule will not be modified.

26. *Section 61.52(a): Form, size, type, legibility, etc.* This proposed rule requires, *inter alia*, that tariffs be printed on white paper with margins of not less than one inch. AT&T supported the existing standard requirement of ⅝ inch margins, explaining that one inch margins would increase the volume of all filings and therefore, the cost of filing tariffs. AT&T stated that its tariffs currently on file with the Commission have ⅝ inch margins and that it did not want to reproduce all these existing tariffs with one inch margins. Western Union replied that tariffs with margins of less than one inch were very difficult to read when placed in binders and, therefore, the one inch margin standard should be adopted as proposed.

27. We shall adopt the provision as proposed. The ⅝ inch margin requirement was originally imposed when tariffs were published in pamphlet form. Now that tariffs are no longer published in this form, but instead published in looseleaf form and placed in binders, one inch margins are required to facilitate their reading. Because this rulemaking is prospective, tariffs now on file need not be reproduced with the larger margin. Any new tariffs filed or new pages to be inserted in existing tariffs, however, must have one inch margins. We expect that no hardship or confusion will ensue from the compliance with this rule. A carrier can apply for a waiver of this rule if such difficulties arise.

28. Another proposed revision of § 61.52(a) requires all tariffs to be printed on white paper. MCI requested that the color of tariff pages not be specified in the rules, arguing that paper color does not affect its legibility.

29. Our experience indicates that use of paper colors other than white can decrease legibility and reproduction quality. Therefore, we shall adopt this provision as proposed. Once again, we emphasize that this rule is prospective in nature. Any new tariffs or new pages to be inserted in existing tariffs must be printed on white paper.

30. *Sections 61.52(b) (1) and (2) and 61.54(b)(4): Form, size, type, legibility, etc. and Composition of Tariffs.* These proposed sections, *inter alia*, designate where an issuing officer's name should appear in a tariff. SNET and the BOCs recommended that only the issuing officer's title be required, arguing that issuing officers may change while a tariff is effective.

31. We require the issuing officer be identified in the tariff so that, if necessary, the public can contact that officer. We have determined that this requirement will be satisfied by providing the issuing officer's title. A carrier must update its tariff if the issuing officer's title changes. A carrier, if it prefers, may include the issuing officer's name to provide the public more specific information. Accordingly, these sections shall be adopted with the above modification. See Appendix A.

32. *Section 61.54(b)(5): Composition of tariffs—Revised title page.* This provision requires a carrier to make a notation of the original tariff effective date when a revised title page is issued. The NPRM did not propose to modify this provision except for a one word change stating that a carrier "must," rather than "shall" make the notation. FTCC questioned the need to require that the original effective date of a tariff be noted on the revised title page.

33. When tracing the history of a tariff rate or regulation revision, the original effective date on the revised title page is very useful for research purposes. This notation reduces time and confusion for the tariff user and the Commission staff. For this reason, we shall not eliminate this requirement.

34. *Section 61.54(c)(3): Composition of tariffs.* This provision pertains to the revision of the tariff check sheet when tariff pages are revised or added, or when supplements are issued. We proposed to revise this provision to include the following statement on the revised check sheet. "*Page issued——————(date)." AT&T commented that it is redundant to specify the date after the asterisk because the check sheet issue date would be the same. To eliminate this redundancy but still retain the indication of a change, AT&T recommended that the words "New or revised page" follow the asterisk.

35. We agree that the repetition of the date in the asterisked statement on the revised check sheet is unnecessary. Using the statement "New or revised page" is consistent with our intent to notify the public that specific pages have been revised or added at the time of issuance. Therefore, we shall adopt the modification that AT&T proposed and the final rule will contain the asterisked statement "New or revised page". See Appendix A.

36. *Section 61.54(h): List of other participating carriers.* In the NPRM, we proposed to clarify the existing requirement of providing a list of other participating carriers with a tariff. The proposed language is: "This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located." The BOCs indicated that the requirement of listing other participating carriers is burdensome because these carriers are difficult to identify and constant updating of this list would be necessary.

37. The commenting parties may be misinterpreting the term "other participating carrier." By definition,[19] an "other participating carrier" is one that is subject to the Communications Act and provides through service in conjunction with another carrier subject to the Act. A carrier should have written agreements with "other participating carriers" to guarantee through service and should easily be able to list these carriers in order to comply with this long-standing requirement.[20] We will adopt this modified rule as proposed in the NPRM for the foregoing reasons.

38. *Section 61.54(i)(3): Composition of tariff.* This proposed rule requires that "items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued * * *." Both FTCC and Western Union sought clarification of this proposed rule. FTCC suggested that the rule be deleted.

39. This provision clearly requires that a tariff item must be designated as reissued when that item has not been in effect for thirty days and a subsequent change is made to other items on that page. The object of this rule is to eliminate confusion as to what items on a page are actually in effect. Assume, for example, that a tariff is filed on May 1, 1984 with a ninety day notice period, thus becoming effective on July 30, 1984 if no suspension is ordered. A subsequent tariff filing takes place on July 1, 1984 and includes revisions of several pages that were issued in the May 1, 1984 filing. Items changed in the May 1 filing but unchanged on these subsequent tariff filing pages will not have to be shown as reissued unless these pages are to become effective less than thirty days after the initial filing becomes effective. Thus, if the July 1, 1984 filing becomes effective prior to August 30, 1984, the items originally filed May 1 will have to be shown as reissued. If the July 1, 1984 filing becomes effective after August 30, 1984, the items originally filed May 1, 1984 must not be shown as reissued.[21] We shall adopt this provision as a proposed in the MPRM.

40. *Section 61.54(i): Rates and general rules, regulations, exceptions and conditions.* This section combines and simplifies the language of two existing rules. The substance of this proposed section is unchanged from the existing rules. A provision of this proposed rule prohibits a tariff from containing a "rate, rule, regulation, exception or condition," which "in any way attempts to substitute a rate, rule, regulation, exception, or condition named in any other tariff." FTCC commented that this provision is inconsistent with current international record carrier practice. According to FTCC, international record carriers are required by Commission order[22] to reference the tariffs of other common carriers for interconnected international and domestic telex calls, and to collect on the basis of rates specified in such tariffs. FTCC requested that these facts be reflected appropriately in the rules.

41. We are aware that where it is necessary in order to implement Commission policy, carriers will occasionally be ordered to take an action that differs from the procedures established in the rules. For practical purposes, however, the Commission's rules cannot be segmented to meet highly specific individual carrier needs. Rather, the rules must apply generally to all carriers. Therefore, we will adopt this revision of § 61.54(j) as proposed. Carriers may request waivers of this rule supported by a showing of good cause when special circumstances arise.

42. *Section 61.56: Supplements.* This section was proposed to allow a supplement to be filed only when a tariff is suspended or cancelled. We combined and revised existing §§ 61.56 and 61.116 to create this proposed section.[23] Both FTCC and the BOCs requested that this proposed section be expanded to allow supplements to a "part" of a tariff. COMSAT proposed that Section 61.116 be retained to allow the filing of supplements that are specially authorized by the Commission. Western Union agreed with the BOCs.

43. We have intentionally limited the use of supplements, since a supplement is generally filed at the back of a tariff and therefore, can be easily missed by a party reviewing the tariff. The tariff user could also be misled by tariff page information that is subsequently changed by a supplement filed at the back of the tariff. Important tariff changes such as rates or effective dates must be shown on revised tariff pages so that this information is easily accessible to tariff users. In the case of cancellation or suspension of a tariff, however, short time intervals require that supplements be allowed. In order to further clarify this requirement, we have revised the definition of supplement[24] and added the word "publication" to § 61.56. This latter addition will reflect the carrier's ability to supplement documents other than the tariff itself.[25] The section will be adopted with this modification. Special waivers can be requested under § 61.152 when the situation warrants.

44. *Section 61.58(a)(4): Notice requirements-customer notification.* This proposed section requires a carrier to inform affected customers when it issues a tariff publication that would increase any rate or charge, or that would discontinue, reduce or otherwise impair service to those customers. The proposed rule also includes examples of appropriate methods of notification. In our NPRM, we proposed that non-dominant carriers be exempted from the customer notification requirements under § 61.58 and that dominant carriers be exempted from these customer notification requirements for rate revisions that involve only an "insubstantial" increase over a twelve month period. We did not propose a precise rule revision because we lacked sufficient information and desired public

[19] See § 61.12(f)—"other participating carrier" definition in Appendix A.

[20] Presently, "connecting carriers" are listed in a separate tariff and carriers have been allowed by Commission order to waive Section 61.74 reference requirements. The "connecting carrier" can reference this separate tariff in its other tariffs. If the list of "other participating carriers" becomes unduly long, carriers could apply for a waiver of Section 61.74.

[21] See also discussion of Section 61.59, *infra*, paras. 64 and 65.

[22] FTCC gave no specific cites to Commission orders requiring such references.

[23] As a result of this revision, the NPRM proposed the deletion of Section 61.116.

[24] See Section 61.22 at para. 10.

[25] See Section 61.24 in Appendix A for definition of tariff publication.

comment before formulating a new rule. Most commenters favored elimination of customer notification requirements for non-dominant carriers but many disagreed with reducing notification requirements for dominant carriers. Other parties attempted to define an "insubstantial" rate increase but could reach no consensus.

45. Commenting parties supporting exemption of non-dominant carriers from customer notification requirements agreed with the Commission views set forth in the NPRM. We stated in the NPRM that under the constraints of the marketplace, non-dominant carriers will voluntarily provide satisfactory notice to their customers in order to remain competitive. The commenting parties agreed that this reliance on the marketplace was a reasonable and less burdensome alternative to the Section 61.58 requirements of customer notification for non-dominant carriers. Parties opposing the proposed rule argued that customers need actual prior notification of rate changes and service discontinuances to enable them to review tariffs for discrimination and unjustness and to file petitions for suspension or rejection if necessary. Moreover, they claimed, customers need actual prior notice in order to consider alternative carriers and to adjust any affected contracts. HBO specifically requested the exclusion of domestic satellite carriers (domsats) and miscellaneous common carriers (MCCs) from this exemption because these carriers have few customers and limited competitive alternatives are available to these customers.

46. Through the Competitive Carrier Rulemaking, we determined that non-dominant carrier tariffs are presumed lawful and that because of their lack of market power, non-dominant carriers are constrained by the availability of competitive alternatives to provide service to their customers at just and reasonable rates and on reasonable terms and conditions. As noted in the NPRM, less than a dozen petitions asserting the unlawfulness of non-dominant carriers' filings have been filed per year since the adoption of the First Report and Order in the Competitive Carrier Rulemaking. After review, all of these petitions were found to lack merit. The purpose of the notification requirement was to assure that customers would be aware of any rate increase in case they wished to file a petition. The rule was not developed to facilitate customer changes in service. As with any other competitive industry, customers will be adequately notified of rate changes as the marketplace demands. Under the proposed rule, non-dominant carriers will be under no obligation to give customers actual prior notice of rate increases and service discontinuances, and customers can use the complaint process under section 208 of the Communications Act, 47 U.S.C. 208, to protest unjust and discriminatory rates. In accordance with our views in the NPRM and with concurrence from several commenting parties, we have revised § 61.58(a)(4) to exempt non-dominant carriers from customer notification requirements.[26] (See Appendix A.)

47. The other proposed exemption from customer notification requirements would eliminate dominant carrier filings which involve an "insubstantial" rate increase. Generally, the parties agreed that the exemption should be set low enough so as not to adversely affect the public, but they did not agree on a specific definition of an "insubstantial" rate increase. The BOCs considered an "insubstantial" rate increase to be one that: (1) Equals less than the cost of notification; (2) is less than $1,000,000 per state; (3) is less than a 2% increase per customer per year; and (4) affects fewer than 1% of the carrier's customers. AT&T referred to its "minor tariff filing" proposal and indicated the same criterion be used to determine an "insubstantial" rate increase.[27] Western Union proposed that dominant carriers notify customers of rate increases that exceed 10% for any rate or rate element either alone or in combination for a twelve month period, or any that involve access charges, new service or a discontinuance, reduction or other impairment of service to any customer. GTE suggested that anything less than a 5% increase or decrease of a rate could be considered insubstantial and also suggested that an overall revenue limit be set per service category.

48. The Networks, TCA, ADAPSO, ICA and ARINC essentially agreed that dominant carriers should no be exempted from the customer notification requirements, arguing that "insubstantial" rate increases are difficult to define and that the cumulative effect of "insubstantial" rate increases could equal a very substantial increase. These carriers also argued that dominant carriers would be able to change a term or condition without customer notification and thereby increase charges for certain customers without an actual rate change.

49. Since there is no general agreement as to the definition of "insubstantial" rate increases not requiring notification of customers, we shall continue to study this issue. The issues raised by opponents of this proposal, specifically, the cumulative effect of "insubstantial" rate increases and the possibility of "hidden" rate changes, must be addressed. We will not for the present, therefore, revise this section to reduce customer notification requirements for dominant carriers.

50. *Section 61.58 (c): Notice requirements-other carriers.* In this section, the NPRM proposed a substantial reduction in the length of the notice period which a carrier must afford the Commission and the public before new tariff proposals can go into effect. The NPRM proposed to reduce current notice periods of seventy and ninety days to thirty-five and forty-five days respectively.[28] We proposed this change to permit carriers to respond quickly to competitive offerings, new technologies and new circumstances. We balanced this policy, however, against the need to preserve our ability to perform our oversight responsibility under the Communications Act. It has been our experience that most tariffs can be reviewed by the Commission and the public in this proposed amount of time. For controversial or complex tariffs, the Commission can require the full ninety day notice period if necessary. See § 61.58(a)(2).

51. All of the commenting parties agreed that the reduction of the seventy day notice period to thirty-five days presented no difficulties. There was disagreement, however, as to the proposed reduction in the ninety day notice period. The commenters in favor of the ninety day notice reduction generally echoed the positive effects of this proposed change cited by the Commission in the NPRM. They asserted that this proposal struck a balance between the public interest and competitive necessity and that, if adopted, this notice reduction would

[26] This exemption will include all non-dominant carriers. Domestic satellite carrier and miscellaneous common carriers are subject to the same competitive constraints as other non-dominant carriers pursuant to the Competitive Carrier proceeding.

[27] See paras. 8 and 9 *supra.*

[28] The associated pleading cycles for petitions and replies addressing these filings are contained in Section 1.773(a)(2)(ii). No revisions to this section were proposed in the NPRM. This section prescribes a twenty-five day pleading deadline for a ninety day filing and a fifteen day pleading deadline for a filing made on at least thirty days but less than ninety days notice. Pursuant to this section, therefore, when the ninety day notice period is reduced to forty-five days, the pleading cycle is reduced to fifteen days. The change in the seventy day notice period to thirty-five days does not affect the associated pleading cycle which remains fifteen days.

allow dominant carriers to compete effectively with carriers subject to reduced regulation as a result of the Competitive Carrier proceeding.[29]

52. Several parties suggested additional modifications to this notice reduction proposal. U S West endorsed a reduction of notice periods to thirty days to coincide with state commission notice periods. FTCC suggested carriers should maintain tariff mailing lists of interested parties that would receive direct copies of every filing. Western Union proposed that a ninety day notice period be retained for "significant filings," which it precisely defined in the context of its customer notification requirements proposal.[30] GTE agreed with the reduction in notice periods for all dominant carriers except AT&T, arguing that the issue of whether AT&T should be allowed shorter notice periods does not belong in this proceeding but rather in the Long-Run Regulation proceeding. GTE also proposed that dominant carriers other than AT&T be required to issue a Public Notice, giving a complete and fair summary of their tariff filings and that interested parties would be allowed fifteen days to comment on these proposed summaries. GTE stated that this modification would allow interested parties to monitor current tariff filings and to take timely action. These proposed modifications were not generally accepted by the other commenting parties.

53. The parties opposing reduction of the ninety day notice period were mainly concerned about the associated reduction in the pleading cycle to fifteen days pursuant to Section 1.773(a)(2)(ii).[31] Their main agrument was that a reduction in the pleading cycle would preclude the public from conducting meaningful tariff review and, therefore, enable unlawful tariffs to go into effect. Other arguments were directed specifically against AT&T. Commenters asserted that AT&T should still be considered to possess market power after divestiture and should not be given an even greater competitive advantage. Furthermore, they said, any decision to reduce notice periods for AT&T was premature and should be addressed in the Long-Run Regulation proceeding. Parties also cited AT&T's generally poor record of having many of its tariffs rejected and stated that the full notice period was definitely needed to review AT&T filings. According to TELTEC, a notice period reduction for AT&T would put resellers at a distinct disadvantage because they would have inadequate time to adjust their contracts for compensatory pricing, if any AT&T rate increase should go into effect. SBS also proposed that if notice periods were shortened for AT&T, a mechanism for instant publication of its tariff filings should be put in place so the public could immediately file petitions requesting application of the full notice period.

54. We continue to believe, as stated in our NPRM, that a reduction in the ninety day notice period will benefit the public without compromising the Commission's responsibility to review tariff filings completely, and without precluding meaningful public analysis. For most filings, shortened notice periods will benefit the public allowing new services to go into effect more quickly. The proposed reduction of notice periods is purely a procedural change and is properly included in this proceeding.[32] The Commission will continue to monitor dominant carrier tariff filings closely and review all associated pleadings filed in accordance with § 1.773(a)(2)(ii). The Commission reserves the right to apply the full notice period for filings requiring additional review time. The Commission's procedures are flexible and on our own motion or on request from any interested person, we will consider extending the time for public comment.[33] Our procedures will be altered as necessary in order to allow for complex tariff filings. We understand that under certain circumstances parties may have a difficult time in adhering to the pleading cycle and the Commission will provide adequate review time on its own motion or when reasonable requests are made. Indeed, we could even request additional rounds of comments on specific issues. In light of this procedural flexibility and the public benefits, we shall adopt Section 61.58(c) as proposed.

55. With regard to the commenting parties' recommendations for further revisions to § 61.58(c), we have determined that none of these proposals should be adopted. The thirty day notice period suggested by U S West might be inadequate to review dominant carrier tariffs, and state tariff requirements have no bearing on the Commission's review obligations. The proposals to require immediate notification of tariff filings or direct mailing lists certainly point out valid concerns for the effective and timely flow of information. Based upon our experience, we do not anticipate problems in this area. The Commission, therefore, does not believe it is reasonable to impose additional requirements and expenses on the carriers for tariff filing notifications. The Commission has designed its tariff processing procedures to insure the timely availability of tariff information to the public. The Commission prepares a daily log of all tariff filings that is available in the Tariff Reference Room located on the fifth floor of the main Commission building. Parties interested in monitoring tariffs can avail themselves of this information during normal office hours.

56. *Section 61.58(c)(1)(ii): Other carriers.* The proposed rule was a consolidation of three existing rules. It states, *inter alia*, that tariff filings involving new rates and regulations not previously filed at, from, to or via points on new lines must be made on or at least fifteen days' notice. FTCC sought clarification of the term "new lines" although this term was contained in the existing rules. FTCC questioned whether the following situations would be considered "new lines:" (1) Provision of a new service on a previously used circuit; (2) an old service on a new circuit; and (3) provision of direct service that replaces service via transit points.

57. The focus of this rule should be on two things: "now rates and regulations" in combination with "new lines," "new radio facilities" and "new points of radio communications." A carrier files a tariff on fifteen day notice when it wishes to establish a new rate or regulation for these points. It appears that FTCC is interpreting this proposed rule in terms of the physical routing of circuits necessary to provide a service. Physical routing of circuits may change but the same rates and regulations may remain in effect. When circuit rerouting causes rates and regulations to change, then a tariff should be filed pursuant to

[29] See note 8 *supra*. Non-dominant carriers are permitted to file tariffs on fourteen days' notice and carriers subject to forbearance are not required to file tariffs. See Section 61.58(b).

[30] See para. 47 *supra*.

[31] See note 28 *supra*.

[32] The Long-Run Regulation proceeding addressed several aspects of our regulation of AT&T. Some of these are related to the substantive issue of AT&T's market power, which we do not address by our action today. Other specific procedural aspects of our regulation, including the proposed shortening of tariff notice periods, were addressed by some commenters in the Long-Run Regulation proceeding. Commenters in favor of shortened notice periods were Vermont Department of Public Service and Vermont Public Service Board, Michigan Public Service Commission, Cargill, Inc., and Office of the Consumer's Counsel of Ohio. Parties commenting against shortened notice periods were the Federal Executive Agencies and the Association of American Railroads.

[33] The Commission has for some time now routinely granted special permission under § 61.58 to permit filings on forty-five days notice without regard to their controversial nature. Where necessary, our ability to defer the filing to the full ninety days has proven effective to balance competing interests.

this rule. We shall adopt this provision as proposed in the NPRM.

58. *Section 61.58(c)(1)(iii): Other carriers.* AT&T proposed to add a provision to this section that would allow fifteen days' notice for "special arrangements furnished to the United States Government which supplement or modify existing services." AT&T's rationale was that a notice period longer than fifteen days was unnecessary for a service offering that affected only one party. ADAPSO replied that changes to a government service were clearly more important and complicated than other changes contained in this section and required a longer notice period.[34] ADAPSO also commented that the corresponding seven day pleading cycle was inadequate for public review.[35]

59. There has been no persuasive rationale offered that would warrant the reduction of notice periods for Government-related tariffs. The Commission and the public need an adequate period to review these tariffs pursuant to proposed § 61.58(c). AT&T's proposed addition to Section 61.58(c)(1)(iii) will not be adopted.

60. *Proposed Section 61.58(d).* Western Union proposed the addition of a section stating that "Tariff filings made involving decreases in charges for a period of three months or less may be made on one day's notice." Western Union claimed that the addition of this provision would encourage carrier creativity and increase competition by allowing a carrier to put a promotional discount immediately into effect. This one day notice period; it maintained would eliminate tariff limitation. Western Union observed that under the existing rules, carriers can match the original carrier's discount before that carrier's rate becomes effective and, in effect, deprive the original carrier of its market advantage. AT&T agreed with Western Union, while MCI and RCA objected to this proposal because it relaxed tariff regulations for dominant carriers.

61. Western Union's proposal on one day notice periods for short-term rate reductions could result in the introduction of rate changes having significant impact on customers and competitors without any prior review by the Commission. Therefore, we shall not adopt Western Union's amendment. Carriers may use the special permission procedures to request a reduced notice period for a temporary promotional tariff. In addition, we are aware that varying notice periods allow non-dominant carriers to put promotional tariffs into effect more rapidly than dominant carriers. (See § 61.58 (b) and (c).) Reduced notice periods adopted in this rulemaking should mitigate this situation. Dominant carriers, too, may receive permission to implement promotional tariff changes on a timetable comparable to that afforded non-dominant carriers. The Commission has and will continue to handle special permission applications expeditiously to benefit the public with lawful promotional discounts.[36]

62. *Proposed Section 61.58(e): Notice Requirements.* The NPRM proposed to delete § 61.58(d) which provided that a carrier may apply for special permission pursuant to § 61.152 to request a reduced notice period if no petitions seeking suspension or rejection of that tariff are filed within the filing periods established in § 1.773(a)(2). AT&T proposed to retain that section with modifications that would allow carriers to refile unopposed tariff sections to become effective on five days' notice. (Due to the reorganization of the rules it would be called Section 61.58(e).) ADAPSO objected to this proposal stating that the shortened review period could be potentially harmful to the public interest.

63. The NPRM proposed to delete this section as unnecessary in light of the shortened notice periods in proposed § 61.58(c) and the overall special permission provision in § 61.152. In addition, AT&T's proposal does not consider that the Commission itself may have objections to a tariff even if no petitions are filed against it and may, therefore, require the full notice period to review it. For these reasons, AT&T's proposed § 61.58(e) will not be adopted and § 61.58(d) will be deleted as proposed in the NPRM. Carriers may still apply for special permission to advance the effective date of a tariff.

64. *Section 61.59: Effective period required before changes.* This proposed rule restates existing § 61.59(a) and adds an exception for corrections authorized by the Commission. This section requires a carrier to wait thirty days before changing any newly established rate or regulation. AT&T, FTCC and the BOCs proposed the deletion of this section so that changes could be made to a new rate or regulation at any time. Several commenters opposed this deletion, arguing that multiple filings by a dominant carrier in a short period of time would be burdensome on the Commission and the public and that elimination of this requirement would cause instability and "rate churn." [37]

65. We agree that allowing a carrier to change a rate or regulation within thirty days after it has been established creates confusion for the public and introduces unnecessary complexity in the tariff review process. It has not been shown that this thirty day interval between rate changes has caused a burden to the carriers, especially in the light of the ability to request shorter notice as is done routinely under the existing rules.[38] Accordingly, we shall retain the effective period as set forth in the NPRM.

66. *Section 61.64: Rates and Regulations for Ticker Services.* The NPRM made no substantive change to this existing rule which specifies the rates and regulations for installation of ticker services. Western Union suggested that this provision should be deleted because no future installations of ticker service are planned and no new installations have taken place in the last several years.

67. After reviewing Western Union's comments and the status of ticker service in general, we agree that there is no longer a need for a provision regarding rates and regulations for it. Since this rule lacks future applicability, we will delete § 61.64 from the rules.

68. *Section 61.66: Changes in message telegraph service point listings where basic schedules of rates and regulations are already effective.* This proposed rule was unchanged in the NPRM except for the deletion of "money order services" which is no longer a tariffed offering. This provision specifies notice periods for changes in existing message telegraph service points. Western Union indicated that this provision should be eliminated as a result of the conclusions in the *Regulation of Domestic Public Message Service*, 75 FCC 2d 345 (1980). Western Union maintained that this decision released it from the requirement of seeking Commission approval before adding, deleting or

[34] This proposed section now requires that fifteen day notice periods be applied, *inter alia*, to a change in the name of a carrier, a change in the vertical and horizontal coordinates and a change in the lists of mileages.

[35] Section 1.773(a)(2)(i) allows a seven day pleading cycle for a tariff notice period of less than thirty days.

[36] Special permission applications may be submitted either to waive the prescribed notice period before filing the rate decrease or to advance the effective date of a rate decrease. The special permission process has been running smoothly and most applications have been acted upon within twenty-four hours of receipt. An example of such a special permission being granted is Special Permission No. 84-187 which allowed AT&T to offer a promotional discount for a limited duration in the Charleston, West Virginia area.

[37] "Rate churn" is the constant changing of rates causing customer confusion and lack of certainty as to the actual rates in effect at any given time period.

[38] See discussion regarding Section 61.54(i)(3) in paras. 38 and 39.

changing the hours of offices and agencies.

69. We agree with Western Union's interpretation of the Commission's decision and conclude that notice need not be given for changes in message telegraph service point listings where basic rates and regulations are already effective. We shall, therefore, delete Section 61.66 from the rules.

70. *Section 61.67: New or Discontinued telephone, telegraph, teletypewriter service points; mileage.* This rule, unchanged by the NPRM, states when additions or discontinuances in telephone and teletypewriter service points and when additions in message telegraph service points must be filed with the Commission. Western Union, using the same rationale that it used for changes to §§ 61.64 and 61.66, proposed that this section be modified to delete references to "teletypewriter" and "message telegraph service points."

71. We agree that the term "message telegraph service points" should be deleted. The carrier keeps a list of these service points at its centralized telephone bureaus, and it is unnecessary to maintain this list in the carrier's tariff filing.[39] Western Union is still required, however, to file lists of teletypewriter exchange service points in its tariffs because of their relation to the rate structure, and Western Union is responsible for updating these lists when any additions or discontinuances of these points take place.[40] Section 61.67, therefore, remains applicable to teletypewriter exchange service points. See Appendix A for the revised language of § 61.67.

72. *Section 61.68(a): Special Notation.* This proposed section requires a special notation when all or part of a tariff is filed on less than the notice required in § 61.58. This proposed special notation is: "Issued on not less than —— days' notice under authority of —— ——. (specific reference to the special permission, decision, order or section of these rules)." We simplified the language of this section but it remained substantively unchanged. AT&T and Western Union proposed that the requirement that the specific number of days' notice stated be deleted because this number is sometimes difficult to ascertain.

73. We specifically retained this requirement because we consider it important to a tariff reader's understanding of the proceedings associated with the tariff. The number of days is easily calculated by counting the number of days between the issue date and the effective date. The precise method of calculation is delineated in § 1.4(a) of the Commission's rules, 47 CFR 1.4(a).

74. *Section 61.69: Rejection.* This proposed section combined two existing rules concerning the rejection of tariff publications by the Commission.[41] Specifically, this proposed rule requires that a subsequent publication issued in lieu of a tariff rejected by the Commission must bear a notation to that effect. FTCC suggested deletion of this provision because it believes that such a notation on a current tariff leads the public to make inaccurate inferences about the carrier's ability to conduct business efficiently.

75. The proposed requirement is purely administrative and is in no way intended to reflect on a carrier's business image. Since partial rejections and suspensions of tariffs are possible, some rejected tariff material may remain physically in the tariffs. The notation simply informs the public what action has been taken on the carrier's tariff and indicates which tariff material is currently effective so that the appropriate rates and terms can be ascertained. The parties using the tariffs on any regular basis should be familiar with Commission procedures and understand the reason for such a notation. This section will be adopted as proposed in the NPRM.

76. *Section 61.72: Posting.* The existing section was revised to clarify existing posting requirements. These posting requirements can be satisfied by following one of two methods. The first method requires a filing carrier to post the schedule of rates and regulations in the main office while the second method requires these schedules to be posted in each state a carrier operates. In our NPRM, we requested comments on the appropriateness of imposing these posting requirements in the future. Several posting alternatives were suggested in the comments and the commenting parties stressed that carriers should be given maximum flexibility and discretion to determine the best method of posting for its operation. Carriers indicated that the current posting requirements were burdensome because it is costly to reproduce tariffs and maintain them at several locations. In addition, some carriers provided figures to show that these posted tariffs were seldom used by the public and that most interested parties arranged to receive copies of tariffs directly from tariff publishing and distribution contractors.

77. Several recommendations for revised posting procedures were offered by commenting parties. These methods of fulfilling the posting requirements included making tariff information available to customers through written request procedures, telephone call-in services or subscription services. Another suggestion was to limit actual tariff posting to one location per company, per state. Most parties indicated that a variety of methods could be acceptable as long as current posting requirements were reduced. ADAPSO questioned whether the posting requirement could be totally eliminated because Section 203 of the Communications Act of 1934 specifically states that rate schedules should be posted and kept for public inspection in such places designated by the Commission.

78. After careful review of these comments and further consideration of the matter, we have decided to modify the existing rule. Carriers will now be required to post their tariffs in one office per state or territiory in which they operate. In addition, each carrier will be required to maintain a telephone number for public inquiry about information contained in the tariffs. By providing a telephone call-in service readily available to interested parties and by posting only one copy of a tariff per state or territory, a carrier should experience a reduced regulatory burden without any loss of tariff information to the public. See Appendix A for this revision.

79. *Section 61.74: References to other instruments.* The NPRM made no changes to this rule which requires a tariff publication to contain no references to other tariffs, documents or instruments except as otherwise provided in Part 61. Several parties commented that this section should be expanded to allow referencing to other tariffs and, in some cases, other documents. These parties cited the access tariffs as an example of referencing allowed by the Commission. According to these commentors, referencing of other tariffs and documents would contribute to administrative efficiency and eliminate applications for waviers pursuant to § 61.152.

80. A tariff should be complete when filed. Confusion may result if references

[39] Western Union Tariff No. 263 which contains a list of message telegraph service points will still be required for other important rate information it provides.

[40] Western Union must provide a list of teletypewriter exchange service points in Western Union Tariff F.C.C. No. 258 and a list of telex service points in Western Union Tariff F.C.C. No. 240

[41] This section consolidates existing Sections 61.69(a) and 61.117.

to other tariffs are allowed since all important information will not be consolidated in one place and references may be incomplete. In addition, referenced documents may not be easily accessible to the public. We will continue to require complete tariffs with no referencing except as indicated by this rule. Special permission applications will be granted where good cause can be shown. Therefore, we shall not alter Section 61.74.

81. *Section 61.131: Concurrences-Scope.* This provision was entirely restructured in the NPRM. In addition to describing the general scope of the concurrence rules and delineating the two broad categories of concurrences, this rule prohibits the filing of limited or partial concurrences. Carriers filing concurrences must concur in the filing carrier's entire tariff. Several parties proposed that this restriction on limited and partial concurrences be removed. They argued that this restriction is burdensome because it causes a carrier to duplicate existing tariff material of another carrier. Some parties pointed out that waivers to this Section had been granted in certain instances.

82. Our policy of only allowing carriers to concur in the entirety of another tariff must prevail in order to avoid confusing the public. It must be absolutely clear what provisions are being adopted from another carrier's tariff; the most effective way of presenting this material is by duplicating the exact provisions in the issuing carrier's tariff. This duplication eliminates any possibility of failure on the carriers's part to describe adequately the limitation of the concurrence desired. Carriers can apply for special permission waivers of this rule pursuant to Section 61.152 where good cause can be shown. We shall adopt this rule as proposed in the NPRM.

83. *Section 61.136: Revocation of concurrences.* In the NPRM, this rule required not less than ninety days' notice for a revocation of a concurrence. This rule has been changed to reflect the shortened notice period of forty-five days pursuant to the rationale set forth for the Section 61.58[c] revision.[42] See Appendix A.

84. *Section 61.137: Alaskan carriers and licensees of mobile radio stations.* This proposed rule was renumbered and rewritten to clarify the concurrence procedures for Alaskan carriers and licensees of mobile radio stations. ALASCOM [43] commented that this rule currently has no practical application and was needed only when Alaskan carriers were government-owned and not required to file tariffs with the Commission. ALASCOM requested the deletion of this section and indicated that Alaskan carriers should follow the general concurrence rules contained in §§ 61.131 through 61.136.

85. As we noted in the NPRM, we offered the entire recodification of Part 61 for public comment in order to be sure the provisions are consistent and uniformly applied. We agree with ALASCOM that there is no longer any reason for Alaskan carriers and licensees of mobile radio stations to be treated differently with regard to concurrence procedures. Section 61.137 will be deleted from the rules and Alaskan carriers and licenses of mobile radio stations must now adhere to the concurrence rules contained in §§ 61.131 through 61.136.[44]

86. *Section 61.152: Terms of Applications and Grants.* Proposed Section 61.152 consolidated requirements for special permission applications now set out in §§ 61.152 and 61.153. A special permission application must be made whenever a carrier wishes to be excused from compliance with any Section of Part 61. Carriers must show good cause as to why special permissions should be granted. Western Union commented that it should not be necessary to apply for special permission when a Commission order has directed a carrier to act and proposed that the followng sentence be added to this section: "No application for special permission is necessary to perform an action directed by a Commission order". AT&T agreed with Western Union and suggested that the Commission include appropriate authorization for action in its orders.

87. Recent Commission orders have included appropriate authorizations for carriers to act. It is our intention that all orders will carry these authorizations where necessary and that carriers will normally not have to file separate special permission applications when a Commission order directs it to act. We will not, therefore, adopt Western Union's proposed revision because implementation of the above Commission policy makes it unnecessary. We will, however, reduce the burden on carriers with respect to cancellation of an original grant of special permission. Carriers will no longer have to apply to the Commission for cancellation of a special permission grant. If this grant is not used within sixty days of its effective date, it will be automatically cancelled by the Commission. See Appendix A for the new language reflecting this change in § 61.152.

88. *Section 61.153: Method of filing applications.* This proposed rule consolidates existing format requirements and filing procedures for special permission applications. It also formalizes the practice of attaching illustrative tariff pages to the application. Western Union commented that filing illustrative tariff pages can be burdensome because it may require extensive duplication of pages in a short interval of time. As an alternative, Western Union suggested that a carrier be permitted to describe the proposed changes when that method would be more convenient.

89. We have decided to formalize the requirement of illustrative tariff pages because it has been our experience that the descriptions of proposed changes often do not match the actual revised tariff pages. In order to make a reasoned conclusion as to whether special permission should be granted, we require the submission of illustrative tariff pages. It has been our practice, however, to accept illustrative pages in rough form, and we shall continue to do so. We will not modify this section according to Western Union's proposal and this action shall be adopted as proposed in the NPRM.

90. *Section 61.171: Adoption Notice.* We substantially altered the procedure for adoption of tariffs by successor carriers in this proposed section. Adoption of tariffs take place when a carrier's name changes or when a merger is conducted or when an acquisition of one carrier by another takes place. The proposed rule gives the successor carrier the option to immediately reissue the entire adopted tariff in its own name or to immediately file an adoption notice. When an adoption notice has been filed, the carrier has fifteen days to reissue the tariff in its own name according to the proposed rule. The BOCs commented and Western Union agreed that fifteen days is insufficient time for the reissuance of a tariff. They suggested that a forty-five day period would be more reasonable.

91. This rule was specifically modified in the NPRM to reduce customer confusion and administrative difficulty for the Commission staff when an

[42] See paras. 50–55 *supra.*

[43] ALASCOM did not file initial comments in this proceeding but did file reply comments regarding § 61.137. ALASCOM requested a waiver to have its reply comments accepted. No parties opposed this request and ALASCOM supported its request with a showing of good cause. For these reasons, we accept ALASCOM's comments.

[44] Sections 61.131 and 61.134 have been revised accordingly to delete references to Section 61.137. See Appendix A.

offering carrier's name has changed. The successor carrier has been given two alternative methods for adoption to suit its convenience and it is important that required changes be made as quickly as possible. A successor carrier must reproduce the tariff pages with the new carrier name, the original paging sequence and the new issuing officer's name. We have decided to allow thirty-five days for the successor carrier to make these tariff changes. The final rule shall reflect this change from fifteen days to thirty-five days. See Appendix A.

92. *Sections 61.191, 61.192, 61.193: Suspensions.* The NPRM proposed no substantive changes to these rules but streamlined their language. Sections 61.191 and 61.192 require that a supplement indicating the term of suspension and prior effective tariff publication be issued when a suspension has been ordered. Section 61.193 requires that a supplement be issued when the Commission vacates a suspension order. Western Union proposed the following changes: (1) That a carrier have the option to file revised tariff pages noting the suspension rather than filing a supplement when it would be more convenient for the carrier; (2) that § 61.192 be deleted so that carriers will not be required to issue a supplement indicating what prior tariff publication is effective during the suspension period; and (3) that § 61.193 have specific language clearly stating that it only applies to Commission orders vacating tariffs and does not apply to a suspension order that has expired by operation of law.

93. We have considered Western Union's recommendations and these rules will not be modified for the following reasons. While we require revised tariff pages for permanent changes, we consider revised tariff pages with a caption noting a suspension to be unnecessarily repetitive and time consuming. A supplement filed pursuant to the rules is adequate. A supplement must contain explicit references to the effective tariff pages during the suspension period so that appropriate rates can be ascertained with a minimum of confusion. Section 61.193 begins with the phrase "If the Commission vacates a suspension order" and any further language clarification appears to be unnecessary. The rule does not contain any reference to suspensions that expire by operation of law and a supplement does not have to be filed in this case. No other parties filed comments to indicate that these proposed sections were confusing or needed modification. These proposed rules will be adopted without changes.

94. *Proposed Section 1.773(a)(iv).* AT&T proposed to add this section to the Commission's rules: "Any petition to suspend or reject filed by a party offering the same or closely substitutable services or offerings must be accompanied by an exhibit displaying the rate structure, rates and terms under which such party offers the competing services." AT&T stated that the purpose of this section was to dissuade competitors from using the regulatory structure in anticompetitive ways. One of the anticompetitive ways cited was that these petitions caused delays which affected AT&T and its customers directly. Several commenting parties objected to this proposal as burdensome and anticompetitive. Many commenters stated that this information is irrelevant to the Commission's analysis of justness and reasonableness pursuant to 47 U.S.C. 202. Others commented that AT&T's proposal is anticompetitive because it has a chilling effect on potential petitioners and it removes pricing uncertainty that is crucial to a competitive environment. Another argument put forth is that a petitioner who complains of competitive injury has the obligation to substantiate its claim and to choose the appropriate methods for proving this injury.

95. While we cannot precisely discern the motives of those who participate in our proceedings, we do recognize that parties may seek to use our processes to delay competitive offerings. We consider the present petitioning procedures under § 1.773 to be satisfactory. Since the Commission determines whether a petition should be denied or approved, delays in effective tariff dates will only occur when Commission review warants it. Therefore, the filing carrier will not experience any delays as a result of spurious petitions. For the foregoing reasons, AT&T's proposed § 1.773(a)(iv) will not be adopted.

96. *Miscellaneous Proposals.* The following proposals were not associated with any specific section of Part 61 but were included in the comments received in response to the NPRM.

a. *SNET* proposed that Part 61 be published in an easily updatable looseleaf binder. We understand the appeal of this method of publication. The Commission, however, is subject to the publishing requirements of the Government Services Administration and no change in the rules format has been contemplated or arranged for at this time. Since the NPRM was the first overall revision to Part 61 in forty-five years, we do not envision extensive future rule changes that would warrant the use of a looseleaf binder. We shall not adopt SNET's proposal and the rules will continue to be published in pamphlet form.

b. *ADAPSO* proposed that tariff filing materials be produced in machine readable form to ease the Commission's administrative burden. At the present time, the Commission does not have the capability to accept electronic tariff filings. While this method would have obvious advantages, there are no present plans or ongoing studies to convert the tariff process to an electronic filing system and there is no projection for such studies contained in the budgets for the next two fiscal years. For this reason, ADAPSO's proposal will not be adopted.

c. *MCI* requested streamlined regulation for non-dominant international carriers. MCI indicated that consumers would be the ultimate beneficiaries if non-dominant international carriers were allowed to file presumptively lawful tariffs on fourteen days' notice like non-dominant domestic carriers. This request is clearly beyond the scope of this Part 61 Rulemaking and should be dealt with in the Competitive Carrier Rulemaking.

Part 61 Revisions—Final Analysis

97. The final text of Part 61 as contained in Appendix A represents the accomplishment of our objectives set out in the NPRM. These goals included the clarification and the streamlining of the rules that would facilitate competition by reducing lead time for the introduction of new services and by minimizing carrier exposure to the regulatory process to the extent possible. In addition, we have reformed the regulations to retain only those requirements that are necessary for carrying out responsible oversight functions in accordance with our mandate under the Communications Act.

98. We have taken into account the various issued raised by the public concerning the proposed rules. As a result of these comments and whenever compatible with the stated objectives, we have modified our proposals. Although all comments may not be specifically cited, all have been considered. We shall continue in the future to examine alternatives that will reduce burdens and eliminate any unnecessary regulations.

Ordering Clauses

99. Authority for this rulemaking is contained in section 4(i) and 4(j) of the

Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

100. Accordingly it is ordered, that Part 61 and Part 1 of the Commission's Rules and Regulations are amended as specified in Appendices A and B, effective November 19, 1984.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Part 61 of Chapter 1 of Title 47 of the Code of Federal Regulations is revised in its entirety as follows:

PART 61—TARIFFS

Sec.

61.1 Purpose and Application.
61.2 Clear and Explicit Explanatory Statements.

Definitions

61.11 Act.
61.12 Carriers.
61.13 Change in rate structure.
61.14 Charges.
61.15 Commercial Contractor.
61.16 Commission.
61.17 Corrections.
61.18 New service offering.
61.19 Rate.
61.20 Rate increase.
61.21 Regulations.
61.22 Supplement.
61.23 Tariff.
61.24 Tariff publication, or publication.
61.25 Text change.
61.26 United States.

General Rules

61.32 Method of filing publications.
61.33 Letters of transmittal.
61.35 Delivered free of charges.
61.36 Tariff publications not returned.
61.38 Supporting information to be submitted with letters of transmittal.
61.40 Private Line Rate Structure Guidelines.

Specific Rules for Tariff Publications

61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.67 New or discontinued telephone and teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates or regulations.
61.74 References to other instruments.

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrences.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
61.136 Revocation of concurrences.

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61.151 Scope.
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Adoption of Tariffs and Other Documents of Predecessor Carriers

61.171 Adoption notice.
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61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
61.193 Vacation of suspension order; supplements announcing same; etc.

Authority: Sections 61.1 to 61.193 issued under sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 203, 48 Stat. 1070; 47 U.S.C. 203.

§ 61.1 Purpose and Application.

(a) The purpose of this part is to prescribe the framework for the initial establishment of and subsequent revisions to tariff publications.

(b) Tariff publications filed with the Commission must conform to the rules in this part. Failure to comply with any provisions of this part may be grounds for rejection of the non-complying publication.

(c) No carrier required to file tariffs may provide any interstate or foreign communication service until every tariff publication for such communication service is on file with the Commission and in effect.

§ 61.2 Clear and explicit explanatory statements.

In order to remove all doubt as to their proper application, all tariff publications must contain clean and explicit explanatory statements regarding the rates and regulations.

Definitions

§ 61.11 Act.

The Communications Act of 1934 (48 Stat. 1004; 47 U.S.C. Chapter 5), as amended.

§ 61.12 Carriers.

(a) *Concurring carrier.* A carrier (other than a connecting carrier) subject to the act which concurs in and assents to schedules of rates and regulations filed on its behalf by an issuing carrier or carriers.

(b) *Connecting Carrier.* A carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier.

(c) *Dominant Carrier.* A carrier found by the Commission to have market power (i.e. power to control prices.)

(d) *Issuing Carrier.* A carrier subject to the Act which publishes and files a tariff or tariffs with the Commission.

(e) *Non-Dominant Carrier.* A carrier not found to be dominant.

(f) *Other Participating Carrier.* A carrier subject to the Act which publishes a tariff containing rates and regulations applicable to the portion of through service it furnishes in conjunction with another subject carrier.

§ 61.13 Change in Rate Structure.

A restructuring of the rate components for existing service.

§ 61.14 Charges.

The price for service based on tariffed rates.

§ 61.15 Commercial Contractor.

The commercial firm to whom the Commission annually awards a contract to make copies of Commission records for sale to the public.

§ 61.16 Commission.

The Federal Communications Commission.

§ 61.17 Corrections.

The remedy of errors in typing, spelling, or punctuation.

§ 61.18 New Service Offering.

A tariff which provides for a class or sub-class of service not previously offered.

§ 61.19 Rate.

The tariff price per unit of service.

§ 61.20 Rate Increase.

Any change in a tariff which results in an increased rate or charge to any of the filing carrier's customers.

§ 61.21 Regulations.

The body of carrier prescribed rules in a tariff governing the offering of service in that tariff including rules, practices, classifications and definitions.

§ 61.22 Supplement.

A publication filed as part of a tariff for the purpose of suspending or cancelling that tariff, or tariff publication and numbered independently from the tariff page series.

§ 61.23 Tariff.

Schedules of rates and regulations filed by common carriers.

§ 61.24 Tariff Publication, or Publication.

A tariff, supplement, revised page, additional page, concurrence, notice of revocation, adoption notice, or any other schedule of rates or regulations.

§ 61.25 Text Change.

A change in the text of a tariff which does not result in a change in any rate or regulation.

§ 61.26 United States.

The several States and Territories, the District of Columbia, and the possessions of the United States.

General Rules

§ 61.32 Method of filing publications.

Publications sent for filing must be addressed to "Secretary, Federal Communications Commission, Washington, D.C. 20554." Two copies of tariff publications must be filed under a letter of transmittal. The date on which the publication is received by the Secretary of the Commission, or by the Mail Room where submitted by mail, is considered the official filing date. Simultaneously with the filing of the publication, and by the same means, the issuing carrier must send a copy of the publication, supporting information specified in Section 61.38, and transmittal letter to (1) the commercial contractor (at its office on Commission premises) and (2) the Chief, Tariff Review Branch. The latter should be clearly labelled as the "Public Reference Copy." The copies of supporting information required here are in addition to those required by Section 61.38(c).

§ 61.33 Letters of Transmittal.

(a) All publications filed with the Commission must be accompanied by a letter of transmittal, 8½ by 11 inches in size. All letters of transmittal must (1) concisely explain the nature and purpose of the filing; (2) specify whether supporting information under Section 61.38 is required; (3) state whether copies have been delivered to the Commercial Contractor and Chief, Tariff Review Branch as required by Section 61.32.

(b) In addition to the requirements set forth in (a), the letter of transmittal must specifically reference by number any special permission necessary to implement the tariff publication. Special permission must be granted prior to the filing of the tariff publication, and may not be requested in the transmittal letters.

(c) The letter of transmittal must be substantially in the following format.

(Exact name of carrier in full) ————————
(Post Office Address) ————————
(Date) ————, 19—— ————————
Transmittal No. ——
Secretary,
Federal Communications Commission
Washington, D.C. 20554

ATTENTION: Common Carrier Bureau

The accompanying tariff (or other publication) issued by ————, and bearing FCC No. ————, effective ————, 19————, is sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended. (Here give the additional information required.)

(Name of issuing officer or agent) ————————
(Title) ————————

(d) A separate letter of transmittal may accompany each publication, or the above format may be modified to provide for filing as many publications as desired with one transmittal letter.

Note.—If a receipt for the accompanying publication is desired, the letter of transmittal must be sent in duplicate. One copy showing the date of receipt by the Commission will then be returned to the sender.

§ 61.35 Delivered free of charges.

Tariff publications must be delivered to the Commission free from all charges, including claims for postage.

§ 61.36 Tariff publications not returned.

Tariff publications will not be returned.

§ 61.38 Supporting information to be submitted with letters of transmittal.

(a) *Scope.* This section applies to dominant carriers whose annual gross revenues exceed $500,000 for the most recent 12 month period of operations or are estimated to exceed $500,000 for a representative 12 month period. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing.

(b) *Explanation and data supporting either changes or new tariff offerings.* The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.

(1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A cost of service study for all elements for the most recent 12 month period;

(ii) A study containing a projection of costs for a representative 12 month period;

(iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (ii) above.

(2) For a tariff filing offering a new service, the carrier must submit the following, including complete explanations of the bases for the estimates.

(i) A study containing a projection of costs for a representative 12 month period; and

(ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the carrier's overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (i) above.

(c) *Working papers and statistical data.* (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch must be provided two sets of working papers containing the information underlying the data supplied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that information.

(2) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.

(d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in (1) and (2) below, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as the carrier's direct case in the event the rate increase is set by the Commission for investigation.

(1) Rate increases affecting single services or tariffed items.

(i) A rate increase in any service or tariffed item which results in more than $1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A single rate increase in any service or tariffed item, or successive rate increases in the same service or

tariffed item within a 12 month period, either of which results in:

(A) At least a 10 percent increase in annual revenues from that service or tariffed item, and

(B) At least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(2) Rate increases affecting more than one service or tariffed item.

(i) A general rate increase in more than one service or tariffed item occurring at one time, which results in more than $1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

(ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increases in the same services or tariffed items occurring within a 12 month period, either of which results in:

(A) at least a 10 percent increase in annual revenues from those services or tariffed items, and

(B) at least $100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.

(e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.

(f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraphs (b) and (c) of this section.

§ 61.40 Private Line Rate Structure Guidelines.

(a) The Commission uses a variety of tools to determine whether a carrier's private line tariffs are just, reasonable, and nondiscriminatory. The carrier's burden of cost justification can be reduced when its private line rate structures comply with the following five guidelines.

(1) Rate structures for the same or comparable services should be integrated;

(2) Rate structures for the same or comparable services should be consistent with one another;

(3) Rate elements should be selected to reflect market demand, pricing convenience for the carrier and customers, and cost characteristics; a rate element which appears separately in one rate structure should appear separately in all other rate structures;

(4) Rate elements should be consistently defined with respect to underlying service functions and should be consistently employed through all rate structures; and

(5) Rate structures should be simple and easy to understand.

(b) The guidelines do not preclude a carrier, in a given case when a private line tariff does not comply with these guidelines, from justifying its departure from the guidelines and showing that its tariff is just, reasonable, and nondiscriminatory.

Specific Rules for Tariff Publications

§ 61.52 Form, size, type, legibility, etc.

(a) All tariff publications must be in loose-leaf form of size 8½ by 11 inches, and must be plainly printed in black print on white paper of durable quality. Less than 6-point type may not be used. Erasures or alterations in writing must not be made in any tariff publication filed with the Commission or in those copies posted for public convenience. A margin of no less than one inch in width must be allowed at the left edge of every tariff publication.

(b) Pages of tariffs must be printed on one side only, and must be numbered consecutively and designated as "Original title page," "Original page 1," "Original page 2," etc.

(1) All such pages must show, in the upper left-hand corner the name of the issuing carrier; in the upper right-hand corner the FCC number of the tariff, with the page designation directly below; in the lower left-hand corner the issued date; in the lower right-hand corner the effective date; and at the bottom, center, the street address of the issuing officer. The carrier must also specify the issuing officer's title either at the bottom center of all tariff pages, or on the title page and check sheet only.

(2) As an alternative, the issuing carrier may show in the upper left-hand corner the name of the issuing carrier, the title and street address of the issuing officer, and the issued date; and in the upper right-hand corner the FCC number of the tariff, with the page designation directly below, and the effective date. The carrier must specify the issuing officer's title in the upper left-hand corner of either all tariff pages, or on the title page and check sheet only. A carrier electing to place the information at the top of the page should annotate the bottom of each page to indicate the end of the material, e.g., a line, or the term "Printed in USA," or "End".

(3) Only one format may be employed in a tariff publication.

§ 61.53 Consecutive numbering.

Carriers should file tariff publications under consecutive FCC numbers. If this cannot be done, a memorandum containing an explanation of the missing number or numbers must be submitted. Supplements to a tariff must be numbered consecutively in a separate series.

§ 61.54 Composition of tariffs.

(a) Tariffs must contain in consecutive order: A title page; check sheet; table of contents; list of concurring, connecting, and other participating carriers; explanation of symbols and abbreviations; application of tariff; general rules (including definitions), regulations, exceptions and conditions; and rates. If the issuing carrier elects to add a section assisting in the use of the tariff, it should be placed immediately after the table of contents.

(b) The title page of every tariff and supplement must show:

(1) *FCC number, indication of cancellations.* In the upper right-hand corner, the designation of the tariff or supplement as "FCC No. ————," or "Supplement No. ———— to FCC No. ————," and immediately below, the FCC number or numbers of tariffs or supplements cancelled thereby.

(2) *Name of carrier, class of service, geographical application, means of transmission.* The exact name of the carrier, and such other information as may be necessary to identify the carrier issuing the tariff publication; a brief statement showing each class of service provided; the geographical application; and the type of facilities used to provide service.

(3) *Expiration Date.* When the entire tariff or supplement is to expire with a fixed date, the expiration date must be shown in connection with the effective date in the following manner:

Expires at the end of ———————— (date) unless sooner canceled, changed or extended.

(4) *Title and address of issuing officer.* The title and street address of the officer issuing the tariff or supplement in the format specified in Section 61.52.

(5) *Revised title page.* When a revised title page is issued, the following notation must be shown in connection with its effective date:

Original tariff effective ———————— (here show the effective date of the original tariff).

(c)(1) The page immediately following the title page must be designated as

"Original page 1" and captioned "Check Sheet." When the original tariff is filed, the check sheet must show the number of pages contained in the tariff. For example, "Page 1 to 150, inclusive, of this tariff are effective as of the date shown." When new pages are added, they must be numbered in continuing sequence, and designated as "Original page ———." For example, when the original tariff filed has 150 pages, the first page added after page 150 is to be designated as "Original page 151," and the foregoing notation must be revised to include the added pages.

(2) If pages are to be inserted between numbered pages, each such page must be designated as an original page and must bear the number of the immediately preceding page followed by an alpha or numeric suffix. For example, when two new pages are to be inserted between pages 44 and 45 of the tariff, the first inserted page must be designated as Original page 44A or 44.1 and the second inserted page as Original page 44B or 44.2. Issuing carriers may not utilize both the alpha and numeric systems in the same publication.

(3) When pages are revised, when new pages (including pages with letter or numeric suffix as set forth above) are added to the tariff, or when supplements are issued, the check sheet must be revised accordingly. Revised check sheets must indicate with an asterisk the specific pages added or revised. In addition to the notation in (1), the check sheet must list, under the heading "The original and revised pages named below (and Supplement No. ———) contain all changes from the original tariff that are in effect on the date shown," all original pages in numerical order that have been added to the tariff and the pages which have been revised, including the revision number. For example:

Page	Number of revision except as indicated
Title	1st
1	*8th
3	5th
5A	*Orig.
10	*8th
151	Orig.

*New or Revised page.

(4) Changes in, and additions to tariffs must be made by reprinting the page upon which a change or addition is made. Such changed page is to be designated as a revised page, cancelling the page which it amends. For example, "First revised page 1 cancels original page 1," or "Second revised page 2 cancels first revised page 2," etc. When a revised page omits rates or regulations previously published on the page which it cancels, but such rates or regulations are published on another page, the revised page must make specific reference to the page on which the rates or regulations will be found. This reference must be accomplished by inserting a sentence at the bottom of the revised page that states "Certain rates (or regulations) previously found on this page can now be found on page ———." In addition, the page on which the omitted material now appears must bear the appropriate symbol opposite such material, and make specific reference to the page from which the rates or regulations were transferred. This reference must be accomplished by inserting a sentence at the bottom of the other page that states "Certain rates (or regulations) on this page formerly appeared on page ———."

(5) Rejected pages must be treated as indicated in § 61.69.

(d) *Table of contents.* The table of contents must contain a full and complete statement showing the exact location and specifying the page or section and page numbers, where information by subjects under general headings will be found. If a tariff contains so small a volume of matter that its title page or its interior arrangement plainly discloses its contents, the table of contents may be omitted.

(e) *Tariff User's guide.* At its option, a carrier may include a section explaining how to use the tariff.

(f) *List of concurring carriers.* This list must contain the exact name or names of carriers concurring in the tariff, alphabetically arranged, and the name of the city or town in which the principal office of every such carrier is located. If there are no concurring carriers, then the statement "no concurring carriers" must be made at the place where the names of the concurring carriers would otherwise appear. If the concurring carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(g) *List of connecting carriers.* This list must contain the exact name or names of connecting carriers, alphabetically arranged, for which rates or regulations are published in the tariff, and the name of the city or town in which the principal office of every such carrier is located. If there are no connecting carriers, then the statement "no connecting carriers" must be made at the place where their names would otherwise appear. If connecting carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference to such separate tariff by FCC number must be made in the tariff at the place where such names would otherwise appear.

(h) *List of other participating carriers.* This list must contain the exact name of every other carrier subject to the Act engaging or participating in the communication service to which the tariff or supplement applies, together with the name of the city or town in which the principal office of such carrier is located. If there is no such other carrier, then the statement "no participating carriers" must be made at the place where the names of such other carriers would otherwise appear. If such other carriers are numerous, their names may be stated in alphabetical order in a separate tariff filed with the Commission by the issuing carrier. Specific reference must be made in the tariff at the place where such names would otherwise appear. The names of concurring and connecting carriers properly listed in a tariff published by any other participating carrier need not be repeated in this list.

(i)(1) *Symbols, reference marks, abbreviations.* The tariff must contain an explanation of symbols, reference marks, and abbreviations of technical terms used. The following symbols used in tariffs are reserved for the purposes indicated below:

R to signify reduction.
I to signify increase.
C to signify changed regulation.
T to signify a change in text but no change in rate or regulation.
S to signify reissued matter.
M to signify matter relocated without change.
N to signify new rate or regulation.
D to signify discontinued rate or regulation.
Z to signify a correction.

(2) The uniform symbols must be used as follows.

(i) When a change of the same character is made in all or in substantially all matter in a tariff, it may be indicated at the top of the title page of the tariff or at the top of each affected page, in the following manner: "All rates in this tariff are increases," or, "All rates on this page are reductions, except as otherwise indicated."

(ii) When a change of the same character is made in all or substantially all matters on a page or supplement, it may be indicated at the top of the page or supplement in the following manner: All rates on this page (or supplement) are increases," or, "All rates on this page (or supplement) are reductions except as otherwise indicated."

(3) Items which have not been in effect 30 days when brought forward on revised pages must be shown as reissued, in the manner prescribed in § 61.54(i)(1). Items which have been in effect 30 days or more and are brought forward without change on revised pages must not be shown as reissued items.

(j) *Rates and general rules, regulations, exceptions and conditions.* The general rules (including definitions), regulations, exceptions, and conditions which govern the tariff must be stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified. A special rule, regulation, exception or condition affecting a particular item or rate must be specifically referred to in connection with such item or rate. Rates must be expressed in United States currency, per chargeable unit of service for all communication services, together with a list of all points of service to and from which the rates apply. They must be arranged in a simple and systematic manner. Complicated or ambiguous terminology may not be used, and no rate, rule, regulation, exception or condition shall be included which in any way attempts to substitute a rate, rule, regulation, exception or condition named in any other tariff.

§ 61.56 Supplements.

A carrier may not file a supplement except to suspend or cancel a tariff publication.

§ 61.57 Cancellations.

The following paragraphs govern the cancellation of tariffs and supplements.

(a) *By tariff or supplement.* A carrier may cancel any tariff or supplement in whole or in part by another tariff or supplement. Cancellation of a tariff automatically cancels every supplement to that tariff, except a cancelling supplement.

(b) *By expiration.* Subject to § 61.59, a carrier may cancel a tariff or supplement in whole or in part by fixing a date on which the rates or regulations will expire.

(c) *Indication of.* (1) A carrier which cancels a tariff or supplement in whole by another tariff or supplement must comply with § 61.54(b)(1). Cancellation of tariffs or supplements in whole by expiration must be indicated as provided in § 61.54(b)(3).

(2) Where a carrier issues a tariff, supplement, or revised page partially cancelling another tariff, supplement, or revised page, it must specifically state what portion of the other tariff publication is cancelled. Such other tariff or supplement must at the same time be correspondingly amended, effective on the same date.

(3) When only a part of tariff or supplement is to expire, a carrier must show the expiration date on the same page, and associate it with the matter which is to expire. Changes in expiration date must be made pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission. Expirations must be indicated as follows:

Expires at the end of————————(date) unless sooner cancelled, changed or extended.

(d) *Rates and regulations to apply.* When a carrier cancels a tariff or supplement in whole or in part by another tariff or supplement, the cancelling publication must show where all rates and regulations will be found, or what rates and regulations will apply.

(e) *Omissions.* When a tariff or supplement cancelling a previous tariff or supplement omits points of origin or destination, rates or regulations, or routes, which were contained in such tariff or supplement, the new tariff or supplement must indicate the omission in the manner prescribed in paragraph (c) of this section. If such omissions effect changes in rates of regulations, that fact must be indicated by the use of the uniform symbols prescribed in § 61.54(i)(1).

(f) *Carriers ceasing operations.* When a carrier ceases operations without a successor, it must cancel its tariffs pursuant to the notice requirements of § 61.58, unless otherwise authorized by the Commission.

§ 61.58 Notice requirements.

(a) Every proposed tariff filing must bear an effective date and, except as otherwise provided by regulation, special permission, or Commission order, must be made on at least the number of days notice specified in this section.

(1) Notice is accomplished by filing the proposed tariff changes with the Commission. Any period of notice specified in this section begins on and includes the date the tariff is received by the Commission, but does not include the effective date. If a tariff filing proposes changes governed by more than one of the notice periods listed below, the longest notice period will apply. In computing the notice period required, all days including Sundays and holidays must be counted.

(2) The Chief, Common Carrier Bureau may require the deferral of the effective date of any tariff filing made on less than 90 days' notice, so as to provide for a maximum total of 90 days' notice, regardless of whether petitions under § 1.773 of the Commission's rules have been filed.

(3) Tariff filings proposing corrections must be made on at least 3 days' notice, and may be filed notwithstanding the provisions of § 61.59. Corrections to tariff materials not yet effective cannot take effect before the effective date of the original material.

(4) This subsection applies only to dominant carriers. If the tariff publication would increase any rate or charge, or would effectuate and authorized discountinuance, reduction or other impairment of service to any customer, the offering carrier must inform the affected customers of the content of the tariff publication. Such notification should be made in a form appropriate to the circumstance, and may include written notification, personal contact, or advertising in newspapers of general circulation.

(b) *Non-Dominant Carriers.* Tariff filings of non-dominant carriers must be made on at least 14 days' notice.

(c) *Other Carriers.* (1) Tariff filings in the instances specified (i), (ii) and (iii) below must be made on at least 15 days' notice.

(i) Tariffs filed in the first instance by new carriers.

(ii) Tariffs filings involving new rates and regulations not previously filed at, from, to or via points on new lines; at, from to or via new radio facilities; or for new points of radio communication.

(iii) Tariff filings involving a change in the name of a carrier, a change in Vertical and Horizontal coordinates (or other means used to determine airline mileages), a change in the lists of mileages, a change in the lists of connecting, concurring or other participating carriers, text changes, or the imposition of termination charges calculated from effective tariff provisions. The imposition of termination charges does not include the initial filing of termination liability provisions.

(2) Tariff filings involving a change in rate structure, a new service offering, or a rate increase must be made on at least 45 days' notice.

(3) All tariff filings not specifically assigned a different period of public

notice in this part must be made on at least 35 days' notice.

§ 61.59 Effective period required before changes.

Except as provided in § 61.58(a)(3) or except as otherwise authorized by the Commission, new rates or regulations must be effective for at least 30 days before any change may be made.

§ 61.67 New or discontinued telephone and teletypewriter service points; mileages.

Message toll telephone service points and teletypewriter exchange service points added or discontinued during a calendar month may be filed not later than 20 days after the end of such month where the basic schedules of rates and regulations applicable to such message toll telephone and teletypewriter exchange service points are effective and the effective date of each addition of discontinuance is shown.

§ 61.68 Special Notations.

'(a) A tariff filing must contain a statement of the authority for any matter to be filed on less than the notice required in § 61.58. The following must be used:

"Issued on not less than — days' notice under authority of — (specific reference to the special permission, decision, order or section of these rules)." If all the matter in a tariff publication is to become effective on less than the notice required in Section 61.58, specific reference to the Commission authority must be shown on the title page. If only a part of the tariff publication is to become effective on less than the notice required in Section 61.58, reference to the Commission authority must appear on the same page(s), and be associated with the pertinent matter.

(b) When a portion of any tariff publication is issued in order to comply with the Commission order, the following notation must be associated with that portion of the tariff publication: "In compliance with the order of the Federal Communication Commission in — (a specific citation to the applicable order should be made)."

§ 61.69 Rejection.

When a tariff publication is rejected by the Commission, its number may not be used again. The rejected tariff publication may not be referred to as cancelled or revised. The publication that is subsequently issued in lieu of the rejected tariff publication must bear the notation "In lieu of —, rejected by the Federal Communications Commission."

§ 61.71 Reissued matter.

Matter in effect for less than 30 days and brought forward without change from another tariff publication must bear the appropriate symbol provided in § 61.54(i)(1) for reissued matter. The number and original effective date of the tariff publication in which the matter was originally published must be associated with the reissued matter.

§ 61.72 Posting.

(a) Offering carriers must post (i.e., keep accessible to the public) during the carrier's regular business hours, a schedule of rates and regulations. This schedule must include all effective and proposed rates and regulations pertaining to the services offered to and from the community or communities served, and must be the same as that on file with the Commission. This posting requirement must be satisfied by the following methods:

(1) Where the filing has an office or offices open to the public in states or territories of the United States, the carrier must post the schedule of rates and regulations in one office in each state or territory of its operation.

(2) A carrier must provide a telephone number for public inquiries about information contained in its tariffs. This telephone number should be made readily available to all interested parties.

(3) A carrier must post a notice in each business office of the carrier open to the public in that state or territory, stating the street address of the location in which the schedule of rates and regulations can be found and the telephone number for public inquiries on tariffs.

(b) The posting of rates and regulations shall be considered timely if they are available for public inspection at the posting locations within 15 days of their filing with the Commission.

§ 61.73 Duplication of rates or regulations.

A carrier concurring in schedules of another carrier must not publish conflicting or duplicative rates or regulations.

§ 61.74 References to other instruments.

(a) Except as otherwise provided in this and other sections of this part, no tariff publication filed with the Commission may make reference to any other tariff publication or to any other document or instrument.

(b) Tariffs for end-on-end through services may reference the tariffs of other carriers participating in the offering.

(c) Tariffs may reference concurrences for the purpose of starting where rates or regulations applicable to a service not governed by the tariff may be found.

Concurrences

§ 61.131 Scope.

Sections 61.132 through 61.136 apply to a carrier which must file concurrences reflecting rates and regulations for through service provided in conjunction with other carriers and to a carrier which has chosen, as an alternative to publishing its own tariff, to arrange concurrence in an effective tariff of another carrier. Limited or partial concurrences will not be permitted.

§ 61.132 Method of filing concurrences.

A carrier proposing to concur in another carrier's effective tariff must deliver two copies of the concurrence to the issuing carrier in whose favor the concurrence is issued. The concurrence must be signed by an officer or agent of the carrier executing the concurrence, and must be numbered consecutively in a separate series from its FCC tariff numbers. At the same time the issuing carrier revises its tariff to reflect such a concurrence, it must submit both copies of the concurrence to the Commission. The concurrence must bear the same effective date as the date of the tariff filing reflecting the concurrence.

§ 61.133 Format of concurrences.

(a) Concurrences must be issued in the following format:

Concurrence

F.C.C. Concurrence No. ————
(Cancels F.C.C. Concurrence No. ——
(Name of Carrier ————)
(Post Office Address ————)
(Date) ———— 19—.

Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

This is to report that (name of concurring carrier) assents to and concurs in the tariffs described below. (Name of concurring carrier) thus makes itself a party to these tariffs and obligates itself (and its connecting carriers) to observe every provision in them, until a notice of revocation is filed with the Commission and delivered to the issuing carrier.

This concurrence applies to interstate (and foreign) communication:

1. Between the different points on the concurring carrier's own system;

2. Between all points on the concurring carrier's system and the systems of its connecting carriers; and

3. Between all points on the system of the concurring carrier and the systems of its connecting carriers on the one

hand, and, on the other hand, all points on the system of the carrier issuing the tariff or tariffs listed below and the systems of its connecting carriers and other carriers with which through routes have been established.

(Note.—Any of the above numbered paragraphs may be omitted or the wording modified to state the points to which the concurrence applies.)

Tariff

(Here describe the tariff or tariffs concurred in by the carrier, specifying FCC number, title, date of issuance, and date effective. Example: A.B.C. Communications Company, Tariff FCC No. 1, Interstate Telegraph Message Service, Issued January 1, 1983, Effective April 1, 1983).

Cancels FCC Concurrence No. ——, effective ——, 19—.

(Name of concurring carrier) ——————
By ——————
(Title) ——————

(b) No material is to be included in a concurrence other than that indicated in the above-prescribed form, unless specially authorized by the Commission. A concurrence in any tariff so described will be deemed to include all amendments and successive issues which the issuing carrier may make and file. All such amendments and successive issues will be binding between customers and carriers. Between carriers themselves, however, the filing by the issuing carrier of an amendment or successive issue with the Commission must not imply or be construed to imply an agreement to the filing by concurring carriers. Such filings do not affect the contractual rights or remedies of any concurring carrier(s) which have not, by contract or otherwise, specifically consented in advance to such amendment or successive issue.

§ 61.134 Concurrences for through services.

A carrier filing rates or regulations for through services between points on its own system and points on another carrier's system (or systems), or between points on another carrier's system (or systems), must list all concurring, connecting or other participating carriers as provided in § 61.54(f), (g) and (h). A concurring carrier must tender a properly executed instrument of concurrence to the issuing carrier. If rates and regulations of the other carriers engaging in the through service(s) are not specified in the issuing carrier's tariff, that tariff must state where the other carrier's rates and regulations can be found. Such reference(s) must contain the FCC number(s) of the referenced tariff publication(s), the exact name(s) of the carrier(s) issuing such tariff publication(s), and must clearly state how the rates and regulations in the separate publications apply.

§ 61.135 Concurrences for other purposes.

When an issuing carrier permits another carrier to concur in its tariff, the issuing carrier's tariff must state the concurring carrier's rates and points of service.

§ 61.136 Revocation of concurrences.

A concurrence may be revoked by a revocation notice or cancelled by a new concurrence. A revocation notice or a new concurrence, if less broad in scope than the concurrence it cancels, must bear an effective date not less than 45 days after its receipt by the Commission. A revocation notice is not given a serial number, but must specify the number of the concurrence to be revoked and the name of the carrier in whose favor the concurrence was issued. It must be in the following format:

Revocation Notice

(Name of carrier ——————)
(Post office address ——————)
(Date) ——————, 19—.
Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

Effective ——, 19— FCC Concurrence No. —, issued by (Name of concurring carrier) in favor of (Name of issuing carrier) is hereby cancelled and revoked. Rates and regulations of (Name of concurring carrier) and its connecting carriers will thereafter be found in Tariff FCC No. — issued by —— (If the concurring carrier has ceased operations, the revocation notice must so indicate.)

(Name of carrier) ——————
By ——————
(Title) ——————

Applications for Special Permission

§ 61.151 Scope.

Sections 61.152 and 61.153 set forth the procedures to be followed by a carrier applying for a waiver of any of the rules in this part.

§ 61.152 Terms of applications and grants.

Applications for special permission must contain (1) a detailed description of the tariff publication proposed to be put into effect; (2) a statement citing the specific rules and the grounds on which waiver is sought; and (3) a showing of good cause. If approved, the carrier must comply with all terms and use all authority specified in the grant. If a carrier elects to use less than the authority granted, it must apply to the Commission for modification of the original grant. If a carrier elects not to use the authority granted within sixty days of its effective date, the original grant will be automatically cancelled by the Commission.

§ 61.153 Method of filing applications.

A carrier applying for special permission must submit two copies of the application (including illustrative tariff pages, associated amendments and exhibits) to the Secretary, Federal Communications Commission, Washington, D.C. 20554. Simultaneously, and by the same means, a carrier must furnish a separate copy with all attachments to the Chief, Tariff Review Branch. If a carrier applies for special permission to revise joint tariffs, the application must state that it is filed on behalf of all carriers participating in the affected service. Applications must be numbered consecutively in a series separate from the FCC tariff numbers, bear the signature of the officer or agent of the carrier, and be in the following format: Application No. —— (Date) ——

Secretary,
Federal Communications Commission,
Washington, D.C. 20554.

Attention: Common Carrier Bureau

(here provide the statements required by Section 61.152).

(Exact name of carrier) ——————
(Name of officer or agent) ——————
(Title of officer or agent) ——————

Adoption of Tariffs and Other Documents of Predecessor Carriers

§ 61.171 Adoption notice.

When a carrier's name is changed, or its operating control transferred from one carrier to another in whole or in part, the successor carrier must file tariff revisions to reflect the name change. The successor carrier may either immediately reissue the entire tariff in its own name, or immediately file an adoption notice. Within 35 days of filing an adoption notice, the successor must reissue the entire tariff in its own name. The reissued tariff must be numbered in the series of the successor carrier, and must contain all original pages without changes in regulations or rates. The transmittal letter must state the tariff is being filed to show a change in the carrier's name pursuant to § 61.171 of the Commission's Rules. The adoption notice, if used, must read as follows: The (Exact name of successor carrier or receiver) here adopts, ratifies and makes its own in every respect, all applicable

tariffs and amendments filed with the Federal Communications Commission by (predecessor) prior to (date).

§ 61.172 Changes to be incorporated in tariffs of successor carrier.

When only a portion of properties is transferred to a successor carrier, that carrier must incorporate in its tariff the rates applying locally between points on the transferred portion. Moreover, the predecessor carrier must simultaneously cancel the corresponding rates from its tariffs, and reference the FCC number of the successor carrier's tariff containing the rates that will thereafter apply.

Suspensions

§ 61.191 Carrier to file supplement when notified of suspension.

If a carrier is notified by the Commission that its tariff filing has been suspended, the carrier must file immediately a consecutively numbered supplement without an effective date, which specifies the schedules which have been suspended.

§ 61.192 Contents of supplement announcing suspension.

(a) A supplement announcing a suspension by the Commission must specify the term of suspension imposed by the Commission.

(b) A supplement announcing a suspension of either an entire tariff or a part of a tariff publication, must specify the applicable tariff publication effective during the period of suspension.

§ 61.193 Vacation of suspension order; supplements announcing same; etc.

If the Commission vacates a suspension order, the affected carrier must issue a supplement or revised page stating the Commission's action as well as the lawful schedules.

Appendix B

Part 1 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended by revising Section 1.773(a)(1) and by adding paragraph (b)(iv) as follows:

PART 1—PRACTICE AND PROCEDURE

§ 1.773 Petitions for suspension and investigation, or rejection of new or revised tariff filings.

(a) * * *

(1) * * *

(i) Petitions seeking suspension and investigation, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communications Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants suspension and investigation, or rejection. When a single petition asks for more than one form of relief, it must separately and distinctly plead and support each form of relief. However, no petiton may ask that it also be considered a formal complaint. Formal complaints must be separately lodged, as provided in § 1.721.

(ii) For purposes of this section, tariff filings be nondominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

* * * * *

(b) * * *

(iv) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by (a)(1)(i)–(iii) of this section, and the date on which the consolidated reply is due will be governed by (b)(1)(i)–(iii) of this section.

* * * * *

[FR Doc. 84-27422 Filed 10-17-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Definition of Small Business for Preferential Treatment in Purchase of Special Salvage Timber Sales (SSTS)

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: A change is proposed in the size standard for small business concerns to be eligible for preferential award of Special Salvage Timber Sales (SSTS). The proposed size standard would remove all restrictions on disposal of special salvage sale timber and incorporate SSTS sold by the Bureau of Land Management (BLM).

DATES: Comment are invited on or before November 19, 1984.

ADDRESS: Address Comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Joseph E. Kernan, Director, Office of Natural Resources, Sales Assistance, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, Telephone: (202) 653–6078.

SUPPLEMENTARY INFORMATION:

General

In connection with sale of Government-owned special salvage timber designated by the U.S. Forest Service (USFS) as SSTS, by regulation, a small business is a concern that:

(1) Is primarily engaged in the logging or forest products industry;

(2) Is independently owned and operated;

(3) Is not dominant in its field of operations; and

(4) Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the last 12 months.

(5) Other regulatory restrictions are also applicable depending upon the eventual use to be made of timber.

(a) When special salvage timber being purchased is to be resold, a concern is a small business when: It agrees not to sell more than 30 percent (50 percent in Alaska) of such timber to a concern which is not a small business or,

(b) When special salvage timber purchased is not to be resold in the form of sawlogs, a concern is a small business when: it agrees that it will manufacture a significant portion of the logs with its own employees and, it also agrees to accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees or subcontract such logging only to concerns eligible for preferential award of an SSTS sale.

6. Disposal restrictions do not apply when there are less than two qualified mills in the market area.

The size standard as presently constructed places an undue economic hardship on the small loggers and sawmill owners with 25 or fewer employees. The provision has restricted the ability of these businesses to dispose of SSTS timber, and has precluded purchasers of SST sales from making the most economical utilization of the timber. The intent of the SSTS program is to harvest dead, down and dying timber from the Forest, thereby utilizing timber that might not otherwise be harvested. Experience has shown that economical markets for such timber may be highly restricted in a given area, and that the SSTS purchaser needs the flexibility to take advantage of all available markets for this timber.

In addition, the SBA/USFS joint SSTS program is separate and distinct from the regular small business set-aside program involving USFS timber.

As presently written sale of Government-owned Special Salvage Timber designated by the Bureau of Land Management (BLM) as SSTS is not covered by the current size standard definition of a small business concern for eligibility for preferential award of an SSTS (see 13 CFR 121.6). The proposed rule would incorporate the BLM special salvage timber sales, by specific reference, into 13 CFR 121.6. Existing provisions relating to logging and manufacturing of the SSTS timber are retained without change.

Under the current rule the purchaser of an SST sale must agree that it will not sell to a concern which is not a small business more than 30% of the volume from that SSTS timber sale. The only relief to this disposal restriction occurs if there are less than two qualified mills in a market area. The present rule has proven to be subject to an unacceptable range of interpretation and application due, in part, to the subjectivity of what constitutes a qualified mill. The mere geographic presence of two qualified mills does not guarantee competition or insure that the seller of sawlogs from an SST sale can realize a fair market price for those sawlogs. The situation is further complicated by the possible changes in market conditions between the time of the sale and the time that the timber is eventually harvested and brought to market.

This proposed rule change is also intended to eliminate all restrictions on the disposal of special salvage sale timber. Removal of the disposal restriction responds to the needs of all SSTS eligible concerns.

SBA hereby certifies that this proposed rule if adopted in final form would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 501, *et. seq.*

SBA also certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291. Gross sales in each of the last seven years have not exceeded $15,000,000 per year and SBA does not anticipate sales in excess of that figure for this or next year.

This rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small Business, Small business size standards.

PART 121—[AMENDED]

Accordingly, pursuant to 15 U.S.C. 632, 13 CFR 121.6 is proposed to be amended by revising (c)(1) introductory text, (c)(2), and (c)(3) and removing (c)(4) as follows:

§ 121.6 Small business for sales or lease of Government property.

* * * * *

(c) * * *

(1) In connection with the sale of Government-owned special salvage timber by the USFS and BLM a small business is a concern that:

* * * * *

(2) In the case of Government-owned special salvage reserved of small businesses, when the special salvage timber being purchased is to be resold, a concern is a small business when:

(i) It is a small business within the meaning of paragraph (c)(1) of this section, and

(ii) It agrees that as an eligible logger, it will accomplish a significant portion of the logging operation, exclusive of hauling, with its own employees. Significant logging of timber means using its own employees to accomplish two or more of the following elements: (A) Felling and bucking, (B) yarding, (C) loading. It further agrees that such SSTS logging elements not accomplished with its own employees will be subcontracted only to concerns eligible for preferential award of an SSTS.

(3) In the case of Government-owned special salvage timber reserved for or involving preferential treatment of small businesses when the special salvage timber purchased is not to be resold in the form of sawlogs to be manufactured into lumber and timbers, a concern is a small business when:

(i) It meets the criteria contained in paragraph (c)(1) of this section, and

(ii) It agrees that it will manufacture a significant portion of the logs with its own employees. Manufacture of logs means, at the minimum, a breakdown of the log into the rough cut of the finished product.

(iii) It further agrees that, it will accomplish the logging of SSTS timber, exclusive of hauling, with its own employees, or will subcontract such logging only to concerns eligible for preferential award of an SSTS.

* * * * *

Dated: September 18, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27587 Filed 10-17-84; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84-ASO-20]

Proposed Alteration of VOR Federal Airways; Cape Hatteras, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of VOR Federal Airways V-56, V-290 and V-189 located in the vicinity of Cape Hatteras, NC. The state of North Carolina has requested additional airway segments to support the increasing traffic to the Outer Banks area.

DATES: Comments must be received on or before December 3, 1984..

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-ASO-20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASO-20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-56, V-189 and V-290 located in the vicinity of Cape Hatteras, NC. The state of North Carolina has requested the designation of additional airway segments to support the ever increasing traffic in the Outer Banks development area. The Dare County Regional Airport, the Billy Mitchell and Ocracoke Island Airports, located in the area, are experiencing growth problems. This action would aid flight planning, improve traffic flow and reduce controller workload. Section 71.123 of Part 71 of the Federal Aviation regulations was republished in Handbook 7400.6 dated January 3, 1984.

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

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V-56 [Amended]

By removing the words "New Bern." and substituting the words "New Bern; INT New Bern 042°T(050°M) radials and Hatteras Inlet, NC, NDB 302°T(311°M) bearing; to Hatteras Inlet."

V-189 [Amended]

By removing the words "From Tar River, NC," and substituting the words "From Wright Brothers, NC, via Tar River, NC;" after "Hopewell, VA." add "The airspace within R-5302 and R-5314 is excluded."

V-290 [Amended]

By removing the words "to Hatteras NDB" and substituting the words "Hatteras Inlet NDB; Pamlico, NC, NDB; INT Pamlico 321°T(330°M) bearing and Tar River, NC, 110°T(115°M) radial; to Tar River."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on October 10, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84-27542 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-14190; File No. S7-33-84]

Exemptive Relief for Variable Annuity Separate Accounts Relating to Deduction of Certain Charges From Account Assets

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment a rule under the Investment Company Act of 1940 for variable annuity separate accounts that would codify standards the Commission had developed in processing applications seeking exemptions to deduct certain risk charges from account assets. If adopted, the proposed rule would eliminate the need for individual exemptive orders in connection with these matters. The Commission is also proposing related technical amendments to one of the general rules under the Act.

DATE: Comments must be received on or before December 14, 1984.

ADDRESS: Comments should be sent in triplicate to Shirley E. Hollis, Acting Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-33-84. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Michael Berenson, Chief of Office, (202-272-2060), or Jeffrey S. Puretz, Attorney (202-272-3010), Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for comment proposed rule 26a-3 under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] ("Act"), which would provide registered insurance company separate accounts (sometimes referred to as "separate accounts" or "accounts")[1] that offer or sell variable annuity contracts ("contracts") [2] with exemptions from various provisions of the Act. The exemptions also would be available for any insurance company sponsor of, or underwriter for, such accounts ("insurer," and together with separate account, sometimes referred to as "applicants"). Proposed rule 26a-3 would codify standards the Commission has developed with respect to applications seeking exemptions from the provisions of sections 12(b), 26(a), and 27(c)(2) of the Act [15 U.S.C. 80a-12(b), 80a-26(a), and 80a-27(c)(2)] and rule 12b-1 thereunder [17 CFR 270.12b-1] in connection with an insurer's deduction of mortality risk charges and expense risk charges (collectively, "risk charges") from account assets. In addition, the Commission is proposing several related technical amendments to rule 0-1(e) [17 CFR 270.0-1(e)] of its General Rules and Regulations under the Act. The proposals are the last significant step in the Commission's effort to codify the standards that it has developed reviewing applications filed by separate accounts for routine "start-up" exemptions and for other relief under the Act.[3]

Discussion

Section 26(a) of the Act contains various requirements for unit investment trusts and effectively prohibits, as here relevant, most payments from trust assets to the sponsor of a trust account.[4] By virtue of section 27(c)(2) of the Act, the requirements of section 26(a), in addition to being directly applicable to any trust account, are made applicable to any management account offering periodic payment plan certificates, such as variable annuity contracts.[5]

---

[1] The term "separate account" is defined in section 2(a)(37) of the Act [15 U.S.C. 80a-2(a)(37)]. A substantially identical definition of that term, as it is used in various rules under the Act, is contained in rule 0-1(e)(1) under the Act [17 CFR 270.0-1(e)(1)]. The term "insurance company" is defined in section 2(a)(17) of the Act [15 U.S.C. 80a-2(a)(17)]. A separate account may be registered under the Act either as a unit investment trust ("trust account") or as an open-end management company ("management account").

[2] The term "variable annuity contract" is defined in rule 0-1(e) under the Act.

[3] For a variety of reasons, separate accounts must obtain so-called "start-up" relief from various provisions of the Act prior to offering their variable annuity contracts to the public. Through a recent series of rules, the Commission has attempted to eliminate the need for newly registered separate accounts to file such individual exemptive applications. *See, e.g.*, Investment Company Act Rel. No. 13407 (July 28, 1983) [48 FR 36243, Aug. 10, 1983] (rule 11a-2); Investment Company Act Rel. No. 13406 (July 28, 1983) [48 FR 36097, Aug. 9, 1983] (rule 6c-8); Investment Company Act Rel. No. 13687 (Dec. 23, 1983) [49 FR 1477, Jan. 12, 1984] (rule 6c-7 and amended rule 14a-2).

[4] Section 26(a) provides, in relevant part, that: No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer (other than short-term paper), unless the trust indenture, agreement of custodianship, or other instrument pursuant to which such security is issued—

* * * * *

(2) provides, in substance, * * * (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself); * * *.

[5] *See, e.g., Prudential Ins. Co. of Am.*, 41 SEC 335, 348, *aff'd sub nom. Prudential Ins. Co. of Am. v. Securities and Exchange Commission*, 326 F.2d 383 (3d Cir.), *cert. denied*, 377 U.S. 953 (1964).

The Commission regularly receives exemptive requests to permit individual separate accounts to deduct amounts from account assets designed to compensate the insurer for assuming certain "mortality risks," or "expense risks," or both, in connection with the contracts.[6]

The Commission measures these exemptive requests against the standards set forth in section 6(c) of the Act [15 U.S.C. 80a–6(c)] [7] and the purposes of section 26(a)(2).[8] In applying these standards to risk charges, the Commission has also been mindful of the element of insurance present in them. Accordingly, the review has not focused on attempting to regulate the insurance aspects of risk charges but on ensuring that the charges bear a reasonable relationship to risks that are actually assumed under the contracts and that investors receive adequate disclosure regarding possible use of the monies derived from these risk charges.[9]

Applicants have made either of two general representations addressing these concerns. Most applicants represent that the level of their risk charge is within the range of industry practice for comparable annuity contracts. In the large, competitive market for variable annuity contracts, this representation has served as a practical, quantifiable basis for concluding that a contract's charges are reasonable in relation to the risks assumed under the contract and, therefore, that exemptive relief should be granted to applicants making this representation. Alternatively, some represent that the level of their charge is reasonable in relation to the risks assumed and guarantees provided in their particular contracts.[10] Whichever representation is made,[11] applicants have agreed to maintain a memorandum, available for Commission review upon request, outlining the methodology underlying their representation, and have briefly described the methodology in their applications.[12]

Additional representations are made where (i) a portion of the risk charge is a distribution risk charge (*see* note 6, *supra*) or (ii) applicants represent that there is a possibility that proceeds from explicit sales loads deducted from the contracts will be insufficient to cover expected distribution costs and that this "shortfall" may be made up from the general account (non-separate account) assets of the insurer which include, *inter alia*, amounts derived from risk charges. Since these two situations could be considered direct or indirect use of account assets to finance distribution, the requested representations are intended to parallel determinations called for by rule 12b–1.[13] Accordingly, the insurer represents that it has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the separate account and contract owners,[14] and undertakes to maintain and make available to the Commission upon request a memorandum setting forth the basis for this conclusion.

In addition to the insurer's representation, the separate account makes a representation, the character of which depends on the classification of the account. A trust account represents that it will invest only in management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the management company, formulate and approve any plan for financing distribution expenses under rule 12b–1 of the Act. A management account represents that it will have a board of directors with a majority of disinterested members formulate and approve any plan under rule 12b–1 to finance distribution expenses.[15]

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[6] The insurer assumes a "mortality risk" by promising to pay annuities according to annuity rates set forth in the contract, without regard to the annuitant's own longevity or any improvement in life expectancy for the general population. In addition, many insurers further assume a mortality risk by including in their contracts a guarantee that if the named annuitant dies before annuity payments begin, or before attaining a certain age, the beneficiary will receive the greater of the sum of all purchase payments (less withdrawals) or the then current value accumulated under the contract.

The "expense risk" borne by the insurer is the risk that its actual expenses of administering the contracts will exceed the proceeds of the explicit fees it imposes for providing these services. [For a discussion of provision of administrative services by an insurer, and the related compensation arrangements, see Investment Company Act Rel. No. 13705 (Jan. 9, 1984) [49 FR 1735, Jan. 13, 1984].] These fees are often guaranteed not to exceed the levels specified in the contract. Where a portion of the expense risk component is designed to cover the risk that amounts realized from explicit sales loads imposed on contracts will be insufficient to cover actual distribution expenses, applicants may designate it as a "distribution risk charge." Risk charges are typically imposed daily as a percentage of account assets, rather than as a fixed dollar amount.

[7] Section 6(c) authorizes the Commission to exempt any person, security, or transaction from any provisions of the Act "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

[8] In enacting this section, Congress sought to limit the ability of the trust sponsor to derive fees from the trust and to prohibit the sponsor from "reaping hidden profits" through use of such fees. *H.R. Rep. No.* 2639, 76th Cong., 3d Sess. 22 (1940). *See also S. Rep. No.* 1775, 76th Cong., 3d Sess. 8, 18 (1940).

[9] *See* text following footnote 12.

[10] Applicants have generally made this alternative representation when either they have been unable to identify a sufficient number of comparable products for a meaningful comparison or there is something about the applicant's particular circumstances which makes a meaningful comparison impossible.

[11] It should be noted that, while these two general representations have been incorporated into the proposed rule based on the staff's experience, prospective contract issuers always have the option of presenting alternative justifications for this relief through an individual application.

[12] Applicants typically represent that they have analyzed publicly available information about several other annuity contracts, taking into consideration such factors as current charge levels, the manner in which charges are imposed, presence of charge level or annuity rate guarantees, and the markets in which their contracts will be offered.

[13] Rule 12b–1 prohibits any open-end management investment company, including any management account, from directly or indirectly financing distribution of the company's shares except in compliance with the rule's requirements. The rule requires, among other things, that a company directly or indirectly financing distribution formulate a written plan describing all material aspects of the proposed arrangement and that the plan be approved initially by the company's shareholders, by its directors, and by its disinterested directors. The company may implement or continue a plan only if the directors, who are required to vote annually on continuation, conclude, in the exercise of their reasonable business judgment and in light of their fiduciary duties under state law and under the Act, that there is a reasonable likelihood that implementation or continuation of the plan will benefit the company and its shareholders. Section 12(b) and rule 12b–1 apply only to open-end management companies. Therefore, despite the great functional similarity between management accounts and trust accounts, only the former are directly affected by these provisions.

[14] For example in connection with contracts subject to a contingent deferred sales load (*see* 17 CFR 270.6c–8), this representation arises as follows. Because the imposition of the sales load is contingent, applicants may be unable to state with certainty that amounts realized from the sales load will cover all distribution expenses, and they usually represent that any shortfall will be made up from the insurer's general account, which may include amounts derived from risk charges. Insurers typically represent, however, that the contingent type of sales loan benefits contract-owners more than a comparable front-end sales load because a greater amount of purchase payments is invested on behalf of the contract owner, who may not be subject to the sales load if he retains his investment for the requisite period. This representation is made by the insurer, rather than by the separate account, because the insurer is the party primarily responsible for, and with access to financial information relating to, the distribution financing arrangement.

[15] While the representation made in the case of a trust and a management account necessarily must differ because of their differing structures, the Commission has sought to ensure that all separate accounts are subject to equivalent regulation. Indeed, although superficially the required representation would appear to be more onerous for a trust account than a management account, experience has shown that is not the case. First, it has been the staff's experience that many trust and management accounts already need to satisfy the required representations because of the requirement of section 10(a) that an investment company must have a board of directors with a majority of disinterested members in order to use certain related persons as regular broker or principal

Continued

Recently, management accounts also have been requesting relief from section 12(b) of the Act and rule 12b–1, insofar as the two situations described above might be deemed to involve direct or indirect use of account assets for distribution.[16] In these situations, the Commission has granted relief because it recognizes that compliance with rule 12b–1 may be burdensome for management accounts and could cause them to incur expenses to which trust accounts offering identical contracts would not be subject.[17] In light of these factors, and the staff's general review of risk charges which is discussed above, the Commission has granted the relief requested by management accounts in these limited circumstances.[18]

Proposed Rule and Rule Amendments

1. Proposed Rule 26a–3

In view of its experience with the above described issues, the Commission is proposing to codify in proposed rule 26a–3 relief for deduction of risk charges by all separate accounts, and for the possible use of a portion of these charges by management accounts to finance distribution of contracts.

Paragraph (a) of the proposed rule exempts any separate account, and any depositor of a principal underwriter for such account, from the provisions of sections 26(a)(2)(C) and 27(c)(2) to the extent necessary to permit deduction of a charge for the assumption by the insurer of mortality and/or expense risks in connection with a contract. This paragarph also requires that the separate account's registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] ("1933 Act") include a representation that rule 26a–3 is being relied upon, along with the various representations [19] and undertakings discussed above concerning use of assets for distribution. Having this information in the registration statement will enable the Commission's staff to monitor use of and compliance with the rule.

Paragraph (b) provides that risk charges may not be imposed or increased by a registration statement or amendment thereto which becomes effective by lapse of time pursuant to section 8(a) of the 1933 Act [15 U.S.C. 77h(a)] or rule 486 thereunder [17 CFR 230.486]. Therefore, such filings must be the subject of an acceleration request. [20] This provision ensures that the staff will have the opportunity to conduct the review of these charges contemplated in the rule.

In paragraph (c) of the proposed rule, the Commission is proposing to codify relief from section 12(b) and rule 12b–1 for the risk charge related distribution financing arrangements described above,[21] to the extent that their operation triggers the applicability of these provisions. A condition for the relief is that the risk charge has been implemented pursuant to rule 26a–3.

2. Proposed Technical Amendments to Rule 0–1(e)

Rule 0–1 of the General Rules and Regulations under the Act defines various terms in those rules. Rule 0–1(e) defines the term "separate account" and sets forth the conditions for availability of exemptive relief for separate accounts pursuant to the general rules. The Commission is proposing to amend rule 0–1(e) to include rule 26a–3 as one of the rules listed therein.

List of Subjects in 17 CFR Part 270

Investment companies, reporting and recordkeeping requirements, Securities.

Text of Proposed Rule 26a–3 and Proposed Amendments to Rule 0–1(e)

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

By revising paragraphs (e) introductory text, and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c–6, 270.6c–7, 270.6c–8, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.26a–3, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 6c–7, 6c–8, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 26a–3, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding new § 270.26a–3 to read as follows:

§ 270.26a–3 Exemption from certain provisions of sections 12(b), 26, and 27, and rule 12b–1 for registered variable annuity separate accounts and others regarding deduction of mortality and expense risk charges and distribution.

(a) Except as provided in paragraph (b) of this section, a registered separate account, and any depositor of or principal underwriter for such account ("insurer"), shall be exempt from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act [15 U.S.C. 80a–26(a)(2)(C) and 80a–27(c)(2)] with respect to any variable annuity contract participating in such account to the extent necessary to permit the deduction of a charge for the assumption of mortality and/or expense risks in connnection with such contract ("risk

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underwriter. Second, in the case of trust accounts, tax law effectively requires them to invest only in management companies established by the insurance company which sponsors the trust account. *See* Revenue Ruling 81–225, 1981–41 I.R.B. (Oct. 13, 1981).

[16] For a summary of arguments presented in favor of granting this relief, see Investment Company Act Rel. No. 13130 (Mar. 31, 1983) [48 FR 15059, April 8, 1983].

[17] *See, e.g.*, Investment Company Act Rel. No. 13241 (May 13, 1983) (order); Investment Company Act Rel. No. 13130 (Mar. 31, 1983) [48 FR 15059, April 6, 1983] (notice).

[18] As the Commission pointed out the first time it issued an order to a management account granting relief from section 12(b) and rule 12b–1 thereunder, its action should not be interpreted as establishing any precedent for mutual funds to seek similar relief in order, for example, to use advisory fees for distribution. *See* Investment Company Act Rel. No. 13241 (May 13, 1983). Rule 12b–1 was drafted precisely to deal with use of mutual fund assets for distribution and will continue to govern such activity.

[19] The staff believes that risk charges imposed in the past pursuant to a representation that they are within the range of industry practice for comparable annuity contracts has resulted in charges that are reasonable in relation to the risks assumed. If changes occur in the market for annuity contracts which suggest that this is no longer true, the Commission will have to consider the continuing appropriateness of basing exemptive relief on an industry comparability representation.

[20] Thus, for example, where a registrant sought in reliance on the rule to impose or increase a risk charge by means of a posteffective amendment, the registrant should file the amendment pursuant to rule 486(a) and specify the maximum period under that rule before the amendment would automatically become effective (i.e., 80 days after filing). In the cover letter accompanying the filing, the registrant should highlight that the filing would affect the risk charge and that it will request acceleration of the filing after the staff has completed its review. In addition, the registrant should undertake to file another amendment under rule 486 (a) and (d), if necessary, in order to avoid having the initial amendment become effective without acceleration by the staff.

[21] *See* text following footnote 12.

charge"). *Provided,* That Part II of the separate account's registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] includes:

(1) A representation that his section is being relied upon;

(2) A representation that the level of the risk charge either is (i) within the range of industry practice for comparable annuity contracts, or (ii) reasonable in relation to the risks assumed under the contract;

(3) A brief description of the methodology used to support the representation made in response to paragraph (a)(2) of this section and an undertaking to maintain and make available to the Commission upon request the memoradum or other documentation setting forth the methodology used to support the representation made in response to paragraph (a)(2) of this section; and

(4) A representation that either (i) the proceeds from explicit sales loads will be sufficient to cover the expected costs of distributing the contracts; or (ii)(A) the insurer has concluded that there is a reasonable likeihood that the account's distribution financing arrangement will benefit the separate account and contractowners, and that it will maintain and make available to the Commission upon request a memorandum setting forth the basis for this representation; and

(B)(*1*) If the separate account is registered under the Act as an open-end management company, a representation that the account will have a board of directors, a majority of whom are not interested persons of the separate account, formulate and approve any plan under rule 12b-1 of the Act [17 CFR 270.12b-1] to finance distribution expenses; or

(*2*) If the separate account is registered under the Act as a unit investment trust, a representation that the account will invest only in open-end management companies which have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under rule 12b-1 to finance distribution expenses.

(b) No risk charge may be deducted in reliance upon this section if the registration statement or amendment thereto which initially sets forth the imposition of such charge or its increase becomes effective by lapse of time pursuant to section 8(a) of the Securities Act of 1933 [15 U.S.C. 77h(a)] or rule 486 thereunder [17 CFR 230.486].

(c) Any separate account registered under the Act as an open-end management investment company shall be exempt from section 12(b) of the Act [15 U.S.C. 80a–12(b)] and rule 12b–1 thereunder to the extent that the insurer uses monies derived from a risk charge imposed pursuant to this section to finance distribution of annuity contracts issued in connection with the separate account.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)], the Chairman of the Commission has certified that the rule proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Paperwork Reduction Act

The information collection requirement imposed by rule 26a–3 has been submitted to the Office of Management and Budget for clearance.

Statutory Authority

Proposed rule 26a–3 is issued pursuant to the provisions of sections 6(c) and 38(a) of the Act [15 U.S.C. 80a–6(c) and 80a–37(a)]. The proposed amendments to rule 0–1(e) [17 CFR 270.0–1(e)] are issued pursuant to the provisions of section 38(a) of the Act [15 U.S.C. 80a–37(a)].

By the Commisson.

Dated: October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 26a–3 under the Investment Company Act of 1940, if adopted, will not have a signficant economic impact on a substantial number of small entities. The reason for the certification is that there are few, if any, registered insurance company separate accounts, when considered in conjunction with their sponsoring insurance companies, that qualify as "small entities" as that term has been defined in the Commission's rules. Moreover, the reduction in costs to such separate accounts, if any, resulting from the proposed rule's elimination of their need to file certain exemptive applications will not have a significant economic impact on any such separate accounts.

Dated: October 11, 1984.

John S.R. Shad,

Chairman.

[FR Doc. 84–27594 Filed 10–17–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Customs Regulations Amendments Relating to Approval of Commercial Gaugers and Accreditation of Commercial Testing Laboratories

AGENCY: U.S. Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide procedures for Customs approval of commercial gaugers (including public gaugers) who perform weighting, measuring, and/or gauging of certain commodities. The results of these activities, which are performed by non-governmental businesses, may be used by Customs in determining the proper rate of duty for the commodities. The document also proposes a procedure for Customs accreditation of commercial testing laboratories. The current regulations contain no provision for assessing the technical soundness of commercial testing laboratories not operated by a public gauger. Furthermore, the term "public gauger", which is found in the current regulations, is primarily associated with petroleum and there are other commodities for which Customs requires both quantity measurements and laboratory terting. The proposed amendments would correct these current deficiencies and provide for future needs.

DATE: Comments must be received on or before December 17, 1984.

ADDRESS: Written comments may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comment relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, D.C 20503, as well as to the Commissioner of Customs, as noted above.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain or Carolyn E. Damon, Technical Services Division, Room 7113, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C 20229 (202–566–2446).

SUPPLEMENTARY INFORMATION:

Background

Public gaugers are commercial organizations of individuals who perform certain activities, such as measuring the density, to obtain quantity measurements of imported petroleum. Once this information is obtained, it may be used by Customs in determining the proper rate of duty for the petroleum.

The term "public gauger" is associated primarily with petroleum. There are other commodities, however, for which examination, measurement, guaging, or sampling is required by Customs. The commercial organizations or individuals who perform these activities for commodities other than petroleum are known as "commercial gaugers". Public gaugers are a type of commercial gauger and the the term "commercial gauger" is understood to include public gaugers.

Section 151.43, Customs Regulations (19 CFR 151.43), currently provides that a district director of Customs may accept reports on imported petroleum from public gaugers approved by the Commissioner of Customs. In addition, Customs Delegation Order No. 64, published as T.D. 82-142 in the Federal Register on August 13, 1982 (47 FR 35391), delegated authority to the Director of the Technical Services Division at Customs Headquarters in Washington, D.C., to conduct on-site inspections of commercial laboratories operated by Customs-approved public gaugers. However, the current regulations contain no provision for assessing the technical soundness of commercial testing laboratories not operated by a public gauger. Furthermore, the term "public gauger", which is found in § 151.43, is primarily associated with petroleum and there are other commodities for which Customs requires both quantity measurements and laboratory testing. To correct these current deficiencies and to provide for future needs, it is proposed to amend the regulations to provide a general procedure for both the approval of commercial guagers (including public gaugers) who perform weighing, measuring, and/or gauging, and for the accreditation of commercial testing laboratories not operated by a public gauger.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to the proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This document is subject to section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96-511. Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Management and Budget and to Customs at the addresses set forth in the ADDRESS portion of this document.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, 77A Stat. 14, sec. 499, 46 Stat. 728, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1202 (Gen Hdnotes 1-6, 11, 12, Tariff Schedules of the United States) 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m., and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 151

Customs duties and inspection, Imports, Chemicals, Flammable materials, Petroleum, Sugar.

Proposed Customs Regulations Amendments

It is proposed to amend Part 151, Customs Regulations (19 CFR Part 151), in the following manner:

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. It is proposed to revise § 151.10 to read as follows:

§ 151.10 Sampling.

When deemed necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official Customs purposes. Representative samples shall be taken by an authorized Customs officer or by a public gauger or commercial gauger approved by Customs as provided for in § 151.13. All samples shall be properly marked to insure identification and retained according to established policies.

2. It is proposed to amend Part 151 by adding new §§ 151.13 and 151.14 to Subpart A to read as follows:

§ 151.13 Commercial gaugers.

Commercial gaugers are commercial organizations and individuals who perform examinations, measurements, gauging, or sampling required by Customs for certain commodities. Public gaugers, which deal primarily with petroleum, are a type of commercial gauger and the term "commercial gauger," as used in Part 151, includes public gaugers. Subject to the conditions listed in this section, the results of the activities performed by commercial gaugers on designated commmodities may be accepted for Customs purposes. Laboratories operated by commercial gaugers are subject to the controls listed in § 151.14.

Acceptance of reports. Subject to the controls listed in this section, the district director may accept, for Customs purposes, the reports of commercial gaugers approved by Customs in accordance with this section, provided that:

(1) Customs offficers have exercised the supervision required by any section of this part, and

(2) Customs is not aware of any evidence that the commercial gauger has failed to comply with the provisions of this section.

(b) *Approval of commercial gaugers.* Commercial gaugers seeking approval shall send an application to the Commissioner of Customs U.S. Customs Service, Attention: Director, Technical Services Division, Washington, D.C.

20229. Applications, which may be in the form of a letter, shall contain or be accompanied by the following:

(1) The applicant's name and address, including the addresses of the principal place of business and subsidiary offices, if any;

(2) The service(s) and commodity(ies) for which the applicant is seeking approval;

(3) Detailed statements of ownership and any partnerships, affiliations, or parent-subsidiary relationships with organizations such as, but not limited to, importers, producers, refiners, etc., of the commodity(ies) for which approval is being sought; brokers; commercial laboratories; commercial sampling organizations; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of its articles of incorporation and a list of its officers and directors;

(6) A detailed statement of the qualifications of each professional or technical employee; and

(7) A written agreement in the following form to avoid conflict-of-interest situations and to comply with requirements prescribed by Customs:

Commercial Gauger Agreement

As conditions for the approval of this application, I agree:

—To have no financial interest in, or other connection with, any business or other activity which might be considered to affect the unbiased performance of my duties as a commercial guager for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs. I understand that this does not apply to the acceptance of the usual fees for professional services.

—To comply with the requirements of Part 151, Customs Regulations (19 CFR Part 151), and with any procedures prescribed by the Commissioner, or the Director, Technical Services Division, U.S. Customs Service, pursuant to that part.

—To promptly notify the Commissioner of any change of name, address, ownership, partnership, affiliation, etc., or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent-subsidiary relationship.

—To immediately notify the Commissioner of any attempt to influence, impede, or coerce me in the performance of any aspect of my duties.

—To furnish a bond, in the amount of $10,000, to ensure that these services will be performed in conformance with approved standards and procedures, and with such procedures as may be prescribed by the Director, Technical Services Division, U.S. Customs Service, pursuant to paragraph (g) of this section.

(c) *Dual Approval.* (1) Applications for the accreditation of commercial testing laboratories operated by commercial gaugers seeking Customs approval under the procedures outlined in this section may be submitted concurrently providing they fulfill the requirements described for such laboratories in § 151.14. Public gaugers having Customs approval on the date of enactment of these regulations need not reapply and may continue to gauge petroleum and petroleum products under the conditions described in this section.

(2) If a district director has been accepting quantity or test reports from Customs-approved public gaugers for commodities other than petroleum, or from non-approved commercial gaugers for any commodity, he may continue to do so for a period not to exceed 6 months from the effective date of these regulations. In order to be allowed to provide such reports to Customs after the 6-month grace period, a gauger must apply for and receive Customs approval within this 6-month period in accordance with the procedure prescribed in this section.

(d) *Investigation of applicant.* The Commissioner of Customs shall direct the Technical Services Division to determine the applicant's competence, and shall direct the Office of Investigations to determine the applicant's fitness and reputation and to verify the statements made in the application.

(e) *Notice of approval, disapproval, suspension, or revocation.* When the investigations have been completed, the Director, Technical Services Division, will either advise the application that his applicant has been approved or will state the reasons for disapproval. The Commissioner of Customs may suspend or revoke such approvals at any time to failure to comply with any provision in this section, and may assess liquidated damages under the commercial gauger bond. Notices of approval and of suspension or revocation shall be published from time to time in the Customs Bulletin.

(f) *Operational requirements.* To be approved for Customs purposes, a commercial gauger shall conform to the following requirements:

(1) *Equipment.* All equipment, accessories, and other devices used shall be maintained in first class condition, and shall be of a type prescribed by published industry standards such as, but not limited to, those of the American Society for Testing and Materials (ASTM), the American Petroleum Institute (API), or the American National Standards Institute (ANSI), as appropriate, or shall have performance characteristics equal to or superior to those required to conduct analyses described in such standards.

(2) *Procedures.* All procedures shall be in conformance with published industry standards, such as those of the ASTM, API, or International Commission for Uniform Methods of Sugar Analysis (ICUMSA), and shall conform to such specific procedures as the Director, Technical Services Division, may require in accordance with paragraph (g) of this section.

(3) *Qualifications.* Each commercial gauger and each other person authorized to sign gauging reports shall furnish Customs with a written certificate that he has a minimum of 6 months training and experience in performing the same service(s) with the same commodity(ies).

(4) *Results.* The commercial gauger shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias called to his attention by either the district director or the Director, Technical Services Division, or of which he otherwise may become aware, and shall take corrective measures immediately. Both the district director and the Director, Technical Services Division, shall be promptly notified of such matters and of any actions taken.

(g) *Procedures prescribed by the Director, Technical Services Division.* The Director, Technical Services Division, is authorized to prescribe general or specific procedures to be followed by each approved commercial gauger at each location.

(h) *Recordkeeping requirements.* Records of the commercial gauger pertaining to work performed for acceptance by Customs shall be of the type normally kept in the ordinary course of business. These shall be maintained for 5 years from the date of entry of the merchandise in accordance with §§ 162.1a and 162.1c of this chapter.

(i) *Verification requirement*—(1) *Compliance.* To ensure compliance with the provisions of this section and accuracy and uniformity in the information submitted by commercial gaugers, the Director, Technical Services Division, is authorized to conduct:

(i) On-site inspections;

(ii) Integrity checks;

(iii) Reviews of any records described above.

(2) *Resolution of discrepancies.* Any discrepancy between the reports by the commercial gauger and the quantity found by Customs, in excess of any tolerance published in these regulations, shall be resolved in favor of Customs unless the commercial gauger produces

clear and convincing evidence that Customs is in error.

(3) *Sanctions.* If a commercial gauger's reports are repeatedly inaccurate to a significant degree, the commercial gauger's approval may be suspended or revoked in accordance with paragraph (j) of this section, or liquidated damages may be assessed under the terms of the commercial gauger's bond.

(j) *Suspension or revocation of Customs approval*—(1) *Grounds.* Failure to comply with the provisions of this section may be grounds for suspension or revocation of Customs approval of a commercial gauger.

(2) *Notice.* The Director, Technical Services Division, shall give written notice of a proposed suspension or revocation of approval to the commercial gauger. The notice shall give specific grounds for the proposed action and shall become final unless the commercial gauger files a written reply in accordance with paragraph (j)(3) of this section.

(3) *Reply.* Within 30 days of receipt of the notice, the commercial gauger may file a written reply with the Director, Technical Services Division. This reply may contain: (i) Answers to the allegations, (ii) rebuttal evidence, and (iii) a request to make an oral presentation to the Director, Technical Services Division, or his designee, as to why this action should not be taken.

(4) *Action on reply.* If the Director, Technical Services Division, is persuaded by the commercial gauger's reply or oral presentation, he shall notify the commercial gauger and the case shall be closed. If not, the Director, Technical Services Division, shall suspend or revoke the commercial gauger's approval and shall notify the commercial gauger that he may request review of this action by the Commissioner of Customs in accordance with paragraph (j)(6) of this section. The Director, Technical Services Division, shall forward an information copy of his actions to the district director(s) involved.

(5) *Stay of suspension or revocation.* An adverse decision by the Director, Technical Services Division, shall not become final until the time for requesting a review by the Commissioner of Customs has passed and no request has been filed by the commercial gauger, or the decision has been upheld.

(6) *Review of suspension of revocation.* The commercial gauger may petition the Commissioner of Customs to review an adverse decision by the Director, Technical Services Division. such petitions shall be filed, in duplicate, with the Director, Technical Services Division, within 30 days of the date of the action, and should clearly state the reasons why such action should not become final. The Commissioner, or his designee, shall review the petition and shall forward his written decision to the Director, Technical Services Division, for delivery to the commercial gauger.

(7) *Publication.* Notice of any final action by the Director, Technical Services Division, or the Commissioner of Customs suspending or revoking the approval of a commercial gauger shall be published in the **Federal Register** and the Customs Bulletin.

(k) *Supplemental applications.* A Customs-approved commercial gauger may apply to extend his approval to additional services and/or commodities by submission of a supplemental application. Supplemental applications, which may be submitted at any time, need only provide the information described in paragraphs (b) (1), (2), and (6), of this section.

(l) *Expense incurred by utilization of Customs-approved commercial gaugers.* No expense incurred by an importer's utilization of a Customs-approved commercial gauger shall be borne by the Government.

§ 151.14 Commercial testing laboratories.

(a) *Acceptance of laboratory analysis reports.* Subject to the controls outlined in this section, the district director may accept, for Customs purposes, laboratory analysis reports by Customs-accredited commercial testing laboratories (including those operated by Customs-approved commercial gaugers) for the following commodities and their respective characteristics by the indicated methods. However, the samples shall have been taken by a Customs officer, or an approved commercial gauger (see § 151.13), or shall have been certified, by the importer as being representative of the importation, and there must be no evidence that the commercial laboratory failed to comply with any provision of this section. The characteristics and the commodities are as follows:

(1) American Petroleum Institute (API) gravity, the amount of bottom sediment and water (BS&W), the antiknock index, and distillation characteristics for petroleum and petroleum products by the most recent applicable American Society for Testing and Materials (ASTM) methods.

(2) Sugar degrees determined by the polariscopic test, percent soluble nonsugar solids, percent total sugars, and weight per gallon in air at 60° F for sugars, sirups, and molasses by the most recent official International Commission for Uniform Methods of Sugar Analysis (ICUMSA) methods.

(b) *Accreditation of commercial testing laboratories.* Commercial testing laboratories (including those operated by commercial gaugers) seeking accreditation shall send an application to the Commissioner of Customs, U.S. Customs Service, Attention: Director, Technical Services Division, Washington, D.C. 20229. (Laboratories which were operated by public gaugers having Customs approval on the date of enactment of these regulations shall be recognized as Customs-accredited laboratories for the analysis of petroleum and petroleum products as described in paragraph (a)(1) of this section, and shall be subject to the conditions described in this section.) Applications, which may be in the form of a letter, shall contain or be accompanied by the following:

(1) The applicant's name and address, including the addresses of the principal place of business and subsidiary offices, if any;

(2) The commodity(ies), test(s), and corresponding test method(s) for which the applicant is seeking approval. (Note: each test method should be completely documented by name, designation, and literature reference.)

(3) Detailed statements of ownership and any partnerships, affiliations, or parent-subsidiary relationships with organizations such as, but not limited to, importers, producers, or refiners etc., of the commodity(ies) for which approval is being sought; brokers; commercial laboratories; commercial sampling organizations; commercial gaugers; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of its articles of incorporation and a list of its officers and directors;

(6) A detailed statement of the qualifications of each professional or technical employee and a complete description of all laboratory facilities and equipment; and

(7) A written agreement in the following form to avoid conflict-of-interest situations and to comply with operating requirements prescribed by Customs:

Commercial Testing Laboratory Agreement

As conditions for the approval of this application, I agree:

—To have no financial interest in, or other connection with, any business or other activity which might be considered to affect the unbiased performance of my duties as a commercial laboratory performing testing for Customs purposes, in accordance with the standards and procedures approved by the Commissioner of Customs. I understand that this does not

apply to the acceptance of the usual fees for professional services.

—To comply with the requirements of Part 151, Customs Regulations (19 CFR Part 151), and with any procedures prescribed by the Commissioner or the Director, Technical Services Division, pursuant to that part.

—To promptly notify the Commissioner of any change of name, address, ownership, partnership, affiliation, etc., or financial condition, and, if a corporation, of any change in its articles of incorporation, officers, directors, or parent-subsidiary relationship.

—To immediately notify the Commissioner of any attempt to influence, impede, or coerce me or my employees in the performance of any aspect of my duties.

—To promptly notify the Director, Technical Services Division, of any significant changes in the professional staff, physical facilities, instruments, or test methods in use in the laboratory.

—To furnish a bond, in the amount of $10,000, to ensure that the laboratory tests and associated procedures will be in conformance with industry-recognized standards and with such procedures as may be specifically prescribed by the Director, Technical Services Division, pursuant to paragraph (f) of this section.

(c) *Investigation of applicant.* The Commissioner of Customs shall direct the Technical Services Division to determine the applicant's professional competence, and shall direct the Office of Investigations to determine the applicant's fitness and reputation and to verify the statements made in the application.

(d) *Notice of approval, disapproval, suspension, or revocation.* When the investigations have been completed, the Director, Technical Services Division, will either advise the applicant that his laboratory has been granted accreditation or will state the reasons for denial. The Commissioner of Customs may suspend or revoke accreditation of a laboratory at any time for failure to comply with any provision in this section, and may assess liquidated damages under the commercial laboratory's bond. Notices of accreditation and of suspension or revocation of accreditation shall be published from time to time in the Customs Bulletin.

(e) *Operational requirements.* To be accredited for Customs purposes, a commercial testing laboratory's operations shall conform to the following requirements:

(1) *Equipment.* All analytical instruments, accessories, and other equipment used by the laboratory will be maintained in first class condition. For all major instruments, including analytical balances, a log shall be kept. All instruments, accessories, and other equipment shall be of a type prescribed by published industry standards such as those of the ASTM, API, or American National Standards Institute (SNSI), as appropriate, or shall have performance characteristics equal to or superior to those required to conduct analyses described in such standards.

(2) *Procedures.* Each specified ASTM or ICUMSA method, shall be reviewed and approved for use by the Director, Technical Services Division [see § 151.14(b)(2)]. Other technical procedures shall be in conformance with published industry standards, such as those of the ASTM or the API, and all laboratory operations, including analytical methods and technical procedures, shall conform to such specific procedures as the Director, Technical Services Division, may require in accordance with paragraph (f) of this section.

(3) *Qualifications.* Each professional employee authorized to sign or approve laboratory analysis reports shall have a minimum of a bachelor's degree in the physical sciences or engineering and at least 2 years of full-time professional experience in the analysis of the product(s) the laboratory is accredited to test. Each employee authorized to assist in laboratory analyses to be used for Customs purposes shall have a minimum of 2 years of general experience and 2 years of specialized experience which includes at least 1 year of full-time experience in an analytical laboratory, 6 months of which shall have been spent in the analysis of the designated product(s). Post high school education in an accredited college, junior college, or technical institute many be substituted, year for year, for the required general experience and for 1 year of the specialized experience, providing each substituted education year included at least 12 semester hours in any combination of courses such as physical science, engineering, or any branch of mathematics except financial and commercial mathematics.

(4) *Results.* The director of the commercial testing labortory shall investigate promptly any apparent irregularities, procedural difficulties, or indications of systematic bias in analytical results; shall take corrective measures immediately; and shall promptly notify both the district director(s) and the Director, Technical Services Division, of such matters and of any actions taken.

(f) *Procedures prescribed by the Director, Technical Services Divison.* The Director, Technical Services Division, is authorized to prescribe general or specific procedures to be followed by each accredited commercial testing laboratory.

(g) *Recordkeeping requirements.* The commercial testing laboratory shall maintain records of the type normally kept in the ordinary course of business and also those decribed below for 5 years from the date of entry of the merchandise in accordance with §§ 162.1a and 162.1c of this chapter. Except as otherwise noted, the records described below shall be kept in hardbound (not loose-leaf) books with consecutively numbered pages and all entries shall be in ink.

(1) *Sample log book.* Each page must be "approved" by the laboratory director or his designee within 5 days of first entry. An electronic Sample Log Book is permitted in lieu of a hardbound book, but a complete "hard-copy" record must be made, approved as above, and maintained as an official record. Samples for Customs purposes shall be separately recorded in a Sample Log Book that is used exclusively for this purpose. At a minimum, each entry in the Sample Log Book must contain the following information:

(i) Unique identifying number for each sample (which must also be marked on the sample itselt);

(ii) Date sample received;

(iii) Description of sample, including type of product, marks or other unique identifying characteristics on the sample container, etc.;

(iv) Customs entry date, entry number, and port of entry;

(v) Name of importer, carrier, and broker;

(vi) Name of manufacturer, exporter (if different), and country-of-origin;

(vii) Source of sample (such as name of sampling officer, commercial gauger, registered mail number, etc.);

(viii) Date sample reported.

(2) *Major instrument log book.* [See paragraph (e)(1) of this section.] The major instrument log must show, at a minimum, the dates and circumstances of all instances of servicing, upgrading, malfunction, recalibration, or any other action which might affect analytical results. Each entry must be initialed and dated by the laboratory director or his designee.

(3) *Analytical procedures book.* This may be loose-leaf, and should contain all analytical procedures, calibration methods, etc., as provided in paragraph (e)(2) of this section. Each analysis procedure must have a sheet showing, by date and signature, that each professional or technical employee has "read and understood" the procedure.

(4) *Laboratory notebook.* A laboratory notebook must be assigned to each

professional or technical employee, and the record of such assignments is itself a "record" subject to the requirements of this section. The notebook must contain all information or data (such as sample weights, temperatures, references to filed spectra, chromatograms, photographs, etc.) associated with the analysis, and each entry must bear the number of the sample to which it pertains. Each page of the laboratory notebook must be dated and initialed as "read and understood" by the employee's immediate supervisor within 5 days of entry.

(h) *Verification requirement*—(1) *Compliance.* To ensure compliance with the provisions of this section and the accuracy and uniformity of analytical results submitted to Customs by commercial testing laboratories, the Director, Technical Services Division, is authorized to conduct:

(i) On-site inspections;

(ii) Interlaboratory sample exercises;

(iii) Reviews of any records described above.

(2) *Sanctions.* If a laboratory's analytical results are repeatedly inaccurate to a significant degree, or if it fails to comply with any provision in this section, the laboratory's accreditation may be suspended or revoked in accordance with paragraph (i) of this section, or liquidated damages may be assessed under the terms of the laboratory's bond.

(i) *Suspension or Revocation of Customs accredition*—(1) *Grounds.* Failure to comply with any of the provisions of this section may be grounds for suspension or revocation of Customs accreditation of a commercial laboratory.

(2) *Notice* The Director, Technical Services Division, shall give written notice of a proposed suspension or revocation of accreditation to the laboratory. This notice shall give specific grounds for the proposed action and shall become final unless the laboratory files a reply in accordance with paragraph (i)(3) of this section

(3) *Reply.* Within 30 days of receipt of the notice, the laboratory may file a written reply with the Director, Technical Services Division. This reply may contain answers to the allegations, rebuttal evidence, and a request to make an oral presentation to the Director, Technical Services Division, or his designee, as to why this action should not be taken.

(4) *Action on reply.* If the Director, Technical Services Division, is persuaded by the laboratory's reply or oral presentation, he shall notify the laboratory and the case shall be closed. If not, the Director, Technical Services Division, shall suspend or revoke the laboratory's accreditation and shall notify the director of the laboratory that he may request review of this action by the Commissioner in accordance with paragraph (i)(6) of this section. The Director, Technical Services Division, shall forward an information copy of his actions to the district director(s) involved.

(5) *Stay of suspension or revocation.* An adverse decision by the Director, Technical Services Division, shall not become final until the time for requesting a review by the Commissioner has passed and no request has been filed by the laboratory, or the decision has been upheld.

(6) *Review of suspension or revocation.* The laboratory may petition the Commissioner of Customs to review an adverse decision by the Director, Technical Services Division. Such petitions shall be filed, in duplicate, with the Director, Technical Services Division, within 30 days of the date of the action, and should clearly state the reasons why such action should not become final. The Commissioner, or his designee, shall rev iew the petition and shall forward his written decision to the Director, Technical Services Division, for delivery to the laboratory.

(7) *Publication.* Notice of any final action by the Director, Technical Services Division, or the Commissioner of Customs suspending or revoking the accreditation of a commercial testing laboratory shall be published in the **Federal Register** and the Customs Bulletin.

(j) *Supplemental applications.* The operator of a Customs-accredited commercial testing laboratory may apply to extend the laboratory's accreditation to additional tests and/or commodities by submission of a supplemental application. Supplemental applications, which may be submitted at any time, need only provide the information described in paragraphs (b) (1), (2), and (6), of this section.

(k) *Expense incurred by utilization of Customs-accredited commercial testing laboratories.* No expense incurred by an importer's utilization of a Customs-accredited commercial testing laboratory shall be borne by the Government.

3. It is proposed to revise § 151.31(a) to read as follows:

§ 151.31 Review of tests of sugar, sirup, and molasses.

(a) *Notification to importer.* When the test of the sugar has been determined and accepted by Customs for an importation of sugar, sirup, or molasses, the district director shall immediately send the importer a copy of the report showing the average test of the importation and the quantity and test of each lot from which such average test is obtained.

* * * * *

4. It is proposed to amend § 151.42 by removing the words "positive displacement" from paragraph (a)(1)(i); removing paragraph (a)(1)(ii) and redesignating paragraphs (a)(1)(iii) and (a)(1)(iv) as (a)(1)(ii) and (a)(1)(iii), respectively; adding a new paragraph (a)(3); removing the word "shall" and inserting the word "may" in paragraph (b) introductory text; and adding a new paragraph (d). The amended and revised portions would read as follows:

§ 151.42 Controls on unlading and gauging.

(a) * * *

(1) * * *

(i) Customs approved meters at installations where provided by the importer;

(ii) Shore tank gauging; or

(iii) Weighing for trucks and railroad cars.

* * * * *

(3) Meters provided by importers, described in paragraph (a)(1)(i) of this section, are approved by Customs on a case by case basis upon application to the district director who, with the concurrence of the Director, Technical Services Division, or his designee, shall give tentative or final approval.

(b) *Duties of Customs officers.* Customs officers may perform or witness ullaging and gauging as follows:

* * * * *

(d) *Acceptance of quantity reports.* (1) Subject to such controls and checks as he may deem necessary, the district director may accept, for shore tank gauging and closing carrier ullages, the reports of quantities of imported petroleum and petroleum products made by commercial gaugers approved by Customs in accordance with this section provided that Customs has exercised the supervision required by § 151.42(b) and there is no evidence that the commercial gauger has failed to comply with the provisions of this section.

(2) The district director may also accept the laboratory analysis reports performed by a laboratory operated by an approved commercial gauger as part of the services provided by him for his customers provided that the laboratory complies with all requirements of § 151.14.

§ 151.43 [Removed and Reserved]

5. It is proposed to amend Part 151 by removing § 151.43 and reserving it.

§ 151.45 [Amended]

6. It is proposed to amend § 151.45(a) by removing the words "required by § 153.43".

7. It is proposed to revise § 151.47 to read as follows:

§ 151.47 Entered quantities of petroleum or petroleum products released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the gross quantity of petroleum or petroleum products released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of petroleum or petroleum products unladed. The net quantity shall be determined in accordance with § 158.13 of this chapter, with an allowance made for sediment and excessive water present, as prescribed in the table found in § 151.46, and reported in a laboratory test made by a Customs-accredited commercial laboratory. The laboratory analysis report shall be filed with the entry summary.

(b) *Use of laboratory tests in liquidation.* The analytical results (that is, API gravity, BS&W, and distillation characteristics) reported by a Customs-accredited laboratory shall be used for Customs purposes if the difference between these results and the Customs laboratory results do not exceed the differences in the following table:

Percentage of BS&W found by Customs	Maximum percentage difference allowable
0.05 to 0.50	0.1
0.51 to 1.50	0.2
More than 1.50	0.3

The analytical results reported by a Customs laboratory shall be used for Customs purposes if the difference between these results and those of the Customs-accredited laboratory exceed the limits in the table above, and if the Customs-accredited laboratory cannot present clear and convincing evidence that Customs is in error.

§ 151.54 [Amended]

8. It is proposed to amend § 151.54 by removing the words "chief chemist" both times it appears in the introductory text and inserting, in its place, the word "director".

Approved: October 1, 1984.

William von Raab,

Commissioner of Customs.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-27585 Filed 10-17-84; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 290 and 886

[Docket No. R-84-0707; FR-432]

Management and Disposition of HUD-Owned Multifamily Projects

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: HUD proposes to revise its regulations governing management and disposition of HUD-acquired multifamily rental projects. The proposed rule is intended to conform the regulation more closely to section 203 of the Housing and Community Development Amendments of 1978, as amended; to decrease reliance on project-based section 8 subsidies as a means of maintaining availability of units to low- and moderate-income persons; and to conform the rental structure in HUD-owned properties to statutory changes in rents charged under subsidy programs.

DATE: Comments are due December 17, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Marvin Hilman, Director, Property Disposition Division, Department of Housing and Urban Development, Room 6154, 451 7th Street, SW., Washington, DC 20410. Telephone (202) 755-7343. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: HUD insures mortgages covering multifamily residential projects under various authorities provided in Title II of the National Housing Act. Following mortgage default, and in conjunction with payment of the lender's insurance claim, the mortgage is usually assigned to the Secretary, who may then acquire title to the project through foreclosure or acceptance of a deed in lieu of foreclosure. Instead of assigning the mortgage, mortgagees may foreclose the mortgage or take a deed in lieu of foreclosure and then convey title to the Secretary.

Section 207(1) of the National Housing Act provides:

> Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall . . . have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the managment of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section.

Section 207(1) is applicable to mortgages insured under authorities of the National Housing Act other than section 207. See, e.g., sections 221(g), (section 221 mortgages) 238(a)(2) (section 236 mortgages) (12 U.S.C. 1715(g), 1715z-3(a)(2)).

It has been long established that HUD determinations regarding the management and disposition of multifamily projects acquired by it following loan default must be made consistently with national housing policy. See e.g., *Cole* v. *Lynn*, 389 F. Supp. 99 (D.D.C. 1975) (Section 236 project). In an effort to synthesize HUD's objective of protecting the insurance funds with the fundamental purposes underlying the programs pursuant to which mortgage insurance was granted, HUD first promulgated a regulatory statement of policies and procedures governing disposition of HUD-owned properties through an interim rule published on January 27, 1977 (42 FR 5049). The regulation prescribed two objectives of the disposition program:

(a) To reduce the inventory of HUD-owned projects in such a manner as to ensure the maximum return to the mortgage insurance funds consistent with the need to preserve and maintain urban residential areas and communities, and to protect the financial interests of the Government by obtaining a satisfactory return based on the project's present market value and anticipated future use.

(b) To maintain through a rental subsidy, or otherwise, rents at levels low-to-moderate-income families can afford, if the project was intended to serve low-to-moderate-income groups.

Congress legislated specifically in the field through section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701 z–11) (hereinafter referred to as "Section 203"). As originally enacted, section 203 stated that the purpose of the property management and disposition program shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further the goals of:

(1) Preserving the housing units so that they can remain available to and affordable by low- and moderate-income families;

(2) Preserving and revitalizing residential neighborhoods;

(3) Maintaining the existing housing stock in a decent, safe and sanitary condition;

(4) Minimizing the involuntary displacement of tenants; and

(5) Minimizing the need to demolish projects.

Recognizing a tension among the stated objectives and that the feasibility of attaining certain of the goals will be affected by individual project circumstances, Congress further provided in Section 203 that the Secretary, in determining the manner by which a project shall be managed or disposed of, may balance competing goals in individual projects so as to further the achievement of the overall purpose of the section.

On October 1, 1979, HUD published a complete revision of its January 1977 property disposition regulation as an amended interim rule. 44 FR 56608. The amended rule contained significant changes from the prior rule, based in part on section 203. The amended interim rule continues in effect and appears at 24 CFR Part 290.

In the Housing and Community Development Act of 1980, Congress amended section 203 in several respects. Two amendments affected the statement of the purposes of the management and disposition program referred to above. The goal of preserving units so that they may remain available to and affordable by low- and moderate-income families was expanded to cover units which were vacant at the time of acquisition. There was added an additional goal of maintaining the project for the purpose of providing rental or cooperative housing.

A key feature of the Department's property disposition program has been the attaching of section 8 project-based subsidies to the sales of acquired projects in order to ensure their continued availability for low- and moderate-income tenants. Under the interim rule published in January 1977, a rental subsidy generally would be provided for eligible tenants of a formerly subsidized project unless a determination was made that comparable housing units or comparable assistance was available which would allow disposition without a rental subsidy without affecting eligible tenants.

The amended interim rule published in October 1979 expanded the use of Section 8 subsidies in property sales by changing the focus of the Department's inquiry from the availability of comparable housing or assistance for the project tenants to the sufficiency of the stock of affordable housing for low- and moderate-income families in the community. It also expanded coverage of the requirement for subsidy to include formerly unsubsidized projects which constituted a "lower income housing resource by virtue of the income levels of the tenants".

The Section 8 subsidy contract attached to a project requiring no rehabilitation or only moderate rehabilitation is generally for a term of 15 years. A subsidy contract for a project requiring substantial rehabilitation will generally be for 20 years. See 24 CFR 886.311.

Without waiver, Part 290 permits the use of certificates under the Section 8 Existing Housing Program—i.e., subsidies which are not attached to the project but permit the tenant to remain in the project or to move elsewhere with the subsidy—only to eligible tenants residing in a formerly unsubsidized project which has not become a lower income housing resource.

Legislative changes affecting the subsidy program have diminished the feasibility of broad reliance on project-based section 8 contacts in the property disposition program. Section 16 of the Housing Act of 1937 (42 U.S.C. 1437n), enacted in 1981, severely limits the availability of Section 8 subsidies to families whose incomes exceed 50% of the area median income. As a result, Section 8 subsidies may not be available to assist tenants of HUD-owned projects who are lower-income families (i.e., less than 80% of area median income) but not very-low income families (less than 50% of area median income).

In addition, the Department's experience under the property disposition program has led it to conclude that the almost automatic attachment of long-term Section 8 contracts to projects being sold is neither necessary to ensure the continued availability of stock to low- and moderate-income families nor an efficient utilization of subsidy resources. Accordingly, the Department increasingly has waived the regulatory provisions for project-based subsidy contracts for good cause on case-by-case determinations. The bases for this policy and an evaluation thereof were discussed in a review by the United States General Accounting Office as follows:

> The increased use of Section 8 subsidies is largely attributable to the implementing regulations which provide little latitude for HUD field offices to dispose of projects other than with Section 8 subsidies attached to the maximum extent the regulations provided. The regulations called for HUD to attach Section 8 subsidies to 100 percent of the units in formerly subsidized projects, and in formerly unsubsidized projects to the units occupied by eligible tenants or vacant at the time of acquisition.
>
> In developing and implementing its policy HUD never performed a thorough analysis of the projects sold without subsidies attached to establish the degree to which these projects were or were not continuing to effectively serve low- and moderate-income tenants. Our review indicated that it may not always be necessary or effective to attach Section 8 subsidies to project units to the extent called for in the regulations. Our review of 18 projects sold without subsidies attachd to the units and 14 projects sold with subsidies attached showed mixed results. All projects sold without a subsidy continued to serve low- and moderate-income tenants but generally to a lesser extent than projects sold with subsidies. The physical condition of projects sold both with and without subsidies varied from good and bad. Overall project success appeared to be more related to project location, surrounding neighborhood, owner/management competence, and socioeconomic characteristics rather than whether the project was sold with or without Section 8 subsidies attached to the units.
>
> In the fall of 1981, however, HUD began to change its policy on the sale of its acquired multifamily housing projects with Section 8 subsidies attached. Our review of 48 HUD disposition decisions made between March 15 and May 4, 1982, showed that HUD is achieving disposition flexibility by selling its projects based on each project's individual circumstances rather than rigidly following existing regulatory requirements. Depending on the availability of lower income housing units in the area, HUD is deciding in some cases to attach Section 8 subsidies to all units in formerly subsidized projects; in other cases, when justified, it is attaching the subsidy to fewer than 100 percent of the projects' units. Also, in some cases HUD is not attaching any subsidies to the project units but does provide eligible tenants with

Section 8 Certificates of Family Participation. To achieve this flexibility, HUD has had to waive its regulations in some instances. We believe, however, that such flexibility is needed and should reduce the level that Section 8 subsidies were being attached to project units under the policy established in 1977. (GAO letter to General Deputy Assistant Secretary for Housing, September 30, 1982.)

The Department now proposes to revise 24 CFR Part 290 in order to reflect its experience and to conform more directly to Section 203, as amended.

A basic purpose of the proposed revision is to permit the Department to approach multifamily project disposition decisions on a case-by-case basis, taking fully into account all pertinent individual circumstances of the particular project, its tenants, and its community. This, the Department believes, is the essential thrust of Section 203, contrary to the present Part 290 regulations which virtually dictate the outcome of disposition decisions based on some, but less than all, of the critical circumstances.

Section 203 requires the Secretary to take certain purposes and goals into consideration in every property disposition decision. As applied to particular cases, these goals often are, and were recognized by Congress to be, contradictory. Therefore, although the Secretary is obligated to consider and act consistently with achieving those purposes and goals, their consideration rarely, if ever, dictates a single outcome and the Secretary retains broad discretion to choose among outcomes that seek to accomplish the statutory objectives.

As stated by the General Accounting Office:

> In our opinion, the language of the existing law basically provides sufficient flexibility for HUD to dispose of any particular project in a manner that is in the best interest of the Government, tenants, and community. In disposing of a project HUD should base its disposal decision on an analysis and consideration of the factors contained in the Act. We believe that Section 203 of the Act only mandates that these factors be considered an impact on the decision as appropriate. It is important, however, that the basis for each decision, as well as the analysis and consideration given to the various factors, be thoroughly supported and documented in order to justify the decision and protect the Department against any pontential lawsuits resulting from the decision. (GAO letter to General Deputy Assistant Secretary for Housing, September 30, 1982.)

The key provisions of the proposed revised Part 290 which embody this trust are §§ 290.5, 290.20, and 290.25.

Proposed § 290.5 states the purpose of the property management and disposition program, and the necessity of balancing competing goals relating to individual projects in a manner which will further the achievement of the overall purpose of the program, in the same terms as paragraph (a) of section 203. Section 290.20 enumerates the factors to be considered in determining the manner by which an individual project is to be disposed of to further the achievement of the overall purpose of the program as stated in § 2909.5.

Section 290.25 provides that while the Secretary ordinarily will seek to achieve the maximum return to the mortgage insurance funds, a project may be disposed of for its "fair value for use" when the Secretary finds that achievement of the purpose of the program in the particular disposition case requires disposition at less than full market value based on highest and best use. In such a case, § 290.25 further provides that the Secretary may impose such conditions upon the sale and the future use and operation of the project as may be necessary or appropriate to furthering the program purpose.

Proposed § 290.25(d) provides that the purchaser may be required, as a condition and term of the sale, to perform repairs to the project after purchase in order to return the project to decent, safe and sanitary condition.

Proposed § 290.25(f) provides that Certificates of Family Participation under the Section 8 Existing Housing Program may be given to eligible tenants who are very low-income families if determined to be necessary to permit such families to remain in their units after disposition. Certificates also may be provided for the same purpose to low-income families who are not very low-income families if permitted pursuant to regulations and procedures implementing section 16(b) of the Housing Act of 1937.

Proposed § 290.25(f) also permits providing a project-based Section 8 subsidy contract if found necessary in order to ensure the financial feasibility of the project after disposition. HUD also proposes, in this rulemaking proceeding, an amendment to 24 CFR 886.311 which would permit the Secretary to enter into a project-based Section 8 contract for a term of less than 15 years if the Secretary determines that such a lesser term is adequate to assure financial feasibility of the project after disposition.

Proposed § 290.20(b) provides for notice to project tenants prior to final determination of the manner of disposition of a project. The notice, which invites tenant comment for a 30-day period, must state:

(1) The proposed manner of disposition, including contemplated conditions on future use and operations of the project and repairs that may be required to be performed by the purchaser;

(2) The extent to which either tenant-based or project-based subsidy will be provided and the eligibility requirements therefor; and

(3) The extent to which temporary or permanent displacement is anticipated, the nature of displacement assistance to be made available, and the eligibility requirements therefor.

While paragraph (a) of proposed § 290.25 provides, consistently with subsection (b)(1) of section 203, that disposition of a multifamily project may be on a negotiated, competitive bid or other basis, paragraph (h) provides that the Secretary generally will seek to maximize competition in project dispositions. Consistently with current § 290.53(c), proposed § 290.25(h) permits negotiated sale to a State or local government agency, tenant cooperative, nonprofit consumer cooperative, or uniquely qualified nonprofit or limited dividend entity. Negotiations for sale to any other purchaser, or for sale to a nonprofit or limited dividend entity, may not be commenced without approval of the Secretary or the Assistant Secretary for Housing.

Provisions regarding displacement assistance are contained in proposed § 290.35, which is substantively similar to current § 290.47 and is consistent with subsection (d) of section 203.

Paragraph (b) covers tenants who will be displaced temporarily as a result of repairs to a multifamily project performed by HUD during its ownership or by a purchaser after disposition. It provides, in accordance with subsection (d)(2)(A) of section 203, that, wherever practicable, such tenants will be afforded the opportunity to return to repaired units in the same project. Consistent with current requirements, the proposed regulation requires that each tenant identified for temporary displacement will be provided a decent, safe and sanitary dwelling unit during the period of temporary displacement, will be reimbursed for expenses incurred in moving to and from a temporarily occupied unit, and will be further reimbursed for any net increase in monthly housing costs incurred during the period of temporary displacement.

Paragraph (c) of proposed § 290.35 covers tenants who will be displaced permanently as a result of the conversion of use or demolition of a project. It provides that tenants facing permanent displacement will be offered

such assistance of the following categories as may be appropriate in their individual circumstances (including alternative assistance where appropriate):

1. Advisory services necessary to locate replacement housing and minimize harships in adjusting to displacement;

2. Preference for occupancy of available units in other HUD-owned multifamily projects or, to the extent that the tenant may be eligible therefore, other HUD-assisted projects;

3. Certificates under the Section 8 existing housing program if the tenant is eligible therefor; and

4. Reimbursement for reasonable moving expenses.

Paragraph (e) of proposed § 290.35 provides that the Secretary may require, as a condition and term of the sale, that the purchaser of a project from which displacement will occur will be obligated to provide displacement assistance to the extent provided for in the sale documents.

Paragraph (f) of proposed § 290.35 provides, consistent with current § 290.47(a), that where disposition is to a State agency which will acquire a project with Federal financial assistance, displacement benefits will be provided in accordance with the Uniform Relocation Act.

Proposed § 290.30 provides that the Secretary may determine to demolish or require a purchaser to demolish a multifamily project or a part thereof if the Secretary determines that the project or a portion thereof is obsolete or unsuitable for housing purposes by reason of physical condition, location or other factors and that no economically feasible program would return the project or portion there to useful life as decent, safe and sanitary housing. The Secretary also may provide for the demolition of a portion of the project if the demolition will help to ensure the useful life of the remaining portion of the project. The criteria for requiring or permitting demolition of a multifamily project are similar to those prescribed by recent legislation regarding demolition of public housing projects. See section 18 of the United States Housing Act of 1937, as added by section 214 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181.

Proposed § 290.30 further provides that for purposes of making the required determinations regarding demolition of a multifamily project, the Secretary may find that a program of repairs or other modifications which will cost more than the estimated fair market value of the project after completion of such program is not economically feasible.

Section 290.10, dealing with management of a multifamily project owned by the Secretary, is based on section 203(b)(2). Paragraph (b) of § 290.10 provides that the Secretary generally will seek to maximize competition in the procurement of management services for multifamily projects.

Proposed § 290.12 provides that occupancy in multifamily projects acquired by the Secretary shall be available on a first come, first served basis to persons who meet established standards for tenant selection, consistent with the program objectives stated in § 290.5, except that preference shall be given to tenants of other multifamily projects who are eligible for relocation assistance in accordance with proposed § 290.35.

Paragraph (b) of § 290.12 states the objective of maintaining full occupancy in HUD-owned projects in conformity with section 203(c)(2) of the 1978 Act. Paragraph (c) provides that evictions from HUD-owned projects are governed by 24 CFR Part 450, Subpart B.

Acquisition of title to a project by the Secretary, or acquisition of title by the mortgagee and conveyance to the Secretary, extinguishes the mortgage and any per-existing subsidy contracts. Accordingly, except as many be provided in the terms of outstanding leases, the statutory and regulatory bases for the determination of tenant rents in insured or assisted projects also are extinguished. Proposed § 290.14 would revise the current regulatory provisions governing the rents charged to tenants of HUD-owned projects.

Under current § 290.17, all tentants in formely subsidized projects are charged a rent equal to 25% of adjusted income. This includes tenants of projects formerly subsidized under shallow subsidy programs such as section 221(d)(3) BMIR and section 236. As a result, acquisition of a project by the Secretary has frequently resulted in a substantial increase in the effective subsidy provided to the tenants.

Under the current regulation, tenants of formerly unsubsidized projects as charged at the lower of a market rental rate determined by HUD and the "FHA rate"—i.e., the rent that FHA would have permitted to be charged under the mortgage that existed prior to foreclosure—unless a determination is made to permit lower rents in such projects "to maintain the existing economic mix in the project or to prevent undesirable turnover."

Revision of the current provisions regarding rent charges payable by tenants of HUD-owned projects is desirable in order to conform such provisions to legislative changes enacted in 1981 affecting tenant contributions by Section 8 tenants. In addition, the Department proposes to replace the concept of "FHA rent" in view of revisions in the manner of calculating rents in FHA insured multifamily projects promulgated in 1983.

Proposed § 290.14 provides that following acquisition of title, the Secretary will establish a maximum rent schedule for each unit in a project based on market rents for comparable units in the area. The new maximum rents will become applicable as permitted under the terms of existing leases, except that rent increases may be phased in if necessary to avoid a substantial impact on tenants or to prevent a substantial number of tenants from terminating their leases.

Relief from the foregoing provisions may be available for tenants who would be eligible for Section 8 assistance. Paragraph (c) of proposed § 290.14 provides that tenants who are determined to be "very low-income families" (i.e., with incomes not exceeding 50% of the area median income) may be charged a Section 8 rent, except that no such tenant will be entitled to a decrease below the rent paid prior to acquisition of the project by the Secretary. In the case of applicants admitted to the project after acquisition, "very low-income families" may be charged a rent equal to a Section 8 contribution if necessary in order that an available unit in the project may be affordable to such persons at a rental comparable to that being charged to persons of similar income for comparable units in the project.

Paragraph (d) applies to tenants who are "low income families"—i.e., with incomes not exceeding 80% of area median income but exceeding 50% of area median income. Such a tenant in occupancy at the time of project acquisition may be charged a Section 8 rent if necessary to permit the tenant to remain in the unit. In the case of a new tenant, a Section 8 rent contribution will be charged only if found necessary in order to obtain full occupancy of the project.

Paragraph (e) provides a transitional rule for tenants of HUD-owned projects whose rents are determined by the current regulation at the date of effectiveness of the regulation change. The rent of such a tenant will be determined as if the transitional rules for Section 8 tenants in occupancy at the time of effectiveness of the statutory

Section 8 rent increases were applicable. For example, if the regulation change were to become effective on October 1, 1984, the rent of such a tenant would not be increased to more than 29% of adjusted income and would be subject to a 10% annual cap on rent increases.

Proposed Section 290.40 implements section 204 of the Housing and Community Development Amendments of 1978. It provides that the purchaser of a multifamily project will be required to agree not to refuse unreasonably to lease a dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area to a holder of a certificate of family participation under the Section 8 existing housing program solely because of such prospective tenant's status as a certificate holder.

Proposed § 290.14 provides that Part 290 applies to the management and disposition of any multifamily rental housing project acquired by the Secretary which, prior to such acquisition by the Secretary, was assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964. This conforms the coverage of Part 290 to that of Section 203.

A proposed 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 the National Environmental Policy Act of 1969. (42 U.S.C. 4321–4347). The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicated that it does 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 export markets.

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)) the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule would revise the standards governing the Department's determination concerning the manner of sale of HUD-owned projects and would revise the method for computing rents during the Department's management of the project. These revisions should not affect the ability of small entities, relative to larger entities, to bid for and acquire projects that the Department determines to sell.

This rule was listed as Item 104 in the Department's Semiannual Agenda of Regulations, published on April 19, 1984 (49 FR 15902, 15929) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 290

Mortgage insurance, Low and moderate-income housing.

24 CFR Part 886

Grant program—housing and community development, Low and moderate income housing, Rent subsidies.

Accordingly, the Department proposes to amend Chapters II and VII of Title 24 of the Code of Federal Regulations as follows:

1. In Chapter II, Part 290 is proposed to be revised to read as follows:

PART 290—MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY PROJECTS

Sec.

290.1 Applicability.
290.5 Management and disposition objectives.
290.10 Management.
290.12 Occupancy during ownership by the Secretary.
290.14 Rental rates during ownership by the Secretary.
290.20 Factors considered for disposition.
290.25 Manner of disposition.
290.30 Demolition.
290.35 Displacement assistance.
290.40 Occupancy in projects acquired from the Secretary.
290.50 Delegation of authority.

Authority: Secs. 202, 203, 204, Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1b, 1701z–11, 1701z–12); Sec. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

§ 290.1 Applicability.

This part applies to the management and disposition of any multifamiliy rental housing project acquired by the Secretary pursuant to any provision of law which, prior to such acquisition by the Secretary, was assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964. Any such project owned by the Secretary is referred to in this part as a "multifamily project."

§ 290.5 Management and disposition objectives.

The purpose of the property management and disposition program for multifamily projects owned by the Secretary is to manage and dispose of such projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which HUD can further the goals of:

(a) Preserving the housing units so that at least those units which, at the time of acquisition, are occupied by low- and moderate-income persons or are vacant are available to and affordable by such persons;

(b) Preserving and revitalizing residential neighborhoods;

(c) Maintaining the existing housing stock in a decent, safe, and sanitary condition;

(d) Minimizing the involuntary displacement of tenants;

(e) Minimizing the need to demolish projects; and

(f) Maintaining the project for the purpose of providing rental or cooperation housing.

In determining the manner by which a multifamily project shall be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner which will further the achievement of the overall purpose stated in this section.

§ 290.10 Management.

(a) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of, HUD will seek to maintain all occupied multifamily projects owned by the Secretary in a decent, safe, sanitary condition.

(b) The Secretary may contract for management services for a multifamily project owned by the Secretary on a negotiated, competitive bid, or other basis on such terms as HUD shall determine to be reasonable, with a manager determined by the Secretary to be capable of (1) implementing a sound financial and physical management program; (2) responding to the needs of tenants and working cooperatively with

resident organizations; (3) providing adequate organizational, staff, and other resources to implement a management program determined by the Secretary; (4) complying with State and local property management licensing requirements; and (5) meeting such other requirements as the Secretary may determine to be necessary or appropriate.

(c) HUD generally will seek to maximize competition in the procurement of management services for multifamily projects. Management services may be procured on a noncompetitive basis only (1) on an interim basis for a period not exceeding 120 days, or (2) with prior approval of the Secretary under negotiation procedures which comply with Part 15 of the Federal Acquisition Regulations (48 CFR Part 15) and Part 2415 of the HUD Acquisition Regulations (48 CFR Part 2415).

§ 290.12 Occupancy during ownership by the Secretary.

(a) Occupancy in multifamily projects acquired by the Secretary shall be available on a first-come, first-served basis to persons who meet established standards for tenant selection consistent with the objectives stated in § 290.5, except that preference shall be given to tenants of other multifamily projects acquired by the Secretary who are eligible for assistance in accordance with § 290.35.

(b) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of, HUD will seek, to the greatest extent possible, to maintain full occupancy in all multifamily projects.

(c) Evictions from multifamily projects shall be governed by 24 CFR Part 450, Subpart B.

§ 290.14 Rental rates during ownership by the Secretary.

(a) Following acquisition of a project by the Secretary, HUD will establish a maximum rental rate schedule for each unit in the project which shall be comparable to the rates charged for comparable rental housing accommodations in the area, based on unit size, location, condition, services, and amenities provided, and conducive to attracting high occupancy without impacting adversely on the viability of comparable projects in the area. Such maximum rental rate schedule shall be reviewed and updated periodically to assure current comparability. Tenants in occupancy at the time of acquisition of the project by the Secretary shall continue to be charged at the rental rates provided under the terms of leases in effect immediately prior to acquisition until establishment of the maximum rental schedule described in the preceding sentence or such later time as rental changes may be permitted to be effected under the terms of such leases.

(b) When implementation of the maximum rental schedule established in accordance with paragraph (a) of this section, will require increases in the rents payable by tenants, such increases may be effected in phases if necessary to avoid substantial financial impact on tenants or to prevent a substantial number of tenants from terminating their leases.

(c) Notwithstanding the provisions of paragraph (a) of this section, rents charged to persons who are determined to be "very low-income families" (as defined in 24 CFR Part 813) and would be otherwise eligible for assistance under 24 CFR Part 882 may be limited to the rent that would be payable by such persons if the provisions of 24 CFR 813.107(a) were applicable, if the Secretary determine that such limitation is necessary:

(1) In the case of persons who are tenants at the time of acquisition of the project by the Secretary, in order that the unit occupied by such tenants will remain available to and affordable by such tenants, except that the rent payable by any such tenants shall not be required to be decreased below the rent or contribution charged under the lease in effect at the time of acquisition of the project by the Secretary, and

(2) In the case of persons who obtain or apply for admission to the project after acquisition of the project by the Secretary, in order that an available unit in the project may be affordable to such persons at a rental comparable to that being charged to persons of similar income for comparable units in the project.

(d) Notwithstanding the provision of paragraph (a) of this section, rents charged to tenants who are determined to be low-income families other than very low income (as defined in 24 CFR Part 813) and would be otherwise eligible for assistance under 24 CFR Part 882 (without regard to the limitations of 24 CFR 813.105) may be limited to the rent that would be payable by such tenant if the provisions of 24 CFR 813.107(a) were applicable, if the Secretary determines that such limitation is necessary:

(1) In the case of a tenant in occupancy at the time of acquisition of the project by the Secretary, in order that the unit occupied by such tenant will remain available to and affordable by such tenant, except that the rent payable by any such tenant shall not be required to be decreased below the amount charged under the lease in effect at the time of acquisition of the project by the Secretary, and

(2) In the case of a tenant who obtains or applies for occupancy after acquisition of the project by the Secretary, in order to obtain full occupancy of the project.

(e) Notwithstanding the provisions of paragraph (a)–(d) of this section, the rent charged to any tenant of a formerly subsidized multifamily project acquired by the Secretary prior to [effective date of this ruled], who was in occupancy at such date and whose rent was governed by the first sentence of 24 CFR 290.17(b) as in effect prior to [effective dare of this rule] shall be determined as if the provisions of 24 CFR 813.107(b) and (c)(2) were applicable to such tenant.

§ 290.20 Factors considered for disposition.

(a) In determining the manner by which an individual multifamily project is to be disposed of to further the achievement of the overall purpose stated in § 290.5, the Secretary shall consider:

(1) The history of the project, including the purposes of the loan or insurance program or program of HUD assistance under which the project was developed or assisted and the probable causes of project failure resulting in its acquisition by the Secretary;

(2) A financial analysis of the project, including an appraisal of the fair market value of the property for its highest and best use, taking into account the potential for conversion to cooperative or condominium ownership;

(3) A physical analysis of the project, including the condition of the structure(s) and grounds, the need for rehabilitation or repairs, and the estimated costs of any such rehabilitation or repairs;

(4) The income levels of the occupants of the project at the time of its acquisition by the Secretary and, if more than six months have expired since such acquisition and prior to the time of determination of the manner of disposition, at a time reasonably approximate to the time of such determination;

(5) Characteristics, including rental levels, of comparable housing in the area, with particular reference to whether current conditions and discernible trends in the market area fairly indicate a likelihood that, for the foreseeable future after disposition, the

project will continue to provide rental or cooperative housing and market rentals obtainable in the project will be affordable by low- or moderate-income persons;

(6) The availability of or need for rental housing for low- and moderate-income persons in the area, including actions being taken or projected to be taken to address such needs and the impact of such actions on the project;

(7) Feasibility of conversion to cooperative ownership, including the degree of interest and support from present occupants, whether the occupants have the capacity to pay conversion costs, and the impact of conversion on neighborhood preservation and revitalization;

(8) Whether there is interest and capacity the part of any State or local government agency in acquiring the project or in providing assistance for the maintenance of the project as rental or cooperative housing;

(9) An assessment of the number of occupants who might be displaced as a result of the manner of disposition; and

(10) An assessment and/or other findings in accordance with HUD requirements implementing the National Environmental Policy Act of 1969, as amended, in 24 CFR Part 50 and such other statutes, executive orders and HUD standards cited in § 50.4 that are applicable to the disposition of the project.

(b) Except only to the extent determined by the Secretary, on a case-by-case basis, to be clearly inappropriate, given the manner by which an individual project is to be disposed of, HUD will seek to ensure maintenance of the project for purposes of providing rental or cooperative housing for the longest feasible period.

(c) A final determination of the manner by which an individual project is to be disposed of shall not be made until notice of the proposed manner of disposition shall have been given to each tenant of the project, containing an invitation to submit written comments thereon during a period of not less than 30 days following the giving of such notice, and comments received during the stated period have been considered. Such notice shall:

(1) State briefly the proposed manner of disposition of the project, including such conditions upon the sale and the future use and operation of the project as may be contemplated and the extent of any repairs that may be required to be performed by the purchaser after disposition;

(2) State the extent to which assistance under 24 CFR Parts 882 or 886, Subpart C, may be provided pursuant to § 290.25(f) and the eligibility requirements therefor;

(3) State the extent to which temporary or permanent displacement is anticipated as a result of repairs or the proposed disposition, including any anticipated conversion of use, the nature of displacement assistance to be made available pursuant to § 290.35, and the eligibility requirements therefor; and

(4) State that the final determination by the Secretary of the manner by which the project is to be disposed of will not be made until after consideration of comments received from tenants prior to expiration of the specified comment period.

§ 290.25 Manner of Disposition.

(a) HUD may dispose of a multifamily project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate to furthering the purpose stated in § 290.5, considering the low- and moderate-income character of the project, including the number of units in the project occupied by low- and moderate-income persons.

(b) HUD ordinarily will seek to dispose of each multifamily project owned by the Secretary in such manner as will ensure the maximum return to the mortgage insurance funds. However, HUD may dispose of a project at its fair value for use when the Secretary finds that achievement of the purpose stated in § 290.5 in the disposition of the individual project requires that the project be disposed of at less than its full fair market value for highest and best use.

(c) When the Secretary determines that a project shall be sold at a consideration which is less than its fair market value for highest and best use in order to further a goal stated in § 290.5, the Secretary may impose such conditions upon the sale and the future use and operation of the project as the Secretary deems necessary or appropriate to furthering the achievement of such goal. HUD may require the purchaser of the project to enter into a regulatory or use agreement with HUD containing such terms and conditions (including, when deemed appropriate by HUD, regulation or restriction of rents and rate of return) as the Secretary may determine, whether the project is disposed of for cash or subject to a mortgage held or insured by HUD, which regulatory or use agreement shall be for such term (not less than the term of the mortgage if the property is disposed of subject to a mortgage held or insured by the Secretary) as the Secretary shall determine.

(d) HUD may require that repairs be performed to a project by the purchaser after disposition in order to return the project to decent, safe, and sanitary condition, and may provide such conditions or arrangements as the Secretary shall deem appropriate in order to ensure full and timely performance of such obligation by the purchaser. HUD may provide assistance for the performance of such repairs upon such terms and conditions as the Secretary shall determine.

(e) The Secretary may require the inclusion of appropriate convenants running with the land in the instrument effecting or recording the transfer of a project if the Secretary deems it necessary or appropriate in order to ensure that (1) the project will be maintained for the purpose of providing rental or cooperating housing for the longest feasible period, (2) repairs are completed, or (3) such other commitments as the Secretary may require that a right of reentry, or such other remedy as the Secretary deems appropriate, be included in such covenants.

(f) In connection with the disposition of a multifamily project, HUD:

(1) May provide Certificates of Family Participation pursuant to 24 CFR Part 882 to tenants of the project who are determined to be "very low-income families" (as defined in 24 CFR Part 813) and are otherwise eligible for such assistance, or to tenants of the project who are determined to be lower income families other than very low-income (as defined in 24 CFR Part 813) and are otherwise eligible for such assistance if permitted pursuant to 24 CFR 813.105, if determined by the Secretary to be necessary in order that the units occupied by such tenants will remain available to and affordable by such persons (and may require the purchaser to execute appropriate Housing Assistance Payments Contracts), and

(2) May enter into a contract with the purchaser of such project pursuant to 24 CFR Part 886, Subpart C, to make assistance payments under Section 8 of the United States Housing Act of 1937 with respect to such number of units, and for such term, as the Secretary may deem necessary in order to ensure the financial feasibility of the project after disposition.

(g) Each purchaser of a multifamily project owned by the Secretary shall be determined by HUD to be capable of (1) satisfying the conditions of the disposition; (2) implementing a sound financial and physical management program; (3) responding to the needs of the tenants and working cooperatively with resident organizations; (4) providing adequate organizational, staff and financial resources to the project;

and (5) meeting such other requirements as HUD may determine. All purchasers except Federal, State or local government agencies must be approved under the Previous Participation Review and Clearance procedures in 24 CFR 200.210 *et seq.*

(h) HUD generally will seek to maximize competition in the disposition of multifamily projects. The foregoing policy is intended for the benefit of the insurance funds in order to ensure the maximum return available therefor, after taking into account the Secretary's determinations regarding intended use of the project after disposition resulting from the balancing of goals under § 290.5, and is not intended to give to a prospective purchaser or other party a protectible interest in the Secretary's determination whether to dispose of a project on a competitive basis or otherwise. The Secretary may determine to dispose of a project on a negotiated basis when the Secretary has determined, after consideration of the factors enumerated in § 290.20 in the light of the purpose stated in § 290.5, that it is necessary or appropriate that disposition of the project be made to:

(1) A State or local government agency;

(2) A nonprofit cooperative corporation formed by the present or prospective tenants for the purpose of holding title to the project;

(3) A nonprofit consumer cooperative with successful experience in the operation of nonprofit housing, and a feasible plan for conversion to cooperative ownership;

(4) A nonprofit or limited dividend entity which, on the basis of an established record, is determined to be uniquely qualified in the locality as a source of ownership capable of the successful long-term operation of a project which the Secretary has determined should remain available to and affordable by low- and moderate-income persons.

Negotiations with a view to disposition under circumstances other than those described in paragraphs (h) (1)–(4) of this section may not be commenced without the prior approval of the Secretary. Authority to grant such approval, or to approve the consummation of a disposition on a negotiated basis under any circumstances (including those described in paragraphs (h) (1)–(4) of this section), may be delegated to the Assistant Secretary for Housing but may not be redelegated.

§ 290.30 Demolition.

The Secretary may determine to demolish, or require a purchaser to demolish, a multifamily project or a part thereof if the Secretary determines that the project or a portion thereof is obsolete or unsuitable for housing purposes by reason of physical condition, location or other factors and that no economically feasible program would return the project or portion thereof to useful life as decent, safe, and sanitary housing. In the case of a portion of a project, the Secretary also may determine to demolish, or require a purchaser to demolish, such portion if the Secretary determines that such demolition will help to assure the useful life of the remaining portion of the project. For purposes of making such determinations, the Secretary may find that a program of repairs or other modifications which will cost more than the estimated fair market value of the project after completion of such program is not economically feasible.

§ 290.35 Displacement assistance.

(a) Tenants who are or will be displaced from a multifamily project owned by the Secretary as a result of the repair, conversion of use, or demolition of the project shall be eligible for assistance in accordance with this section.

(b) Tenants who will be displaced temporarily as a result of repairs to a multifamily project owned by the Secretary, or repairs required to be made by the purchaser of a project pursuant to § 290.25(d), will, whenever practicable, be afforded the opportunity to return to repaired units in the same project. Each tenant identified for temporary displacement shall be provided a decent, safe and sanitary dwelling unit during the period of temporary displacement which, to the extent feasible, shall be in a location not generally less desirable than that currently occupied. A temporary displacee will be reimbursed for the expenses incurred in moving to and from a temporarily occupied unit in an amount determined by HUD to be reasonable for the household size and circumstances of the move, and for any net increase in monthly housing costs (rent and reasonable utility costs) incurred during the period of temporary displacement.

(c) Tenants who will be displaced permanently as a result of the conversion of use or demolition of a project shall be offered such assistance of the following categories as may be appropriate in the circumstances of individual tenants (including alternative assistance where appropriate):

(1) Advisory services (provided by HUD or by an appropriate agency designated by HUD) necessary to locate replacement housing and minimize hardships in adjusting to displacement.

(2) Preference for occupancy of available units in other multifamily projects owned by the Secretary or, to the extent that the tenant may be eligible for occupancy therein, in projects assisted by HUD.

(3) Assistance under 24 CFR Part 882 if the tenant is determined to be eligible therefor.

(4) Reimbursement for reasonable moving expenses not to exceed an amount determined by HUD to be reasonable for the household size and circumstances of the move.

(d) Tenants who will be displaced and are eligible for assistance under this section shall be given notice of the pending displacement and of the assistance offered not less than 30 days prior to the projected date of displacement. A tenant to whom such notice is given who moves from the project after such notice shall be eligible for the assistance specified in such notice.

(e) HUD may require that the purchaser of a project from which displacement will occur shall be obligated to provide assistance in accordance with this section to the extent provided for in the documents providing for the disposition.

(f) Where disposition is to a State agency (as defined in 24 CFR 42.85) which will acquire a project with Federal financial assistance (as defined in 24 CFR 42.61), displacement benefits will be provided in accordance with 24 CFR Part 42 in lieu of assistance specified in this section.

§ 290.40 Occupancy in projects acquired from the Secretary.

The purchaser of any multifamily project shall be required to agree not to refuse unreasonably to lease a dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined pursuant to 24 CFR 888.102 to a holder of a Certificate of Family Participation pursuant to 24 CFR Part 882 solely because of such prospective tenant's status as a certificate holder. Such agreement shall be contained in any contract of sale and also may be contained in any regulatory agreement, use agreement, or deed entered into connection with the disposition.

§ 290.50 Delegation of authority.

The functions, powers, and duties of the Secretary provided in this Part are delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, who is authorized to

exercise such functions, powers, and duties in the name of the Secretary and, except as expressly limited in this part, to redelegate and authorize successive redelegations of such authority.

PART 886—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SPECIAL ALLOCATIONS

2. Section 886.311 is proposed to be amended by revising paragraph (a) to read as follows:

§ 886.311 Term of contract.

* * * * *

(a) If the project units require no rehabilitation or moderate rehabilitation, the term shall not exceed 15 years.

* * * * *

Dated: September 13, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-27524 Filed 10-17-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-220-83]

Tax Treatment of Partnership Items for Windfall Profit Tax Purposes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The document contains proposed regulations relating to the tax treatment of partnership items for pruposes of the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 changed the applicable tax law. The proposed regulations would provide guidance to partnerships with oil production subject to windfall profit tax, their partners, and Internal Revenue Service personnel.

DATES: Written comments must be delivered or mailed by December 17, 1984.

The regulations extending the rules for consolidated partnership proceedings to windfall profit tax (§ 51.6232(a)–1) and setting out the definition of partnership items (§ 51.6232(a)–2) are proposed to be effective for taxable periods beginning after December 31, 1982. The remaining regulations are proposed to be effective for taxable periods beginning after December 31, 1984.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–220–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislation and Regulations Division, Internal Revenue Service (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations under section 6232 of the Internal Revenue Code of 1954, relating to extension of the partnership audit rules under Code sections 6221 through 6231 to the windfall profit tax. The Tax Equity and Fiscal Responsibility Act of 1982 added sections 6221 through 6232 to the Code. These proposed regulations are to be issued under the authority contained in sections 6232 (96 Stat. 666; 26 U.S.C. 6232) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Explanation of Provisions

Section 6232 provides for consolidated administrative and judicial proceedings to determine the proper tax treatment of partnership items for purposes of the windfall profit tax. The proposed regulations provide that, unless otherwise specifically provided in the proposed regulations, the rules and procedures for determining the tax treatment of partnership items for income tax purposes will apply in the determination of the tax treatment of partnership items for windfall profit tax purposes. For example, the tax matters partner for income tax purposes shall be the tax matters partner for windfall profit tax purposes. Similarly, the period of limitation for filing an administrative adjustment request under section 6227 and for assessing any deficiency attributable to partnership items under section 6229 shall apply except that the reference in section 6227 or 6229 to the partnership return shall, for windfall profit tax purposes, refer to the Form 6248 filed by the partnership. The proposed regulations also define the term "partnership item" for purposes of the windfall profit tax.

Section 6232(c)(1) permits the partnership to be treated as authorized to act on behalf of the partners in the determination, assessment, and collection of the windfall profit tax. The proposed regulations make this authority elective and explain how to make the election. This provision gives the partnership, acting through the tax matters partner, broad authority to act as agent for the partners on all matters relating to the windfall profit tax.

Partners, however, have the right to elect to negate the partnership's agency authority. Any partner or any group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may negate the authority of the partnership to act on behalf of the partners by filing a "5-percent election." Additionally, any partner may negate the authority of the partnership to act on his or her behalf by filing an "individual election." The procedures for filing these elections are set forth in the regulations.

If the partnership elects to act on behalf of the partners and no 5-percent election is made, the partnership shall compute the windfall profit tax liability with respect to each partner represented by the partnership (taking into account the net income limitation, independent producer amounts, and producer exemptions) and pay any additional windfall profit tax owed or file a claim for refund or credit due on behalf of those partners. Since such a partner will be represented by the partnership in all administrative and judicial proceedings, the partner is not entitled to receive notice regarding these proceedings or permitted to attend these proceedings. However, the partnership shall furnish that partner any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions if the partner requests such information.

The partnership is not required to furnish a Form 6248 to a partner represented by the partnership. Instead, the partnership shall furnish the partner a statement indicating the amount of windfall profit tax withheld or paid for the partner's share of partnership production during the removal year and the amount of the partner's share of any partnership level adjustment made during the removal year with respect to an earlier removal year.

Comments and Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer

for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities. The proposed regulations attempt to limit the paperwork burden to the minimum necessary to ensure that partners are aware of their rights and that the Service is able to administer the law efficiently. The paperwork burden will be substantial only for partnerships that have a very large number of partners. Accordingly, these proposed regulations are not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6).

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined Executive Order 12291 and that a regulatory impact analysis is therefore not required.

Drafting Information

The principal author of these proposed regulations was Donald W. Stevenson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Amendment of Regulations

Accordingly, it is proposed to amend the Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51) as follows:

The following new §§ 51.6232(a)–1, 51–6232(a)–2, and 51–6232(c)–1 through 51.6232(c)–5 are added in the appropriate place to read as follows:

§ 51.6232(a)–1 Partnership items for windfall profit tax purposes determined at the partnership level.

(a) *Sections 6221 through 6231 of the Code made applicable to windfall profit tax*—(1) *In general.* Except as otherwise provided in §§ 51.6232(c)–1 through 51.6232(c)–5 or this section, the rules and procedures for determining the tax treatment of partnership items for income tax purposes as set forth in sections 6221 through 6231 of the Code and the regulations under those sections shall apply in determining the tax treatment of partnership items (as defined in § 51.6232(a)–2) for windfall profit tax purposes. For example, the partner who is the tax matters partner for income tax purposes shall also be the tax matters partner for windfall profit tax purposes.

(2) *Information furnished for income tax purposes shall be used for windfall profit tax purposes.* Information furnished to the Service for income tax purposes by the tax matters partner or any other person under sections 6221 through 6231 (for example, information furnished to identify a previously unidentified partner or information furnished to determine whether the partner is entitled to notice) shall be used to the extent possible for windfall profit tax purposes.

(3) *Periods of limitations.* The period of limitation for filing a request for an administrative adjustment of, or for assessing any tax attributable to, any partnership item for purposes of the windfall profit tax shall be determined under section 6227 or 6229, except that any reference to the partnership return shall mean the "first" Form 6248 which is required to be filed by the partnership with the Service for the removal year to which the return relates. The last day for filing the "first" Form 6248 (determined without regard to extensions) shall be May 31 of the first year following the close of the removal year in which the crude oil was removed. See § 51.6232 (c)–1 (b)(7) for extension of time for taking certain actions.

(4) *Request for administrative adjustment*—(i) *In general.* Any claim for credit or refund or any return with respect to any overpayment or underpayment of windfall profit tax on partnership production shall be treated as a request for administrative adjustment within the meaning of section 6227 to the extent that the claim or return treats any partnership item in a manner that is inconsistent with the treatment of that item on the "first" Form 6248 filed by the partnership. Thus, for example, section 6228 applies in determining when a partner may file suit if the request for adjustment is not allowed.

(ii) *Certain rules as to form disregarded.* Requirements that a request for administrative adjustment for income tax purposes be filed on a particular form or in a particular manner do not apply in the case of a request for administrative adjustment for windfall profit tax purposes. The partnership or the partner may file a claim for credit or refund, or a return, of windfall profit tax with respect to partnership production in the same manner as a claim or return with respect to nonpartnership production.

(b) *Other windfall profit tax regulations remain applicable.* Except to the extent otherwise provided in §§ 51.6232(c)–1 and 51.6232(c)–5, the partnership and each partner shall comply with the requirements set forth in other provisions of this part or in Part 150 of this chapter for furnishing information, filing returns, paying additional tax, or claiming a credit or refund. For example, a partnership that does not make an election to represent partners under section 6232(c) shall furnish to partners and file with the Service the Form 6248 in the time and manner prescribed in § 51.4997–2.

(c) *Income tax deduction for windfall profit tax paid.* The partner shall take the partner's share of the windfall profit tax paid or withheld with respect to partnership oil removed during the removal year as reported by the partnership into account in determining the partner's income tax deduction for windfall profit tax paid during that year. In making that determination the partner shall also take into account any statement received from the partnership regarding any additional windfall profit tax paid, or any credit or refund of windfall profit tax received, during that removal year by the partnership on behalf of that partner with respect to any earlier removal year. If the partnership, as a result of receiving additional information, furnishes the partner a revised statement with respect to the amounts described above, the partner shall amend the partner's income tax return (if already filed) to reflect the revisions.

(d) *Effective date.* The rules set forth in this section are applicable to taxable periods beginning after December 31, 1982.

§ 51.6232 (a)–2 Definition of partnership item.

(a) *In general.* For purpose of section 6232 and the regulations thereunder, the term "partnership item" means any item relating to the determination of the tax

imposed by chapter 45 to the extent that such item is more appropriately determined at the partnership level than at the partner level.

(b) *Partnership items.* The following items with respect to oil removed from any property in which the partnership holds an interest are more appropriately determined at the partnership level than at the partner level and, therefore, are partnership items:

(1) The tier or tiers of the crude oil;

(2) The quantity of crude oil in each tier;

(3) The adjusted base price and removal price;

(4) The severance tax adjustment;

(5) The determination of whether the oil qualifies as exempt Alaskan oil;

(6) The determination of when removal from the premises occurs and what constitutes the property;

(7) The percentage interest of each partner in the oil removed;

(8) The amount of (and each partner's share of) the windfall profit tax withheld from, or paid by, the partnership for partnership oil removed during the taxable period;

(9) The windfall profit tax liability of each partner for that partner's share of the partnership oil removed during the taxable period (computed without regard to the net income limitation and on the assumption that information furnished to the partnership by the partner with respect to the partner's status as an independent producer or exempt status is correct); and

(10) The net income limitation to the extent that the limitation can be computed at the partnership level.

(c) *Effective date.* The provisions of this section are applicable to taxable periods beginning after December 31, 1982.

§ 51.6232 (c)–1 Partnership authorized to act on behalf of partners for a removal year beginning after 1984.

(a) *Overview of partnership authority and responsibilities*—(1) *In general.* Except to the extent otherwise provided in paragraph (a) (2) and (3) of this section, the partnership, acting through its tax matters partner, shall be authorized to act on behalf of the partners of that partnership in the determination, assessment, and collection of the windfall profit tax for a removal year beginning after 1984 if the partnership elects to do so in accordance with the requirements of § 51.6232 (c)–2 (b). If the partnership elects to act on behalf of the partners in this regard, the partnership's responsibilities to file with the Service and furnish to the partner any information, statement, or return are set forth in this section. If the partnership does not elect to act on behalf of the partner, it shall file with the Service and furnish to the partners any information, statement, or return required by other provisions of this part or by Part 150 of this chapter in the time and manner prescribed by those regulations.

(2) *Partnership authority negated by "5-percent election."* The authority of the partnership to act on behalf of the partners with respect to the windfall profit tax is negated if any partner or any group of partners who in the aggregate own at least a 5-percent interest in the income of the partnership make the election provided in § 51.6232 (c)–3. Paragraph (d) of this section sets out the responsibilities of the partnership in the event that a 5-percent election is made.

(3) *Partnership authority negated by "individual election."* The authority of the partnership to act on behalf of a particular partner with respect to the windfall profit tax is negated if that partner makes the election provided in § 51.6232(c)–4. Paragraph (c) of this section sets out the responsibilities of the partnership with respect to a partner who makes the "individual election."

(4) *Rules applicable to partner not represented by partnership.* For rules applicable to a partner when partnership authority to act on behalf of the partner is negated by an election under § 51.6232(c)–3 or § 51.6232(c)–4, see § 51.6232(c)–5.

(5) *Cross reference.* For rules applicable to removal years 1983 and 1984, see § 150.6232(c)–1.

(b) *Partnership responsibility with respect to partner who does not elect to negate the authority of the partnership to act on its behalf*—(1) *In general.* If the partnership elects to be treated as authorized to act on behalf of the partners and no 5-percent election is made in accordance with § 51.6232(c)–3, this paragraph (b) shall apply with respect to any partner who has not made an individual election under § 51.6232(c)–4 to negate the authority of the partnership.

(2) *Information to be furnished to partner*—(i) *Information in lieu of 6248.* The partnership is not required to furnish the partner a Form 6248. Instead, the partnership shall furnish to the partner a statement indicating the partner's allocable share of the windfall profit tax paid or withheld during the removal year; see § 51.6232 (a)–1 (c). This statement shall be furnished to the partner by the first March 31 following the removal year to which the statement relates.

(ii) *Later adjustments.* If the partnership—

(A) Pays an additional windfall profit tax, or

(B) Receives any credit or refund of windfall profit tax paid or withheld, with respect to a partner's share of partnership production for a removal year for which the partnership is authorized to act on behalf of the partner, the partnership shall notify the partner of the adjustment so that the partner may take the amount of the adjustment into account appropriately for income tax purposes. The partnership shall provide this notice at the same time as the partnership furnishes information to the partner with respect to windfall profit tax withheld or paid during the removal year in which the adjustment occurs.

(3) *Partnership required to file Form 6248 with Service.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) by the first June 30 following the year to which the form relates. This Form 6248 shall show the amount of windfall profit tax allocable to the partner that was actually withheld or paid during the removal year and any adjustment made by the partnership with respect to that partner to eliminate any overpayment or underpayment. The partnership shall furnish a separate Form 6248 for each partner; the partnership is not permitted to submit an aggregate Form 6248 for all partners.

(4) *Partnership shall pay tax or file claim for credit or refund*—(i) *In general.* The partnership shall compute the windfall profit tax liability of the partner with respect to partnership production (taking into account the net income limitation and the partner's independent producer amounts and exemptions) for the removal year. On or before the date on which the partnership furnishes to the Service the Form 6248 with respect to a partner under paragraph (b)(3) of this section, the partnership shall file with the Austin Service Center (at the address set out in paragraph (e) of this section) a Form 720, Quarterly Federal Excise Tax Return, with Form 6047, Windfall Profit Tax, attached and pay any additional tax owed with respect to the partner. The partnership may also, at any time within the applicable limitations period, file a Form 843, Claim, and claim any credit or refund due with respect to the partner. The partnership is not authorized to seek any adjustment in withholding to offset any overpayment of windfall profit tax during the removal year.

(ii) *Partnership may file aggregate return or claim.* The partnership may file

an aggregate return or claim for refund on behalf of all partners for whom the partnership is authorized to act. The partnership shall attach to the aggregate return or claim a statement showing the amount of the underpayment or overpayment allocable to each partner. If partners hold identical "unit" interests and the underpayment or overpayment with respect to each "unit" is the same, the partnership may state the underpayment or overpayment with respect to a "unit," identify each person holding a "unit," and specify the number of "units" held by each person.

(iii) *Partnership to assume that partner certifications are correct.* For purposes of computing the windfall profit tax liability of a partner, the partnership shall treat as correct certifications furnished by the partner as to the partner's producer status. Accordingly, if the partner certifies that the partner is an independent producer or a qualified royalty owner, the partnership shall assume that the partner is in fact an independent producer or a qualified royalty owner in computing the partner's liability.

(iv) *Partner barred from filing claim based on partnership items.* The partnership has an exclusive right to file a claim for refund of an overpayment of windfall profit tax if the overpayment arises from partnership items. The partner may file a claim for refund only if the overpayment arises from nonpartnership items; for example, the partner may file a claim for refund on the grounds that the partner is an independent producer but failed to certify that fact to the partnership.

(5) *Partnership shall represent partner in all proceedings.* The tax matters partner shall represent the partner in all administrative and judicial proceedings. Therefore, the partner shall not be permitted to participate in these proceedings or be entitled to receive the notices described in section 6223(a). The tax matters partner shall not be required to keep the partner informed of administrative or judicial proceedings. However, the partnership shall furnish to the partner upon request any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or the determination of the partner's entitlement to independent producer lower rates or royalty owner exemptions.

(6) *Settlement authority.* Any settlement entered into by the tax matters partner is binding on the partner. The partner is not permitted to enter into a separate settlement with the Service; accordingly, the partner is not permitted to request consistent settlement terms under section 6224(c).

(7) *Extension of time for certain actions.* The provisions of paragraphs (b)(3) and (b)(4) of this section that permit a return to be filed or a payment to be made later than the date otherwise prescribed for the filing of that return or the making of that payment under the Code or the applicable regulations operate an extensions of the period otherwise prescribed.

(c) *Partnership responsibilities with respect to partner who has made an individual election*—(1) *In general.* If the partnership makes the election described in § 51.6232(c)–2 to act on behalf of the partners and no 5-percent election is made, this paragraph (c) shall apply with respect to any partner who makes the individual election under § 51.6232(c)–4 to negate the authority of the partnership.

(2) *Partnership shall furnish Form 6248.* The partnership shall furnish a Form 6248 with respect to the partner to the Austin Service Center (at the address specified in paragraph (e) of this section) and to that partner within the time period prescribed in § 51.4997–2. Since the partnership is not authorized to make any adjustment to eliminate an overpayment or underpayment with respect to the partner, the Form 6248 will not show any adjustment made by the partnership.

(3) *Partnership may not file return or claim on behalf of partner.* The partnership may not file any return (Form 720) or any claim for credit or refund (Form 843) on behalf of the partner.

(4) *Partnership does not represent partner in proceedings.* Unless otherwise agreed upon between the partner and the partnership, the partnership shall not represent the partner in administrative or judicial proceedings to determine the proper treatment of partnership items with respect to the windfall profit tax.

(d) *Partnership responsibilities in event 5-percent election is made.* If the partnership elects to act on behalf of the partners in accordance with § 51.6232(c)–2 but a 5-percent election is made to negate that authority, the partnership shall furnish a Form 6248 with respect to each partner in the partnership to the Service and to the partner by the time prescribed in § 51.4997–2. The Forms 6248 furnished to the Service shall be filed with the service center designated on that form. The partnership is not permitted to make any adjustment with respect to the partners under these circumstances.

(e) *Address of Austin Service Center.* The address of the Austin Service Center to be used for purposes of this section and §§ 51.6232(c)–2 through 51.6232(c)–5 is: Internal Revenue Service Center, WPT Staff, P.O. Box 1231, Austin, Texas 78767, Stop 89.

§ 51.6232(c)–2 Election to act on behalf of partners for a removal year after 1984.

(a) *In general.* The partnership may elect to be treated as authorized to act for its partners for a removal year after 1984 by furnishing to the Service the notice described in paragraph (b) of this section. This election is an annual election. The partnership must furnish a separate notice for each removal year for which the partnership wishes to make this election. For rules with respect to removal years 1983 and 1984, see § 150.6232(c)–2.

(b) *Notice to the Service*—(1) *Content of notice.* The partnership shall furnish to the Internal Revenue Service a notice that identifies the partnership by name, address, and identification number and is signed by the tax matters partner. The notice shall state that the partnership intends to:

(i) Act on behalf of all partners in any judicial or administrative proceeding with respect to partnership items for windfall profit tax purposes for a removal year;

(ii) Pay on behalf of the partners any additional windfall profit tax determined to be due to reflect the proper treatment of partnership items for that removal year;

(iii) Receive on behalf of the partners any credit for, or refund of, any overpayment of windfall profit tax attributable to partnership items for that removal year; and

(iv) Reimburse the Service upon request for any duplicate refund made to a partner.

(2) *Time and place for filing.* The notice shall be filed with the Austin Service Center (at the address specified in § 51.6232 (c)–1 (e)) on or before September 30 of the removal year to which the election applies.

(c) *Notice to the partners*—(1) *In general.* A partnership that makes an election by filing a notice under paragraph (b) of this section shall furnish to each of its partners by September 30 of the removal year to which the notice relates a notice that includes the information contained in the notice under paragraph (b) of this section.

(2) *Further information required.* The notice sent to the partners shall also—

(i) Explain the right of any partner or any group of partners holding a 5-

percent or greater interest in the income of the partnership to negate the authority of the partnership to act on behalf of all partners by filing a notice in accordance with § 51.6232(c)–3; and

(ii) Explain the right of each partner individually to elect not to have the partnership act on behalf of that partner by filing a notice in accordance with § 51.6232(c)–4.

§ 51.6232(c)–3 "5 percent" election for removal years after 1984.

(a) *In general.* Any partner or group of partners owning in the aggregate at least 5 percent of the income interest of the partnership may elect to negate the authority of the partnership to act on behalf of the partners for a removal year after 1984 by filing a written notice to that effect. For rules with respect to removal years 1983 and 1984 see § 150.6232(c)–3.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 51.6232 (c)–1 (e)) on or before December 31 of the removal year to which the election applies.

(2) *Content of notice.* The notice shall—

(i) Identify the partnership by name, address, and identification number;

(ii) Identify the partners forming the 5–percent group by name, address, identification number, and percentage interest in the partnership;

(iii) Be signed by all members of the group making the election; and

(iv) Be clearly identified as an election to negate the authority of the partnership to act for all partners.

Any notice not clearly identified as a notice of election under this section shall be treated as an individual election under § 51.6232(c)–4. Thus, for example, a notice by a single partner owning a 5–percent interest that is not clearly identified as an election to negate the authority of the partnership to act for all partners shall be treated as an individual election under § 51.6232(c)–4.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership.

§ 51.6232(c)–4 Individual election for removal years after 1984.

(a) *In general.* Any partner desiring that the partnership not be authorized to act on its behalf for a removal year after 1984 shall file a notice in accordance with the rules set forth in this section. For rules with respect to removal years 1983 and 1984, see § 150.6232(c)–4.

(b) *Procedure for making election*—(1) *Time and place for filing.* The notice described in paragraph (a) of this section shall be filed with the Austin Service Center (at the address specified in § 150.6232 (c)–1 (e)) on or before December 31 of the removal year to which the election applies.

(2) *Content of notice.* The notice shall clearly identify the partner and the partnership by name, address, and identification number and shall state that it constitutes an election to deny the partnership the right to represent the partner in proceedings related to windfall profit tax on partnership production during the removal year. The notice shall be signed by the partner.

(3) *Copy for partnership.* A copy of the notice shall be furnished to the partnership within the period prescribed for filing the notice.

§ 51.6232(c)–5 Partner responsibility when partnership authority is negated for removal year after 1984.

(a) *In general.* If the partnership makes an an election under § 51.6232(c)–2 to act on behalf of the partners for a removal year after 1984, this section shall apply with respect to—

(1) All partners if an election under § 51.6232(c)–3 is made, and

(2) Any partner who makes an election under § 51.6232(c)–4.

For rules with respect to removal years 1983 and 1984, see § 150.6232(c)–5.

(b) *Partner shall pay additional tax or claim credit or refund.* The partner shall aggregate the Form 6248 information received from the partnership with Form 6248 information received from other sources to determine whether a net overpayment or underpayment of windfall profit tax exists for the partner's interests in oil properties. If a net underpayment exists, the partner shall file Form 720 with the service center designated on that form and pay any tax due by the time prescribed in § 51.6076–1. If a net overpayment exists, the partner may file a Form 843 of any other appropriate form to claim a credit or refund in accordance with the applicable instructions.

(c) *Partner is in same position as under rules for income tax proceedings.* The partner retains any right with respect to the determination of the tax treatment of partnership items for windfall profit tax purposes that the partner would possess under sections 6221 through 6231 and the regulations under those sections. For example, the partner is entitled to receive notice of the proceedings from the tax matters partner or the Service if that partner is entitled to receive notice under section 6223 of the Code, and the partner is entitled to participate in any administrative or judicial proceeding. Similarly, a settlement agreement entered into between the Service and the tax matters partner is binding on that partner if a settlement entered into under section 6224(c) of the Code would be binding on the partner.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–27600 Filed 10–17–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7–84–34]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Florida Department of Transportation, the Coast Guard is considering a change to the regulations governing the Pinellas Bayway, Structure "C", drawbridge by permitting the number of openings to be limited during certain periods. This proposal is being made because of a steady increase in both marine and vehicular traffic at the bridge.

This action should accommodate the needs of vehiclar traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before December 3, 1984.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 Southwest 1st Avenue, Miami, Florida 33130.

The comments and other materials referenced in this notice will be available for inspection and copying at 51 Southwest 1st Avenue, Room 816, Federal Building, Miami, Florida 33130. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Bridge Administration Specialist, telephone: (305) 350–4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

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

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander, Ken Gray, project attorney.

Discussion of Proposed Regulations

Vehicular and marine traffic is heaviest on weekends when there is a conflict aggravated by multiple drawbridge openings. The proposed rule will provide for 4 openings per hour on weekends from 9:00 a.m. to 6:00 p.m. which is about the same number that actually occurred during the 15-day traffic count taken in May 1984. However, this operation will eliminate the multiple drawbridge openings. The regulations if approved will exempt public vessels of the United States, tugs with tows, and vessels in distress which shall be passed through the draw at any time.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because navigation upon the waterway is primarily recreational in character and the regulations will exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, The Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by redesignating paragraph (e) of § 117.287 as paragraph (e–2) without change and adding a new paragraph (e–1) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.287 Gulf Intracoastal Waterway, Caloosahatchee River to Perdido River.

* * * * *

(e–1) The draw of the Pinellas Bayway, Structure "C" bridge, mile 114, at St. Petersburg Beach shall open on signal; except that from 9:00 a.m. to 6:00 p.m. on Saturdays, Sundays, and holidays, the draw need be opened only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46 (c)(5); 33 CFR 1.05–1 (g)(3))

Dated, October 5, 1984.

A.R. Larzelere,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 84–27561 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6625]

Proposed Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

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

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

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Unincorporated Areas of Baldwin County	Mobile River	Just upstream of Interstate 65	*12
			At confluence of Alabama River	*19
		Tombigbee River	At confluence of Alabama River	*19
			About 3.5 miles upstream of confluence of Alabama River.	*19
		Magnolia River	At mouth at Weeks Bay	*10
			About 2100 feet upstream of County Highway 49	*10
			About 1000 feet downstream of U.S. Highway 98	*24
		Bon Secour River	About 1.4 miles downstream of confluence of Brights Creek.	*10
			About 1.25 miles upstream of County Highway 10	*10
		Blackwater River	About 3.1 miles downstream of U.S. Highway 90	*67
			Just upstream of U.S. Highway 90	*83
			At confluence of Mill Creek	*88
		Fish River	Just upstream of U.S. Highway 98	*10
			Just downstream of County Highway 32	*10
			About 1.0 mile upstream of U.S. Highway 90	*104
		Threemile Creek	At confluence with Fish River	*104
			Just downstream of Interstate 10	*114
		Styx River	About 1.1 miles downstream of confluence of Styx River Tributary.	*169
			Just downstream of County Highway 40	*236
		Styx River Tributary	At confluence with Styx River	*191
			Just downstream of Unnamed Road	*223
		D'Olive Creek	Just downstream of Lake Forest dam	*12
			Just upstream of Lake Forest dam	*22
			Just downstream of U.S. Highway 90	*31
		D'Olive Creek Tributary	At confluence with D'Olive Creek	*28
			About 1.03 miles upstream of confluence with D'Olive Creek.	*59
		Tiawasee Creek	At confluence with D'Olive Creek (Lake Forest)	*22
			About 120 feet upstream of Ridgewood Drive	*45
			About 1400 feet upstream of Ridgewood Drive	*63
		Tiawasee Creek Tributary	At confluence with Tiawasee Creek	*47
			About 1.1 miles upstream of Greenwood Drive	*101
		Red Hill Creek	About 4700 feet downstream of State Highway 225	*11
			About 2.4 miles upstream of State Highway 225	*101
		Red Hill Creek Tributary	At confluence with Red Hill Creek	*11
			About 1.48 miles upstream of confluence with Red Hill Creek.	*53
		McCurtin Creek	About 2300 feet downstream of U.S. Highway 31	*156
			About 250 feet downstream of the Louisville and Nashville Railroad.	*192
			Just upstream of the Louisville and Nashville Railroad	*203
			About 170 feet upstream of County Highway 59	*205
		McCurtin Creek Tributary	At confluence with McCurtin Creek	*203
			About 3700 feet upstream of County Highway 59	*222
		Whitehouse Creek	About 2.5 miles downstream of State Highway 138	*118
			About 1.75 miles upstream of State Highway 138	*216
		Whitehouse Creek Tributary	At confluence with Whitehouse Creek	*129
			About 550 feet upstream of Unnamed Road	*164
		Dogwood Creek	About 4650 feet downstream of Unnamed Road	*166
			About 1.8 miles upstream of Unnamed Road	*221
		Dogwood Creek Tributary	At confluence with Dogwood Creek	*176
			About 1.15 miles upstream of confluence with Dogwood Creek.	*202
		Honeycut Creek	At mouth at Tensaw River	*11
			Just downstream of the Louisville and Nashville Railroad.	*82
			Just upstream of the Louisville and Nashville Railroad	*92
			About 4,700 feet upstream of the Lousiville and Nashville Railroad.	*103
		Stony Hill Creek	At mouth at Hurricane Bayou	*11
			Just downstream of the Louisville and Nashville Railroad.	*62
			Just upstream of the Louisville and Nashville Railroad	*89
			About 1,500 feet upstream of State Highway 225	*89
		Bay Minette Creek	About 1,000 feet downstream of confluence of Bay Minette Creek Tributary.	*117
			About 1.3 miles upstream of confluence of Bay Minette Creek Tributary.	*156
		Bay Minette Creek Tributary	At confluence with Bay Minette Creek	*121
			About 1.9 miles upstream of confluence with Bay Minette Creek.	*179
		Hollinger Creek	Just upstream of Unnamed Road	*177
			About 2.5 miles upstream of Unnamed Road	*216
		Rock Creek (Daphne)	Just upstream of Eastern Shore Boulevard	*11
			About 2.1 miles upstream of U.S. Highway 98	*76
		Rock Creek (Robertsdale)	At confluence with the Blackwater River	*72
			Just upstream of County Highway 52	*84
			About 1.2 miles upstream of County Highway 52	*100
		Boggy Branch	At confluence with the Bon Secour River	*10
			Just upstream of State Highway 59	*20
		Perone Branch	At confluence with the Fish River	*35
			Just upstream of State Highway 104	*40
		Bay Branch	At confluence with the Fish River	*87
			Just downstream of U.S. Highway 90	*104
		Corn Branch	At confluence with the Fish River	*56

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of County Highway 49	*163
		Durbin Branch	About 2.8 miles upstream of the mouth	*174
			About 3.6 miles upstream of the mouth	*202
		Martin Branch	At mouth at Red Hill Creek	*11
			About 2.3 miles upstream of State Highway 225	*97
		Tatumville Gully	Just downstream of Mobile Avenue	*10
			Just upstream of Mobile Avenue	*22
			Just downstream of Dirt Road	*42
			Just upstream of Dirt Road	*47
			Just downstream of Section Street	*50
			About 1,950 feet upstream of Section Street	*70
		Gulf of Mexico	Along the southern shoreline of Little Lagoon from the Town of Gulf Shores corporate limits to a point about 1.14 miles west of the Town of Gulf Shores westernmost corporate limits.	*6
			Abut 1,300 feet south of State Highway 180 at a point about 6.6 miles east of Mobile Point.	*8
			About 750 feet south of intersection of State Highway 135 and County Highway 2, located about 1,800 feet east of Town of Gulf Shores eastern corporate limits.	*8
			About 2.3 miles east of the Town of Gulf Shores eastern corporate limits along State Highway 182.	*8
			Along shoreline from Mobile Point to the State boundary at Perdido Bay.	*12
		Gulf of Mexico/Perdido Bay	About 700 feet north of the intersection of State Highway 161 and State Highway 182 at Cotton Bayou.	*7
			At the eastern end of County Highway 2 at Terry Cove	*7
		Gulf of Mexico/Perdido Bay (continued)	Along shoreline from State Highway 182 bridge over Perdido Pass to about 1.3 miles southeast of Bear Point.	*8
		Guld of Mexico/Mobile Bay	About 1.7 miles east of the end of State Highway 180 at Fort Morgan and about 600 feet south of the southern shoreline of Mobile Bay.	*7
			Along State Highway 180 from about 1.0 mile east of the west end of State Highway 180 at Fort Morgan to about 4.8 miles east of the end of highway.	*9
			Along shoreline from about 1.7 miles west of mouth of St. Andrews Bay to Fort Morgan.	*9
		Mobile Bay	About 1.0 mile south of the intersection of County Highway 32 and Davis Road.	*9
			Just west of the State Highway 59 bridge over the Intracoastal Waterway.	*10
			About 400 feet upstream of the mouth of Weeks Branch.	*10
			Just downstream of County Highway 26 bridge over Weeks Creek.	*10
			Just upstream of the County Highway 49 bridge over skunk Bayou.	*10
			Along shoreline at Mobile Bay from Little Point Clear to about 1.7 miles west of the mouth of St. Andrews Bay.	*10
			Just upstream of the Eastern Shore Boulevard bridge over Point Clear Creek.	*10
			Along shoreline (Bon Secour Bay) from about 1.14 miles east of Three Rivers to Little Point Clear.	*11
			Along Mobile River from Lousiville and Nashville Railroad to Interstate 65.	*11
			Along shoreline (Bon Secour Bay) from about 1.14 miles to about 3.2 miles east of Three Rivers.	*12
			Along Mobile River from divergence of Spanish River north to Louisville and Nashville Railroad.	*12
			Along shoreline from about 800 feet west of the intersection of U.S. Highway 98 and County Highway 32 to about 2.6 miles north of Fish River Point.	*12
			Just upstream of the Eastern Shore Boulevard bridge over Fly Creek.	*12
			Along shoreline (Bon Secour Bay) from about 2.6 miles north of Fish River Point to about 3,500 feet south of mouth of Weeks Bay.	*13
			Along shoreline (Bon Secour Bay) from about 3.2 miles to 4.8 miles east of Three Rivers.	*13
			Along Bay Minette Creek from about 500 feet downstream of State Highway 225 bridge over Bay Minette Creek to about 4.0 miles upstream.	*13
			About 1,300 feet south of the intersection of U.S.Highway 98 and Old State Highway 42.	*13
			Along shoreline from about 1.7 miles north of Great Point Clear to about 800 feet west of the intersection of U.S. Highway 98 and County Highway 32.	*13
			Alone shoreline from City of Fairhope southern corporate limits southward for about 0.65 mile.	*14
			Along shoreline (Bon Secour Bay) from about 3,500 feet south of the mouth of Weeks Bay to about 7.0 miles southwest of the mouth of the Bon Secour River.	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Along the Spanish River from U.S. Highway 90 bridge to just downstream of the divergence from the Mobile River.	*15
			At Grand Bay	*15
			Along shoreline from about 800 feet south of the City of Daphne southern corporate limits.	
			to the City of Fairhope northern corporate limits	*15
			Along shoreline from the mouth of D'Olive Bay to about 1,000 feet north of the mouth of Baptizing Branch at the Tensaw River.	*16
			Along U.S. Highway 98 over Mobile Bay to the county boundary.	*16
			Along shoreline from City of Daphne southern corporate limits southerly for about 800 feet.	*16
			Along shoreline from the City of Daphne northern corporate limits to about 3,100 feet northeast of the intersection of U.S. Highway 98 and County Highway 11.	*17
		Mobile Bay/Bon Secour Bay	About 1.3 miles south of Little Point Clear and about 1.3 miles west of Three Rivers on Bon Secour Bay.	*8
		Perdido Bay	Along Soldier Creek about 3.0 miles upstream of mouth at Perdido Bay.	*4
			About 3,500 feet upstream of County Highway 99 bridge over Manuel Bayou near Perdido Bay.	*4
			About 2,200 feet downstream of County Highway 99 bridge over Peterson Branch near Perdido bay.	*4
			Along Palmetto Creek upstream of confluence of Spring Branch.	*4
			At Rabbit Island near the eastern state boundary	*5
			Along the southern shoreline of Arnical Bay near Perdido Bay.	*5
			Along shoreline from Arnica Bay to about 1.6 miles north of mouth of Manuel Bayou at Perdido Bay.	*5
			Along shoreline from Suarez Point to about 0.5 mile north of U.S. Highway 98 bridge.	*6
			Just downstream of U.S. Highway 90 bridge over Perdido River.	*6
			Along Blackwater River from mouth at the Perdido River to about 5.7 miles upstream of mouth.	*6
			Along shoreline from about 0.5 mile north of U.S. Highway 98 bridge to about 2.3 miles northeast of U.S. Highway 98 bridge.	*7
			Along the shoreline from about 2.3 miles northeast of the U.S. Highway 98 bridge over Perdido Bay to about 0.5 mile north of Caney Bayou.	*8
		Wolf Bay	Just upstream of the County Highway 20 bridge over Hammock Creek.	*4
			At the western end of County Highway 42 near mouth of Hammock Creek at Wolf Bay.	*6
			About 1.3 miles upstream of the County Highway 20 bridge over Wolf Creek.	*6
			Just upstream of the County Highway 20 bridge over Sandy Creek.	*6
			About 1 mile upstream of the County Highway 20 bridge over Mifiin Creek.	*6
			About 0.8 mile west of Wolf Bay at Mulberry Point	*6
			Along the eastern shoreline of Wolf Bay from about 3,600 feet north of Sapling Point to the mouth of Hammock Creek.	*8
		Perdido Bay/Wolf Bay	Along Ingram Bayou about 3,200 feet upstream of mouth at Bay La Launch.	*5
			Along the southern shoreline of Bay La Launch	*5
			Along the shourthern shoreline of Wolf Bay	*6
			Along the northern shoreline of Bay La Launch to the mouth of Wolf Bay.	*7
			Along the western shoreline of Wolf Bay from the mouth of Portage Creek to the mouth of Graham Bayou.	*6

Maps available for inspection at the Baldwin County Courthouse, Bay Minette, Alabama. Send comments to Honorable Neil Lauder, Chairman, Baldwin County Commission, Baldwin County Courthouse, P.O. Box 148, Bay Minette, Alabama 36507.

Alabama	City of Bayou LaBatre Mobile County	Gulf of Mexico/Mississippi Sound	Intersection of Davenport Street and Castelin Avenue	*10
			Intersection of Shell Belt Road and Warner Street	*12
			Intersection of McLean Street and Bates Avenue	*12
			About 4,500 feet upstream of mouth of Bayou LaBatre	*13
			Along Shoreline	*17

Maps available for inspection at the City Hall, Bayou LaBatre, Alabama. Send comments to Honorable M.G. Temme, Mayor, City of Bayou LaBatre, City Hall, Bayou LaBatre, Alabama 36509.

Alabama	City of Daphne Baldwin County	Rock Creek	About 800 feet downstream of confluence of Unnamed Tributary A.	*62
			About 600 feet upstream of confluence of Unnamed Tributary B.	*93
		Mobile Bay	About 300 feet east of shoreline and about 1450 feet northwest of intersection of Old County Road and Whiting Court.	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1,300 feet upstream of mouth of Campbell Creek and about 900 feet south of Maxwell Drive.	*13
			Along shoreline from southern corporate limits to about 3,000 feet west of intersection of Main Street and Santa Rosa Avenue.	*16
			Along shoreline from northern corporate limits to about 3,000 feet west of intersection of Main Street and Santa Rosa Avenue.	*17
Maps available for inspection at the City Hall, Daphne, Alabama. Send comments to Honorable Victor Guarisco, Mayor, City of Daphne, City Hall, Daphne, Alabama 36526.				
Alabama	Town of Gulf Shores Baldwin County	Gulf of Mexico	Along southern shoreline of Little Lagoon	*8
			At intersection of East Second Avenue and East Fourth Street.	*8
		Mobile Bay	Along shoreline	*12
			Along Intracoastal Waterway eastward from Gulf Shores Parkway.	*8
			Along West Canal Drive westward from West First Street.	*10
			At western corporate limits 2,900 feet north of Intracoastal Waterway.	*12
Maps available for inspection at the Town Hall, Gulf Shores, Alabama. Send comments to Honorable Dr. Thomas Norton, Mayor, Town of Gulf Shore, Town Hall, Gulf Shores, Alabama 36542.				
Alabama	Unincorporated Areas	Mobile River	About 0.4 mile downstream of Interstate 65	*11
			About 3.65 miles upstream of confluence of Alabama River.	*19
		Escatawpa River	About 1.25 miles downstream of Illinois Central Gulf Railroad.	*81
			About 2.4 miles upstream of Beverly Jeffries Highway	*128
		Unnamed Tributary to Escatawpa River.	At mouth	*92
			About 2.95 miles upstream of Unnamed Road	*176
		Fowl River	About 2.65 miles downstream of Fowl River Road	*8
			At the confluence with the East Fowl River	*8
			Just north of Delcamps Road Bridge over the Narrows	*8
			About 1,700 feet downstream of Cedar Point Road bridge over East Fowl River.	*8
			Just downstream of Louisville and Nashville Railroad	*46
			Just downstream of U.S. Highway 90	*56
			About 3,200 feet upstream of County Highway 30	*128
		Fowl River Tributary No. 3	At mouth	*14
			Just downstream of Cleveland Avenue	*53
		Fowl River Tributary No. 1	At mouth	*57
			About 0.8 mile upstream of Murray Hill Road	*98
		Fowl River Tributary No. 2	At mouth	*22
			About 5,900 feet upstream of Half Mile Road	*38
		Unnamed Tributary to Little River	About 1.7 miles upstream of mouth	*20
			About 3.0 miles upstream of mouth	*51
		Borrow Creek	At mouth	*18
			About 3.7 miles upstream of Burlington Northern Railroad.	*87
		Chickasaw Creek	About 3,250 feet downstream of Industrial Parkway	*20
			About 3.65 miles upstream of confluence of Sand Hill Creek.	*183
		Chickasaw Creek Tributary No. 2	About 3,200 feet downstream of State Highway 158	*11
			About 1,050 feet upstream of State Highway 158	*20
		Gunnison Creek	About 550 feet downstream of Interstate 65	*11
			Just downstream of Hatters Dam	*36
		Sawmill Creek	Just upstream of Hatters Dam	*40
			About 2.15 miles upstream of confluence of Rocky Branch.	*118
		Red Creek	Just upstream of Bear Fork Road	*73
			About 1.75 miles upstream of Schillinger Road	*151
		Eightmile Creek	About 4,300 feet downstream of Shelton Beach Road	*41
			About 3,500 feet upstream of Shelton Beach Road	*54
		Halls Mill Creek	At mouth	*10
			Just downstream of Cody Road	*40
			Just upstream of Cody Road	*43
			About 2,250 feet upstream of Leroy Stevens Road	*84
		Pierce Creek	At mouth	*54
			About 700 feet upstream of Bryant Street	*189
		Second Creek	Just upstream of Cody Road	*45
			About 2,850 feet upstream of Cottage Hill Road	*66
		Unnamed Tributary to Second Creek.	At confluence with Second Creek	*66
			Just upstream of Schillinger Road	*99
		Second Creek (Above confluence of Unnamed Tributary to Second Creek).	Just upstream of confluence of Unnamed Tributary to Second Creek.	*66
			About 4,800 feet upstream of confluence of Unnamed Tributary to Second Creek.	*87
		Bennett Creek	At mouth	*126
			About 0.65 mile upstream of U.S. Highway 45	*197
		Lotts Mill Creek	At mouth	*119
			About 1.75 miles upstream of mouth	*123
		Nobodies Creek	At mouth	*118
			About 0.33 mile upstream of Beverly Jeffries Highway	*208

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pond Creek	At mouth	*114
			At State Boundary	*172
		Islelet Creek	At mouth	*110
			At State Boundary	*158
		Puppy Creek	At mouth	*106
			About 1.4 miles upstream of Russell Road	*242
		West Fork Puppy Creek	At mouth	*182
			Just downstream of Russell Road	*197
		Scarbo Creek	At mouth	*86
			About 250 feet upstream of Unnamed Road	*88
		Cedar Creek	At mouth	*17
			About 1.2 miles upstream of Averett Patrick Road	*164
		Little Creek	At mouth	*67
			About 0.6 mile upstream of Wood Road (about 5.5 miles upstream of mouth).	*162
		Little Creek Tributary	At mouth	*102
			About 1.7 miles upstream of mouth	*136
		Sister Creek	At mouth	*15
			About 0.15 mile upstream of Burlington Northern Railroad.	*28
			About 1.9 miles upstream of Burlington Northern Railroad.	*79
		Indian Grave Creek	At mouth	*49
			About 1.5 miles upstream of confluence of Indian Grave Creek Tributary No. 2.	*108
		Indian Grave Creek Tributary No. 1	At mouth	*58
			About 2.1 miles upstream of mouth	*110
		Indian Grave Creek Tributary No. 2	At mouth	*70
			About 2.6 miles upstream of mouth	*122
		Flat Creek	About 1.15 miles downstream of County Highway 74	*112
			About 2.75 miles upstream of County Highway 74	*168
		Juniper Creek	At mouth	*121
			About 0.4 mile upstream of County Highway 86	*188
		Big Creek	About 0.2 mile downstream of State Boundary	*30
			Just downstream of Tanner Williams Road	*67
			Just upstream of Tanner Williams Road	*112
			About 2.4 miles upstream of Earl Booth Road	*220
		Collins Creek	At mouth	*118
			About 2.8 miles upstream of Glenwood Road	*180
		Crooked Creek	At mouth	*112
			About 0.95 mile upstream of County Highway 68	*180
		Hamilton Creek	At mouth	*112
			About 0.7 mile upstream of Howells Ferry Road	*150
		Pasture Creek	At mouth	*44
			About 4.1 miles upstream of County Highway 56	*106
		Miller Creek	At mouth	*38
			About 2.05 miles upstream of Repoll Road	*151
		Turkey Creek	At mouth	*78
			About 2.6 miles upstream of Oyler Road	*129
		Deakle Creek	At mouth	*64
			About 1.2 miles upstream of County Highway 33	*110
		Baker Creek	At mouth	*71
			About 1.55 miles upstream of Wear Road	*150
		Jackson Creek	About 0.1 mile downstream of State Boundary	*16
			About 0.25 mile upstream of Deb Bosby Road	*140
		Unnamed Tributary to Jackson Creek	At mouth	*34
			About 2.0 miles upstream of mouth	*58
		Sand Hill Creek	At mouth	*120
			About 2.1 miles upstream of U.S. Highway 45	*141
		Meekers Creek	At mouth	*54
			Just downstream of Walter Moore Road	*108
		Log Creek	At mouth	*72
			About 6.2 miles upstream of Chunchula Georgetown Road.	*138
		Silver Creek	At mouth	*49
			About 2.6 miles upstream of U.S. Highway 45	*118
		Williams Creek	At mouth	*45
			Just downstream of confluence of Gallops Creek	*82
		Reedbreak Creek	Just upstream of confluence of Gallops Creek	*82
			Just downstream of confluence of Lewis Williams Branch.	*120
		Miller Spring Branch	Just upstream of confluence of Lewis Williams Branch	*120
			About 1.5 miles Upstream of confluence of Lewis Williams Branch.	*166
		Seabury Creek	Just upstream of U.S. Highway 45	*26
			About 5.15 miles upstream of U.S. Highway 45	*118
		Magee Creek	At mouth	*36
			About 2.7 miles upstream of U.S. Highway 45	*112
		Gallops Creek	At mouth	*82
			About 0.2 mile upstream of confluence of George Spring Branch.	*138
		Clear Creek	About 0.12 mile downstream of Illinois Central Gulf Railroad.	*107
			About 0.6 mile upstream of Illinois Central Gulf Railroad.	*125
		Rabbit Creek	About 1.2 miles downstream of Todd Acres Drive	*10
			About 250 feet upstream of Todd Acres Drive	*19

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 500 feet upstream of Louisville and Nashville Railroad.	*31
		Muddy Creek	About 1.1 miles upstream of Old Pascagoula Road	*92
			At mouth	*8
		Franklin Creek	About 0.35 mile upstream of Swedetown Road	*64
			About 0.5 mile downstream of Confluence of Reedy Branch.	*16
		Franklin Creek Tributary No. 1	About 0.5 mile upstream of Fernland Road	*98
			About 2.7 miles downstream of Potter Tract Road	*18
		Franklin Creek Tributary No. 2	About 1.6 miles upstream of Henderson Camp Road	*72
			At mouth	*65
		Carls Creek	About 1.2 miles upstream of Ramsey Road	*95
			Just upstream of Padgett Switch Road	*14
		Bishop Manor	Just downstream of confluence of Hammer Creek	*37
			Just upstream of Confluence of Hammer Creek	*37
		Hammer Creek	About 1.4 miles upstream of Argyle Road	*84
			At mouth	*37
		Unnamed Tributary to Hammer Creek.	About 2.7 miles upstream of Three Mile Road	*85
			At mouth	*68
		Milkhouse Creek	About 0.15 mile upstream of Argyle Road	*90
			Just upstream of Cody Road	*108
			Just downstream of Dam	*127
			Just upstream of Dam	*132
		Double Branch	About 1,900 feet upstream of Airport Boulevard	*172
			At confluence with Rad Creek	*112
		Halls Branch	About 5,000 feet upstream of Schillinger Road	*139
			About 4,400 feet downstream of Burlington Northern Railroad.	*11
			About 6,300 feet upstream of Burlington Northern Railroad.	*25
		Jim Bell Branch	About 1.75 miles upstream of confluence with Mobile River.	*19
			About 2.2 miles upstream of confluence with Mobile River.	*20
		Beaver Pond Branch	At mouth	*156
			About 1.6 miles upstream of Unnamed Road	*204
		Lott Branch	At mouth	*149
			Just downstream of State Boundary	*176
		Denmark Spring Branch	At mouth	*128
			About 1.7 miles upstream of mouth	*174
		Bull Branch	At mouth	*37
			About 1.45 miles upstream of Sandy Ridge Road	*158
		Citronelle Branch	At mouth	*93
			About 2.6 miles upstream mouth	*159
		Jackson Branch	At mouth	*144
			About 2.0 miles upstream of Howard Morris Road	*188
		Boggy Branch	At confluence with Big Creek	*112
			About 1.3 miles upstream of County Highway 5	*158
		Big Branch	At mouth	*54
			About 0.75 mile upstream of (Unnamed Road About 1.75 miles upstream of mouth).	*106
		Island Branch	At mouth	*39
			About 1.45 miles upstream of Tom Gaston Road	*75
		Bell Branch	At mouth	*41
			About 1.7 miles upstream of County Highway 11	*102
		Bay Branch	At mouth	*24
			About 1.4 miles upstream of County Highway 33	*77
		Long Branch	At mouth	*92
			About 2.1 miles upstream of Illinois Central Gulf Railroad.	*136
		Sweetwater Branch	At mouth	*106
			About 3.9 miles upstream of U.S. Highway 45	*179
		Reedy Branch	At mouth	*20
			About 1.9 miles upstream of Interstate 10	*50
		Hells Swamp Branch	About 4.1 miles upstream of mouth	*80
			About 5.55 miles upstream of mouth	*132
		Cypress Branch	At mouth	*67
			About 1.9 miles upstream of mouth	*104
		North Fork	At mouth	*18
			About 3.35 miles upstream of mouth	*117
		Bayou Sara	About 7,200 feet downstream of Interstate 65	*16
			About 2.0 miles upstream of Walter Moore Road	*248
		Rattlesnake Bayou	About 1,950 feet downstream of Louisville and Nashville Railroad.	*10
			Just downstream of Interstate 10	*46
			About 250 feet upstream of Interstate 10	*51
			About 1,800 feet upstream of Interstate 10	*53
		Unnamed Tributary to Bayou La Batre.	About 0.2 mile downstream of Unnamed Road (Unnamed Road about 2.0 miles upstream of mouth).	*20
			About 0.1 mile upstream of Unnamed Road (Unnamed Road about 3.5 miles upstream of mouth).	*54
		Unnamed Tributary to Bayou La Fourche.	About 1.35 miles downstream of Miller Lane	*19
			About 1.1 miles upstream of Potter Tract Road	*57
		Dog River	Along Dog River shoreline from Cedar Point Road bridge to the confluence of Rabbit Creek.	*10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 3,100 feet west along Island Road from the intersection of Cedar Point Road and Island Road.	*10
		Gulf of Mexico/Mississippi Sound	About 6,500 feet west along Bienville Boulevard from the intersection of State Highway 163 and Bienville Boulevard on Dauphin Island.	*8
			About 1,500 feet north along State Highway 163 from the intersection of State Highway 163 and Bienville Boulevard on Dauphin Island.	*8
			About 2.3 miles east along Bienville Boulevard from the interstection of State Highway 163 and Bienville Boulevared on Dauphin Island.	*8
			At state boundary (about 2,100 feet south of U.S. Highway 90).	*9
			About 700 feet east of state boundary and 1,200 feet north of Turkey Farm Road.	*9
			About 250 feet downstream of Old Rock Road Bridge over Bayou Jonas.	*9
			Just upstream of Bellingrath Road bridge over Bayou Jonas.	*9
			Just upstream of Zirlott Road bridge over West Fowl River.	*9
			Entire shoreline of Sand Island	*9
			Just south of Delchamps Road bridge over The Narrows.	*9
			About 3,900 feet north of the intersection of Zirlott Road and State Highway 188.	*9
			About 3,900 feet east of the intersection of Zirlott Road and State Highway 188.	*9
			Just upstream of Cedar Point Road bridge over Delchamps Bayou.	*9
			Along the northern shoreline of Dauphin Island from about 1,400 feet east of western tip to about 2,100 feet west of LaPitte Bay.	*10
			Along north eastern shorelines of Little Dauphin and Dauphin Islands from Bayou Matagua to about 600 feet northwest of Pelican Point.	*10
			Along entire shoreline of Pelican Island	*10
			About 550 feet downstream of Marine Laboratory Road bridge over Unnamed Tributary to Bayou La Batre.	*10
			About 1,800 feet north of Judy Road and about 1,000 feet west of Russell Avenue.	*10
			Just upstream of State Highway 188 bridge over West Fowl River.	*10
			Along shoreline from about 1,300 feet north of Cedar Point to 300 feet west of State Highway 163.	*11
			About 4,700 feet north of the mouth of Grand Bayou	*11
			About 1,600 feet east of State boundary and 3,900 feet south of Turkey Farm Road.	*11
			About 1,150 feet upstream of Marine Laboratory Road bridge over Unnamed Tributary to Little River.	*11
			Just downstream of Russell Avenue bridge over Bayou Coden.	*11
			Just upstream of State Highway 188 bridge over Bayou Coden.	*11
			About 400 feet north of the intersection of Old Rock Road and Gwodz Road.	*11
			About 3,000 feet upstream of Old Rock Road bridge over Bayou Jonas.	*11
			Just upstream of Bayou Street bridge over Bayou Sullivan.	*11
			About 4,200 feet west of the intersection of Williams Road and Heron Bay Road.	*11
			About 5,800 feet upstream of the mouth of Heron Bayou.	*11
			Along southern shoreline of Dauphin Island from western tip to Pelican Point.	*12
			Along southern shoreline from about 4,300 feet north of Barron Point to about 1,300 feet north of Cedar Point.	*12
			Along entire shoreline of Cat Island	*12
			Along entire shoreline of Lady Island	*12
			Along shoreline from about 7,300 feet south of the mouth of West Fowl River to about 4,300 feet north of Barron Point.	*13
			Along entire shoreline of Raccoon Island	*13
			Along shoreline from about 1,050 feet west of the intersection of Coden Belt Road and Bosarge Road to about 7,300 feet south of the mouth of West Fowl River.	*14
			Along entire shoreline of Marsh Island	*14
			About 5,900 feet north of the end of Marine Laboratory Road.	*14
			Along shoreline from about 900 feet east of the mouth of Bayou Coden to about 1,050 feet west of the intersection of Coden Belt Road and Bosarge Road.	*15

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Along shoreline from about 2,850 feet west of the mouth of Bayou Coden to about 900 feet east of the mouth of Bayou Coden.	*16
			Along shoreline from the state boundary to about 3,400 feet east of Little Bay Island.	*16
			Along entire shoreline of Isle Aux Herbes	*16
			From South Rigolets Island to Barton Island	*16
			Along shoreline from about 3,400 feet east of Little Bay Island to about 2,850 feet west of the mouth of Bayou Coden.	*17
		Mobile Bay	About 5,000 feet north and aboiut 150 feet west of the intersection of Delchamps Road and Cedar Point Road.	*7
			About 2,400 feet south of the intersection of Cedar Point Road and Faustina Beach Road.	*7
			About 1,100 feet west of the intersection of Kearns Road and Jackson Road.	*8
			About 100 feet south of the intersection of Kearns Road and Jackson Road.	*8
			About 2,800 feet south along Cedar Point Road from the intersection of Cedar Point Road and State Highway 188.	*8
			Just downstream of Cedar Point Road bridge over Delchamps Bayou.	*8
			About 100 feet west and 650 feet north of the intersection of Cedar Point Road any Byrnewood Road.	*9
			About 2,100 feet south of the intersection of Riverview Nursery Road and Salt Aire Road.	*9
			Along shoreline from about 1.0 mile north of the intersection of Salt Aire Road and Kearns Road to about 1,700 feet (continued) south of the mouth of South Fork Deer River.	*9
			About 1,050 feet north and 190 feet east of the intersection of Jackson Road and Kearns Road.	*9
			About 1,000 feet north and 1,800 feet east of the intersection of East Cedar Wood Drive and Cedar Point Road.	*9
			Along shoreline from about 300 feet west of State Highway 163 to about 2,500 feet north of the mouth of Whitehouse Bayou.	*9
			About 2,300 feet downstream of Cedar Point Road bridge over East Fowl River.	*9
			Along shoreline from about 1,700 feet south of the mouth of South Fork Deer River to about 200 feet downstream of state Highway 163 bridge over Dog River.	*10
			About 400 feet west of the intersection of Cedarwood Court and Ramsey Drive.	*10
			About 1,700 feet north and 1,600 feet east of the intersection of East Cedarwood Drive and Cedar Point Road.	*10
			About 2,400 feet upstream of Cedar Point Road (continued) Fork Deer River.	*10
			About 3,200 feet upstream of Cedar Point Road bridge over North Fork Deer River.	*10
			Just upstream of Island Road bridge over Alligator Bayou.	*10
			About 300 feet east along Island Road from the intersection of Island Road and San Marino.	*10
			About 850 feet north of the intersection of Range Line Road and Island Road.	*10
			Along shoreline from about 2,500 feet north of the mouth of Whitehouse Bayou to about 1,200 feet north of East Fowl River.	*10
			Along shoreline from about 4,000 feet north of north end of Goat Island to about 5,200 feet north of the intersection of Salt Aire Road and Kearns Road.	*10
			Along shoreline from about 1,200 feet north of the mouth of East Fowl River to about 4,000 feet north of Goat Island.	*11
			About 11.1 miles east and 0.1 miles south of the intersection of Cody Road and Airport Boulevard.	*12

Maps available for inspection at the Mobile County Building Department, Bay Hass Building, Government Street. Send comments to Honorable Dan Wiley, President, Mobile County Commission, P.O. Box 1443, Mobile, Alabama 36633.

Alabama	City of Mobile, Mobile County	East Eslava Creek	Just upstream of Louisville and Nashville Railroad	*10
			Just upstream of Bel Air Boulevard	*21
		West Eslava Creek	At mouth	*38
			Just upstream of Lleyn Avenue	*60
			Just upstream of McGregor Avenue	*90
		Twelvemile Creek	At mouth	*88
			Just downstream of Old Shell Road	*134
			About 1,550 feet upstream of Brandy Run Road	*160
		Halls Mill Creek	At confluence with Dog River	*10
			Just downstream of Cody Road	*40
		Spring Creek	At confluence with Halls Mills Creek	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Girby Road	*30
			About 1,250 feet upstream of Yorkwood Road South	*55
		Clear Creek	At confluence with Red Creek	*65
			About 2.0 miles upstream of Moffat Road	*107
		Threemile Creek	Just upstream of Norfolk Southern Railway	*12
			Just upstream of Interstate 65	*43
			Just downstream of Ziegler Boulevard (downstream crossing).	*70
			Just upstream of downstream crossing of Ziegler Boulevard.	*80
			Just upstream of Gaillard Drive	*91
			Just upstream of Carnegie Street	*151
			Just downstream of Ziegler Boulevard (upstream crossing).	*183
		Threemile Creek Tributary	At mouth	*91
			Just upstream of Illinois Central Gulf Railroad	*123
			About 1,200 feet upstream of Overlook Road	*152
		Toulmins Spring Branch	At mouth	*12
			Just upstream of Craft Highway	*15
		Second Creek	At confluence with Miklhouse Creek	*30
			Just downstream of Cody Road	*45
		Bolton Branch West	At mouth	*33
			About 200 feet downstream of Azalea Road	*63
			Just upstream of Azalea Road	*74
			About 1,800 feet upstream of Thornton Place	*81
		Bolton Branch East	At confluence with East Eslava Creek	*10
			Just upstream of Halls Mill Road	*10
		Woodcock Branch	At mouth	*10
			Just downstream of Airport Boulevard	*12
		Moore Creek	At mouth	*11
			About 425 feet downstream of U.S. Highway 90	*23
			About 375 feet downstream of U.S. Highway 90	*34
			About 625 feet upstream of U.S. Highway 90	*38
		Spencer Branch	About 625 feet upstream of U.S. Highway 90	*38
			Just downstream of Burma Road West	*74
			Just upstream of Burma Road West	*82
			Just downstream of Cottage Hill Road	*104
		Eightmile Creek	Just upstream of Bear Fork Road downstream crossing.	*40
			At confluence of Clear Creek	*65
		Red Creek	At confluence of Clear Creek	*65
			About 1,650 feet upstream of confluence of Clear Creek.	*72
		Montlimar Creek	At mouth	*10
			About 3,300 feet upstream of Airport Boulevard	*39
		Milkhouse Creek	At confluence with Halls Mill Creek	*27
			Just downstream of Grelot Road	*84
			Just upstream of Grelot Road	*88
			Just downstream of Cody Road	*108
		Dog River	From mouth to Louisville and Nashville Railroad	*10
		Mobile Bay	Along shoreline from southern corporate limits to about 50 feet north of southern corporate limits at Dauphin Island Parkway.	*10
			Along shoreline from about 50 feet north of southern corporate limits at Dauphin Island Parkway to Hannon Road.	*11
			Along Chickasaw Creek from Louisville and Nashville Railroad to Burlington Northern.	*11
			At intersection of Dauphin Island Parkway and Hannon Road.	*11
			At intersection of Dearborn Street and New Jersey Street.	*12
			At intersection of Congress Street and Washington Avenue.	*12
			Along shoreline from Hannon Road to U.S. Highway 90.	*12
			Along Mobile River from mouth to U.S. Highway 90	*12
			About 1,500 feet north of the U.S. Highway 90 and Interstate 10 interchange.	*13
			Along Spanish River from the mouth to about 1,700 feet downstream of its divergence from Mobile River.	*15
			About 6,700 feet east along U.S. Highway 90 and Interstate 10 interchange.	*16
		Mobile River	From Divergence of Spanish River to Louisville and Nashville Railroad.	*11
			From Louisville and Nashville Railroad to northern corporate limits.	*12

Maps available for inspection at the City Engineer's Office, City Hall, Mobile, Alabama. Send comments to Honorable Lambert Mimms, Mayor, City of Mobile, City Hall, P.O. Box 148, Mobile, Alabama 36633

California	Bishop (City)	North Fork Bishop Creek	At U.S. Highway 6	*4,142
	Inyo County	South Fork Bishop Creek	At Main Street	*4,141

Maps available at Planning Department, 377 W. Line Street, Bishop, California.
Send comments to the Honorable Roger Rogers, P.O. Box 1236, Bishop, California 93514.

California	La Quinta (City), Riverside County	Bear Creek	Intersection of Calle Tampico and Avenida Bermudas	*42
		Shallow Flooding	Intersection of Calle Sonora and Avenida Alvarado	#2

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inpsection at the Planning Department, 78-105 Calle Estodl, La Quinta, California Send comments to the Honorable Lawrence O. Allen, P.O. Box 1504, La Quinta, California 92253				
California	San Buenaventura (City) Ventura County	Santa Clara River	700 feet south along Ventura Road from the intersection with the Southern Pacific Railroad.	*64
		Ventura River	50 feet upstream from the centerline of West Main Street.	*21
		Harmon Barranca	Centerline of Bristol Road	*138
		Brown Barranca	50 feet upstream from the centerline of Telegraph Road.	*241
			Intersection of Santa Paula Freeway (State Highway 126) and South Wells Road.	*185
			Intersection of Pajaro Avenue and Citrus Drive	*180
			Intersection of North Wells Road and Citrus Drive	*#1
		Mills Road Drain	Intersection of Sidonia Avenue and Rexford Street	*#1
			Intersection of Lemon Grove Avenue and Channel Drive.	*66
		Barlow Barranca	Intersection of East Main Street and Interchange Ramp for Santa Paula Freeway (State Highway 126).	*#1
		Pacific Ocean	At mouth of Ventura River	*9
			At Ventura Marina	*6
Maps available at the Office of the Chief Engineer, 501 Poli Street, San Buenaventura, California. Send comments to the Honorable Jack Orrock, P.O. Box 99, San Buenaventura, California 93002.				
California	Santa Cruz County (unincorporatad areas)	Aptos Creek	20 feet upstream from center of State Highway 1 (Cabrillo Freeway).	*24
		Arana Gulch	Intersection of Arana Gulch and center of State Highway 1 (Cabrillo Freeway).	*65
		Carbonera Creek At Santa Cruz	450 east from intersection of Plymouth Street and Emeline Avenue.	*42
		Carbonera Creek At Scotts Valley	460 feet downstream from center of State Highway 17	*462
		Corralitos Creek	50 feet upstream from center of Green Valley Road	*108
			50 feet upstream from center of Brown Valley Road	*240
		Coward Creek	intersection of Coward Creek and center of Riverside Road.	*40
		Harkins Slough	Intersection of Harkins Slough and Harkins Slough Road.	*14
		Pajaro Rover	200 feet upstream from center of State Highway 1	*27
		Pajaro River—without consideration of levee.	Intersection of West Beach Street and Thurwachter Road.	*14
		Rodeo Creek Gulch	190 feet upstream from center of State Highway 1	*78
		Salsipuedes Creek	Intersection of College Road and Cutter Drive	*62
		San Lorenzo River	150 feet upstream from center of Ocean Street	*66
			110 feet upstream from center of brimblecom Road	*492
			Intersection of San Lorenzo River and center of McGaffigan Mill Road.	*658
		San Vicente Creek	85 feet upstream from center of State Highway 1	*25
		Schwans Lagoon	Intersection of Schwans Lagoon and center of East Cliff Drive.	*13
		Soquel Creek	Intersection of Soquel Drive and Porter Street	*40
		Struve Slough	Intersection of Struve Slough and center of State Highway 1.	*15
		Tomasello Creek	Intersection of Thomasello Creek and center of Riverside Road.	*54
		Thompson Creek	10 feet upstream from center of Riverside Road	*51
		Watonsville Slough	Intersection of Watsonville Slough and center of Ford Street.	*23
		Zayante Creek	50 feet upstream from center of Quail Hollow Road	*336
		College Lake	Intersection of Laken Drive and Laken Court	*70
		Lake Tynan	Along entire lake shoreline	*42
Maps available for inspection at County Planning Department, 701 Ocean Street, Santa Cruz, California. Send comments to the Honorable Robley Levy, 701 Ocean Street, Santa Cruz, California 95060.				
California	Susanville (city) Lassen County	Susan River	Intersection of Cornell Street and Small Street	*4,179
		Puite Creek	Intersection of Parkdale Avenue and Mark Street	*4,206
Maps available at Building Department, 66 N. Lassen Street, Susvanville, California. Send comments to the Honorable Helen M. Leve, 66 N. Lassen Street, Susanville, California 96130.				
Colorado	Fountain (city) El Paso County	Fountain Creek	100 feet downstream of U.S. Highway 85 and 87	*5,515
		Jimmy Camp Creek	Centerline of the Denver and Rio Grande Western Railroad.	*5,522
		Security Creek	800 feet upstream from the confluence with Widefield Creek.	*5,667
		Widefield Creek	Intersection of Southmoor Drive and Prado Road	*5,643
Maps are available at City Hall, 116 South Main, Fountain, Colorado. Send comments to the Honorable Howard Thompson, 116 South Main, Fountain, Colorado 80817.				
Colorado	Green Mountain Falls (town), El Paso County	Fountain Creek	Center line of Hotel Street	*7,709
Maps available for inspection at Town Hall, Green Mountain Falls, Colorado. Send comments to the Honorable Gary Rogers, Box 524, Green Mountain Falls, Colorado 80819.				
Colorado	Hotchkiss (town), Delta County	North Fork, Gunnison River	40 feet downstream from centerline of State Highway 92.	*5,318

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Public Works Department, B & Main, Hotchkiss, Colorado. Send comments to the Honorable John R. Neill, B & Main, Hotchkiss, Colorado 81419.				
Colorado	Ouray County (Unincorporated Areas)	Uncompahgre River	At the center of County Road 24	*6,885
			30 feet downstream from the Center of Potter Lane	*7,068
			At the confluence of Corbett Creek and the Uncompahgre River.	*7,437
			1,500 feet west of the intersection of Cutler Creek and U.S. Highway 550.	#1
		Uncompahgre River West Arm	At the confluence of Park Ditch and the Uncompahgre River West Arm.	*7,191
Maps available for inspection at Special Assistance Office, 541 4th Street, Ouray, Colorado. Send comments to Honorable Howard Williams, 541 4th Street, Ouray, Colorado 81427.				
Colorado	Ouray (city), Ouray County	Uncompahgre River	At the confluence of Bridalveil Creek and the Uncompahgre River.	*7,629
			30 feet upstream from the center of Seventh Avenue	*7,710
			50 feet upstream from the center of Oak Street	*7,750
Maps available for inspection at City Hall, 320 6th Avenue, Ouray, Colorado. Send comments to the Honorable Jack E. Clark, 320 6th Avenue, Ouray, Colorado 81427.				
Colorado	Yuma County (unincorporated areas)	North Fork Republican River	100 feet upstream of center of Road MM	*3,445
			50 feet upstream from center of Road 33.75	*3,637
Maps available at County Clerk's Office, 202 East 3rd, Wray, Colorado. Send comments to the Honorable Harvey Pletcher, 202 East 3rd, Wray, Colorado 80758.				
Colorado	Wray (city), Yuma County	North Fork Republican River	Intersection of Adams Street and West 2nd Street	*3,520
Maps available at City Manager's Office, 245 West 4th, Wray, Colorado. Send comments to the Honorable Jack Sloniker, Box 35, Wray, Colorado 80758.				
Georgia	Unincorporated Areas of Rabun County	Stekoa Creek	Just upstream of U.S. Route 441	*1,849
			About 1.35 miles upstream of Bethel Church Road	*1,861
			City of Clayton northern corporate limits	*1,935
			About 1.0 mile upstream of City of Clayton northern corporate limits.	*2,050
		Scott Creek	City of Clayton corporate limits	*1,886
			Just downstream of U.S. Rout 76	*2,009
		Saddle Gap Branch	About 2,800 feet downstream of County Road 173	*1,895
			About 2,300 feet upstream of County Road 173	*1,976
		Norton Creek	Just upstream of Warwoman Road	*1,899
			About 500 feet upstream of County Road 49	*1,919
Maps available for inspection at the Rabun County Courthouse, Clayton, Georgia. Send comments to Honorable Virgil Ledford, Chairman, Rabun County Commission, Rabun County Courthouse, P.O. Box 925, Clayton, Georgia 30525.				
Idaho	Wardner (city), Shoshone County	Milo Creek	715 feet northeast along Main Street from its intersection with Price Street.	*2,493
			180 feet southeast along Downs Street from its intersection with Main Street.	*2,829
Maps available at City Hall, 700 Main Street, Wardner, Idaho. Send comments to the Honorable Charles R. Peterson, 700 Main Street, Wardner, Idaho 83837.				
Illinois	Unincorporated Areas of Cumberland County	Embarras River	About 1.7 miles downstream of confluence of Muddy Creek.	*513
			About 3.0 miles upstream of County Route 9	*564
Maps available for inspection at the County Clerk's Office, Cumberland County Courthouse, Toledo, Illinois. Send comments to Honorable Micheal D. Walk, Chairman, Cumberland County Board, Cumberland County Courthouse, P.O. Box 146, Toledo, Illinois 62468.				
Illinois	City of Galesburg, Knox County	Cedar Creek	Just upstream of County Line Road	*726
			About 1,500 feet upstream of North Farnham Street	*780
		North Branch Court Creek	Just downstream of East Fremont Street	*762
			Just upstream of East Fremont Street	*771
			About 160 feet upstream of Torrey Pines Road	*779
Maps available for inspection at the City Hall, Galesburg, Illinois. Send comments to Honorable Jerry Miller, Mayor, City of Galesburg, City Hall, P.O. Box 1387, Galesburg, Illinois 61402.				
Illinois	Unincorporated areas of Grundy County	Illinois River	About 0.3 mile downstream of Conrail	*498
			At confluence of Kankakee River	*509
		Des Plaines River	At confluence of Kankakee River	*509
			About 0.5 mile upstream of confluence of Kankakee River.	*510
		Kankakee River	Mouth at Illinois River	*509
			Just downstream of County Line Road	*510
		East Fork Mazon River	About 3,800 feet downstream of Interstate 55	*568
			About 3,400 feet upstream of Rice Road	*585
		East Fork Mazon River Tributary	Mouth at East Fork Mazon River	*583
			About 1,900 feet upstream of mouth	*585
		Nettle Creek	About 7,000 feet downstream of Conrail	*506
			Just downstream of Conrail	*516
		East Fork Nettle Creek	Just upstream of Interstate 80	*535
			About 5,000 feet upstream of Gore Road	*556
		East Fork Nettle Creek Tributary	About 5,000 feet downstream of Ashley Road	*522
			About 400 feet downstream of U.S. Route 6	*534
			Just downstream of Interstate 80	*544
		Aux Sable Creek	About 2.8 miles downstream of Minooka Road	*535

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gooseberry Creek	About 2,000 feet upstream of Interstate 80	*548
			Just upstream of Old Mazon Road	*612
			Just downstream of Livingston Road	*619
		West Fork Gooseberry Creek	About 3,100 feeet downstream of Scully Road	*614
			About 2,800 feet upstream of Interstate 55	*626
		Claypool Ditch	Just upstream of Jugtown Road	*541
			Just downstream of Broadway Road	*547

Maps available for inspection at the Building, Planning and Zoning Office, Grundy County Courthouse, 111 E. Washington, Morris, Illinois. Send comments to Honorable William Waters, Chairman, Grundy County Board, Grundy County Courthouse, 111 E. Washington, Morris, Illinois 60450.

Illinois	Unincorporated areas of Henry County	Rock River	About 2.2 miles downstream of confluence of Green River.	*573
			About 2.3 miles upstream of State Route 92	*583
		Green River	Mouth at Rock River	*574
			About 0.95 mile upstream of Interstate 80	*583

Maps available for inspection at the Zoning Office, Henry County Courthouse, Cambridge, Illinois. Send comments to Honorable Lauren L. Truninger, Chairman, Henry County Board, Henry County Courthouse, Cambridge, Illinois 61238.

Iowa	City of Waterloo Black Hawk County	Cedar River	About 1.75 miles downstream of Illinois Central Gulf Railroad.	*833
			About 2.15 miles upstream of confluence of Stream No. 13.	*859
		Sink Creek	About 950 feet downstream of Shaulis Road	*833
			About 2,650 feet upstream of Hammond Avenue	*907
		Crossroads Creek	Mouth at Cedar River	*840
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*845
		Blowers Creek	About 120 feet upstream of Hammond Avenue	*882
			Just upstream of closure structure	*228
			Just downstream of Illinois Central Gulf Railroad (about 1,500 feet upstream of closure structure).	*832
			About 200 feet upstream of Illinois Central Gulf Railroad (about 1,800 feet upstream of closure structure).	*838
			About 100 feet downstream of LaFayett Street	*839
			Just upstream of LaFayett Street	*844
			At confluence of Maywood Branch	*856
		Maywood Branch	At confluence with Blowers Creek	*856
			Just upstream of Newell Street	*886
		Blowers Creek (Upstream of Maywood Branch).	At confluence with Maywood Branch)	*856
			Just upstream of Newell Street	*880
		Virden Creek	Just upstream of Culvert Inlet	*855
			About 0.97 mile upstream of East Donald Street	*871
		Virden Creek Tributary	About 1,900 feet downstream of Wast Airline Highway	*871
			About 100 feet upstream of Big Rock Road	*908
		Black Hawk Creek	Mouth at Cedar River	*854
			About 0.61 mile upstream of West Shaulis Road	*872
		Prescotts Creek	Mouth at Black Hawk Creek	*866
			About 500 feet upstream of Hoff Road	*891
		City View Branch	Mouth at Blowers Creek	*853
			Just downstream of Illinois Central Guld Railroad	*862
		Stream No. 13	Just upstream of Wagner Road	*857
			About 0.53 mile upstream of Big Rock Road	*875
		Stream No. 36	Mouth at Stream No. 13	*865
			About 0.81 mile upstream of Big Rock Road	*872
		Stream No. 37	Mouth at Stream No. 13	*867
			Just upstream of Burton Avenue	*876
		Stream No. 39	Mouth at Stream No. 13	*873
			Just upstream of Burton Avenue	*879
		Dry Run Creek	About 1,300 feet downstream of Mitchell Avenue	*868
			Just downstream of Bontrager Park outlet structure	*883
			Just upstream of Bontrager Park outlet structure	*889
			Just downstream of Park Lane	*889
			Just upstream of Park Lane	*894
			Just downstream of San Marnin Drive	*902
			Just upstream of State Highway 412	*907
			Just downstream of U.S. Highway 520	*910
			Just upstream of U.S. Highway 520	*915
			About 350 feet upstream of West Shaulis Road	*941
		Cedar River Diversion	Within corporate limits	*859
		Shallow Flooding (Overflow from Culvert on Virden Creek downstream of U.S. Highway 63).	At the intersection of Center Street and Logan Avenue	*851
			About 500 feet west of intersection of Utica Street and Lafayette Street.	*851
			About 400 feet northeast of intersection of Dawson Street and Logan Avenue.	*855

Maps available for inspection at the City Hall, 715 Mulberry, Waterloo, Iowa. Send comments to Honorable Del Bowers, Mayor, City of Waterloo, City Hall, 715 Mulberry, Waterloo, Iowa 50703.

Maine	Acton, Town, York County	Little Ossipee River	At Hansen Pond (within corporate limits)	*517
			Downstream corporate limits	*518
			Access Road (upstream side) located approximately 1 mile upstream of corporate limits.	*533
			Balch Pond Road (upstream side)	*553

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Balch Pond	Balch Pond Dam (downstream side)	*560
			Entire shoreline within community	*560

Maps available for inspection at the Acton Town Hall, P.O. Box 85, Acton, Maine.
Send comments to Honorable Victor Mee, Jr., Chairman of the Acton Board of Selectmen, Town Hall, P.O. Box 85, Acton, Maine 04001.

Maine	Cape Elizabeth, Town Cumberland County	Casco Bay	Shoreline at Oakhurst Road (extended)	*16
			Shoreline approximately 800 feet southeast of Oakhurst Road (extended).	*12
			Shoreline at Singles Road (extended)	*18
			Shoreline at Portland Head	*18
		Atlantic Ocean	Shoreline at Broad Cove Road (extended)	*13
			Shoreline at Park Road (extended)	*14
			Shoreline approximately 800 feet northeast of McKenney Point.	*11
			Dunes along Seal Cove	#2
			Dunes along Atlantic Ocean	#1
			Shoreline at mouth of Spurwink River	*15
			Shoreline of Spurwink River approximately 1,000 feet upstream from mouth.	*10
			Entire shoreline of Ram Island	*18
			Dunes on east side of Richmond Island	#2
			Shoreline of Richmond Island at Clam Cove	*12
			Shoreline of Richmond Island on east side of Adams Head.	*19
			Shoreline of northwest side of Richmond Island	*9
		Trout Brook	Approximately 0.34 miles downstream of Spurwink Avenue.	*51
			Upstream side of Spurwink Avenue	*53

Maps available for inspection at the Code Enforcement Office, Town Office Building, c/o Jerry Daigle, 86 Fowler Road, Cape Elizabeth, Maine.
Send comments to Honorable K. Wayne Murray, Chairman of the Cape Elizabeth Town Council, Town Office Building, 86 Fowler Road, Cape Elizabeth, Maine 04107.

Maine	Newfield, Town, York County	Little Ossipee River	At downstream corporate limits	*354
			Approximately 1 mile downstream of Newfield Road	*363
			Upstream side of Newfield Road	*385
			Approximately 2.8 miles upstream of Newfield Road	*420
			Approximately 0.6 mile downstream of State Route 11	*455
			Downstream side of State Route 11	*474
			Upstream side of State Route 11	*487
			Downsteam side of Old State Route 11	*499
			Upstream side of Shapleigh Pond and Dam Road	*516
			Upstream side of Whitehouse Road	*533
			Upstream side of Balch Pond Road	*553
			Upstream side of Balch Pond Dam	*560
		Balch Pond	Entire shoreline within community	*560

Maps available for inspection at the Newfield Town Hall, P.O. Box 62, Newfield, Maine.
Send comments to Honorable Frank Davis, Chairman of the Board of Selectmen, Town Hall, P.O. Box 62, West Newfield, Maine 04095.

Maine	Scarborough, Town, Cumberland County	Atlantic Ocean	Shoreline at Oak Street (extended south)	*15
			Shoreline at Champion Street (extended)	*15
			Shoreline at Pearl Street (extended)	*19
			Shoreline at Ferry Road (extended east)	*15
			Shoreline at East Point	*15
			Shoreline 1,000 feet east of Checkly Point	*22
		Scarborough River	Shoreline at northern end of Pillsbury Drive (extended)	*14
			Eastern shoreline of Boston and Maine Railroad embankment 1,000 feet south of the Scarborough River crossing.	*11
			Western shoreline at Boston and Maine Railroad crossing.	*9
		Nonesuch River	Shoreline at confluence with Scarborough River	*12
			Shoreline at Plummer Island Road (extended)	*10
			Shoreline at Boston and Main Railroad crossing	*9
		Jones Creek	Shoreline at Pearl Street (extended north)	*8

Maps available for inspection at the office of Charlie Anderson, Engineer-Planner, Scarborough, Maine.
Send comments to Honorable John Grilfith, Chairman of the Scarborough Town Council, P.O. Box 360, Scarborough, Maine 04074.

Maine	South Berwick, Town, York County	Great Works River	Leighs Mill Pond Dam	*33
			160' upstream Brattle Dam No. 2	*57
			Upstream Brattle Street	*85
			Downstream Hooper Sands Road	*97
			Upstream corporate limits	*105

Maps available for inspection at the South Berwick Town Clerk's Office, South Berwick, Maine.
Send comments to Honorable John S. Eldridge, III, Town Manager of South Berwick, Town Offices, South Berwick, Maine 03908.

Maine	Turner, Town, Androscoggin County	Martin Stream	Confluence with Nezinscot River	*309
			State Route 117 (upstream side)	*322
			Ricker Hill Road (upstream side)	*328
			Tidswell Road (upstream side)	*339
			North Turner Dam (upstream side)	*355
			Upstream corporate limits	*366
		Lively Brook	Confluence with Martin Stream	*336
			Tidswell Road (upstream side)	*346
			Confluence with House Brook	*352
			Pleasant Pond Dam (downstream side)	*376
		House Brook	Confluence with Lively Brook	*352

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,800 feet upstream of Merill's Mills Road.	*357
		Bear Pond Stream	Confluence with Martin Stream downstream of Bean Street.	*363
		Crystal Pond Brook	Confluence with Martin Stream	*331
			State Route 4 (upstream side)	*330
		Bear Pond	Entire shoreline	*375
		Crystal Pond	Entire shoreline	*330
		Pleasant Pond	Entire shoreline	*383

Maps available for inspection at the Office of Don Prince, Planning Board, Turner, Maine.
Send comments to Honorable Bernice Gilbert, Chairman of the Turner Board of Selectmen, Box 157, Turner, Maine 04282.

Maryland	Fruitland, City, Wicomico County	Tuxents Branch	At downstream corporate limits	*8
			At upstream side of Covered Bridge Road	*16
			At upstream side of South Camden Avenue	*21
		Slab Bridge Creek	At downstream corporate limits	*22
			At upstream corporate limits	*22

Maps available for inspection at the Fruitland City Hall, Fruitland, Maryland.
Send comments to Honorable Rick Pollitt, Fruitland City Manager, P.O. Box F, Fruitland, Maryland 21826.

Massachusetts	Billerica, town, Middlesex County	Concord River	At most downstream corporate limits	*106
			1,000' downstream of Faulkner Street	*107
			Talbot Mill Dam Upstream side	*115
			1,000' upstream of Pollard Street	*116
			Boston Road, upstream side	*117
			U.S. Route 3, upstream side	*118
			Nashua Road, upstream side	*119
			Most upstream corporate limits	*119
		Shawsheen River	At downstream corporate limits	*89
			Salem Road upstream side	*97
			At confluence of Jones Brook	*98
			Boston Road upstream side	*99
			At upstream corporate limits	*99
		Jones Brook	At confluence with Shawsheen River	*98
			Golf Course Culvert upstream side	*105
			Approximately 720' upstream of Baldwin Road	*109
		Content Brook	At most downstream corporate limits	*92
			Whipple Road, upstream side	*98
			200' upstream of Andover Road	*102
			Boston and Maine Railroad, upstream side	*106
			At confluence of Middlesex Canal	*107
		Middlesex Canal	At confluence with Content Brook	*107
			Pond Street, downstream side	*110
		Lubbock Brook	At downstream corporate limits	*103
			Cook Street, upstream side	*104
			At upstream corporate limits	*104

Maps available for inspection at the Board of Health Office, Billerica, Massachusetts.
Send comments to Honorable Paul Talbot, Billerica Town Administrator, Town Hall, Concord Road, Billerica, Massachusetts 01821.

Massachusetts	Bourne, Town, Barnstable County	Cape Cod Bay	Shoreline at Plymouth-Barnstable County boundary	*25
			Shoreline at Pilgrim Road (extended)	*17
			Dune area along Phillips Road at Sandwich-Bourne corporate limits.	#2
		Buzzards Bay	Shoreline approximately .3 mile northwest of Ocean Avenue (extended).	*26
			Shoreline at Eustis Beach	*18
			Shoreline at Sea Lane (extended)	*22
			Shoreline approximately .3 mile southeast of Long Point.	*14
			Shoreline at Cedar Point Drive (extended)	*20
			Shoreline at Barlows Landing Road (extended)	*19
			Eastern shoreline of Bassetts Island	*19
			Southwestern shoreline of Bassetts Island	*22
			Shoreline approximately .2 mile north of Lighthouse Lane (extended).	*29
			Shoreline at Beverly Road (extended)	*15
			Shoreline of Tobys Island	*21
			At sothernmost end southwest shoreline of Tobys Island.	*23
			North side of Emmons bridge to Tobys Island	*17
			South side of Emmons bridge to Tobys Island	*19
			Dune area at St. Johns Avenue (extended)	#1
			Shoreline at Mashnee Road (extended)	*23
			Shoreline at Tower Lane (extended west)	*18
		Cape Cod Canal	At Sandwich-Bourne corporate limits	*10
			At U.S. Route 6 (Sagamore bridge)	*11
			Approximately .5 mile upstream of U.S. Route 6	*12
			Approximately .3 mile downstream of State Route 28	*13
			At State Route 28 (Bourne bridge)	*14
			At Tower Lane (extended southeast)	*17
			At confluence with Buzzards Bay	*20
		Buttermilk Bay	Shoreline at Nye Lane (extended)	*23
			At confluence of Red Brook	*18
			Shoreline at Catskill Drive (extended)	*15
			Shoreline at Maynard Lane (extended)	*22

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Don Cambell's Office, Town Hall, Bourne, Massachusetts. Send comments to Honorable Barry Johnson, Chairman of the Bourne Board of Selectmen, 24 Perry Avenue, Buzzards Bay, Massachusetts 02532.				
Massachusetts	Brewster, Town, Barnstable County	Cape Cod Bay	Shoreline at Bonnie Doone Road (extended)	*17
			Shoreline at Underpass Road (extended)	*24
			Shoreline at Breakwater Road (extended)	*20
			Shoreline at confluence of Stony Brook and Cape Cod Bay.	*17
		Freeman's Pond Brook	Entire shoreline within community	*12
		Stony Brook	Confluence with Cape Cod Bay	*13
			Upstream of Cranberry Highway	*7
Maps available for inspection at the Brewster Department of Public Works, 708 Main Street, Brewster, Massachusetts. Send comments to Honorable Robert A. Sawtelle, Chairman of the Board of Selectmen for the Town of Brewster, Town Hall, Main Street, Brewster, Massachusetts 02631.				
Massachusetts	Duxbury, Town, Plymouth County	Massachusetts Bay	Shoreline at most southern corporate limits	*17
			Shoreline approximately 1.2 miles north of southern corporate limits.	*16
			Duxbury Beach approximately 0.9 mile south from Powder Point bridge.	*15
			Shoreline at northern corporate limits	*19, ±1
		Shallow Flooding	Between shorelines at Duxbury Beach	±2
			Between seawall and Gurnet Road	*10
		Duxbury Bay	Shoreline at southern corporate limits	*13
			Shoreline at Water Road (extended)	*14
			Shoreline at Spring Street (extended)	*11
		Kingston Bay	Shoreline at Howlands Landing (extended)	*14
			Shoreline at Landing Road (extended)	*13
			Shoreline at Mortons Hole (extended)	*9
			Corporate limits approximately 400 feet west of Parks Street.	*12
		Bluefish River	Approximately 1,000 feet downstream of Washington Street bridge.	*10
			Upstream side of Washington Street bridge	*9
			Approximately 0.4 mile upstream of Washington Street bridge.	*12
		Pine Point River	At mouth of Pine Point River	*11
			At northern corporate limits	*12
		Little Wood Island River	At mouth of Little Island Wood River	*11
			At northern corporate limits	*11
		Duck Hill	Shoreline at Cove Street (extended)	
Maps available for inspection at the Duxbury Town Clerk's Office, Tremont Street, Duxbury, Massachusetts, and the Duxbury Free Library, 147 St. George Street, Duxbury, Massachusetts. Send comments to Honorable John P. Leonard, Chairman of the Board of Selectmen for the Town of Duxbury, Town Hall, Tremont Street, Duxbury, Massachusetts 02332.				
Massachusetts	Fairhaven, Town Bristol County	Buzzards Bay	Entire shoreline of Little Bay	*18
			Shoreline at west end of Bluepoint Road (extended)	*15
			Shoreline at west end of Winsagansett Street (extended).	*18
			Area approximately 150 feet north of northwest end of Monodack Avenue (extended).	#2
			Shoreline approximately 150 feet west of Fort Street (extended).	*20
			Shoreline approximately 300 feet west of Fort Street (extended).	*25
			Shoreline of Angelica Rock	*16
		Acushnet River	Entire shoreline within community	*6
Maps available for inspection at the Office of Nicholas Tanguey, Town Hall, Fairhaven, Massachusetts. Send comments to Honorable Robert Foster, Chairman of the Fairhaven Board of Selectmen, 40 Center Street, Fairhaven, Massachusetts 02719.				
Massachusetts	Gloucester, city, Essex County	Mill River	Upstream side of Dr. Osman Babson Road	*10
			Upstream side of Cherry Street	*16
			Approximately 600 feet upstream of Cherry Street	*21
		Atlantic Ocean Essex Bay	South shore of Essex Bay	*12
		Ipswich Bay	Entire shoreline of Wingaersheek Beach	*15
			Shoreline at Folly Point	*20
			Approximately 300 feet past end of Atlantic Street	#1
		Massachusetts Bay	Shoreline at Norman Woe Cove	*30
		Gloucester Harbor	Shoreline at Western Harbor	*13
			Entire shoreline of Inner Harbor	*10
			East shore of Gloucester Harbor	*12
		Briar Neck	Shoreline at Briar Neck	*25
Maps available for inspection at the City Library, Gloucester, Massachusetts, and the Planning Office, Forbes Building, Gloucester, Massachusetts. Send comments to Honorable Richard Silva, Mayor of the City of Gloucester, City Hall, Dale Avenue, Gloucester, Massachusetts 01930.				
Massachusetts	Mashpee, Town Barnstable County	Nantucket Sound	Shoreline at Waquoit Bay	*17
			Shoreline at Greensward Road (extended)	*23
			Shoreline at Beach Road (extended)	*17
			Shoreline at Overlook Knoll Road (extended)	*21
			Shoreline at Popponesset Beach	*17
			Island in Popponesset Bay	#1
		Waquoit Bay	Shoreline at Dead Neck	*13
			Shoreline at Seconsett Island	*14
		Hamblin Pond	Shoreline at Seconsett Island	*11
			Shoreline at mouth of Red Brook	*14

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the office of Harold Collins, Building Inspector, Mashpee, Massachusetts. Send comments to Honorable Willard Hanson, Chairman of the Mashpee Board of Selectmen, P.O. Box 1108, Mashpee, Massachusetts 02649.				
Massachusetts	Somerset, Town Bristol County	Lee River	At Interstate Route 195	*15
			Shoreline at Brayton Point	*22
		Mount Hope Bay	Intersection of Swan Street and Angus	*15
			Shoreline at Angus (extended)	*22
		Taunton River	Shoreline at Sandy Point Road (extended)	*15
			At Interstate Route 195	*22
Maps available for inspection at the Hearing Room, Town Hall, Somerset, Massachusetts. Send comments to Honorable James B. Healey, Chairman of the Board of Selectmen for the Town of Somerset, Somerset Town Office Building, 140 Wood Street, Somerset, Massachusetts 02726.				
Massachusetts	Truro, Town Barnstable County	Atlantic Ocean	Shoreline at Truro-Provincetown corporate limits	*18
			Shoreline at Coast Guard Road (extended)	*28
			Shoreline approximately 1.5 miles south of Longnook Road (extended).	*14
		Cape Cod Bay	Shoreline at Truro-Provincetown corporate limits	*15
			Shoreline at Great Hollow Road (extended)	*18
			Shoreline at Pamet Harbor	*17
			Shoreline at Stevens Way (extended)	*20
			Shoreline at Rolling Hills Road (extended)	*24
Maps available for inspection at the Selectmen's Office, Truro Town Hall, Truro, Massachusetts. Send comments to Honorable Monica Kraft, Chairman of the Board of Selectmen for the Town of Truro, P.O. Box U, Truro, Massachusetts 02666.				
Massachusetts	Yarmouth, town, Barnstable County	Nantucket Sound	Shoreline at Bayview Street (extended)	*16
			Shoreline at Beach Road (extended)	*13
			Shoreline at Smith's Point	*10
			Shoreline at Point Gammon	*19
			Shoreline at Bass River Light	*15
		Cape Cod Bay	Shoreline at mouth of Lone Tree Creek	*15
			Shoreline at mouth of Chase Garden Creek	*17
		Bass River	Shoreline at Bass River Terrace (extended)	*13
			Shoreline at Highland Avenue (extended)	*9
			Shoreline at Oyster Cove Road (extended)	*7
			Entire shoreline of Follins Pond	*5
		Parkers River	Shoreline at Compass Drive (extended)	*11
			South end of Niagra Lane	*13
			Entire shoreline of Swan Pond	*9
Maps available for inspection at the office of Mr. Ed Donnelly, Town Planner, Yarmouth Town Hall, South Yarmouth, Massachusetts. Send comments to Honorable Robert Lawton, Executive Secretary of the Board of Selectmen for the Town of Yarmouth, Yarmouth Town Hall, South Yarmouth, Massachusetts 02664.				
Massachusetts	Wellfleet, town, Barnstable County	Cape Cod Bay	Shoreline at south end of Jeremy Point	*17
			Shoreline approximately 750 feet southwest of Duck Harbor Road (extended).	*15
			Shoreline approximately 1,000 feet north of Duck Harbor Road (extended).	*19
			Shoreline at north corporate limits	*17
		Wellfleet Harbor (North and West Shores).	Shoreline at southeast end of Jeremy Point	*17
			Shoreline at northernmost point of Great Island	*11
		Shallow Flooding	South end of Great Island	#2
			West end of Great Island	#1
			North of Duck Harbor Road	#2
		Wellfleet Harbor (East Shore)	Shoreline 120 feet west of Samoset Avenue	*15
			Shoreline at D Street (extended)	*20
			Shoreline at north end of King Phillip Road (extended)	*12
			Shoreline at south corporate limits	*14
		Duck Creek	At downstream side of Pine Point Road bridge over Duck Creek.	*12
		Blackfish Creek	Shoreline at Barker Road (extended)	*15
			Shoreline at First Street (extended)	*13
			Approximately 100 feet downstream of U.S. Route 6	*12
		Ponding Area	In vicinity of Herring River	*3
		Atlantic Ocean	Shoreline at Gross Hill Road (extended)	*23
			Shoreline at Marconi Station Road (extended)	*25
			Shoreline 100 feet north or southern corporate limits	*24
Maps available for inspection at the Wellfleet Town Hall, Hearing Room, Wellfleet, Massachusetts. Send comments to Honorable Florence A. Schmidt, Chairman of the Board of Selectmen for the Town of Wellfleet, Town Hall, P.O. Box A, Wellfleet, Massachusetts 02667.				
Missouri	City of Granby, Newton County	Shoal Creek	About 1,300 feet downstream of confluence of Culpepper Creek.	*1,033
			About 3,600 feet upstream of Burlington Northern railroad.	*1,037
		Culpepper Creek	At mouth	*1,034
			Just downstream of County Highway E	*1,068
			Just upstream of County Highway E	*1,074
Maps available for inspection at the City Hall, Granby, Missouri. Send comments to Honorable Joyce Mann, Mayor, City of Granby , P.O. Box 358, N. Main Street, Granby, Missouri 64844.				
Missouri	City of Pleasant Hill, Cass County	Big Creek	About 1,400 feet downstream of Missouri Pacific Railroad.	*855
			Just upstream of Boardman Street	*864
		North Overflow Big Creek	About 400 feet downstream of State Highway 7	*851
			Just downstream of abandoned railroad	*855

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding	Area east of Second Street, north of Commercial Street and south of Cedar Street.	#2

Maps available for inspection at the City Hall, 203 Paul Street, Pleasant Hill, Missouri. Send comments to Honorable Terry C. Wilson, Mayor, City of Pleasant Hill, City Hall, 203 Paul Street, Pleasant Hill, Missouri 64080.

Nebraska	City of Lincoln, Lancaster County	Salt Creek	About 0.5 mile downstream of 98th Street	*1,121
			Just upstream of confluence of Cardwell Branch	*1,177
		Stevens Creeek	At mouth	*1,131
			Just downstream of Chicago, Rock Island and Pacific Railroad.	*1,148
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*1,154
			About 1.2 miles upstream of A Street	*1,203
		Stevens Creek Overflow	At confluence with Salt Creek	*1,124
			At divergence from Stevens Creek	*1,140
		Stevens Creek Tributary	At mouth	*1,185
			About 1.85 miles upstream of 112th Street	*1,249
		Oak Creek	Confluence with Salt Creek	*1,147
			Just upstream of U.S. Highway 34	*1,179
		Lynn Creek	At mouth	*1,148
			About 800 feet upstream of Interstate 80	*1,163
		Elk Creek	At mouth	*1,176
			About 0.85 mile upstream of U.S. Highway 34	*1,245
		Antelope Creek	At mouth	*1,148
			Just downstream of Holmes Lake Dam	*1,214
			Just upstream of Holmes Lake Dam	*1,246
			About 1.4 miles upstream of Pioneers Boulevard	*1,306
		Middle Creek	At mouth	*1,153
			About 1.3 miles upstream of Interstate 80	*1,206
		Haines Branch	At mouth	*1,155
			About 800 feet upstream of Burlington Northern railroad.	*1,171
		Beal Slough	At mouth	*1,158
			Just downstream of Burlington Northern railroad (upstream of Pine Lake Road).	*1,272
			Just upstream of Burlington Northern railroad (upstream of Pine Lake Road).	*1,276
			About 150 feet upstream of South 70th Street	*1,294
		Cardwell Branch	At mouth	*1,177
			About 0.70 mile upstream of Southwest 27th Street	*1,207

Maps available for inspection at the City County Building, 555 S. 10th, Lincoln, Nebraska. Send comments to Honorable Rolland Luedtke, Mayor, City of Lincoln, City County Building, 555 S. 10th, Lincoln, Nebraska 68508.

New Jersey	Old Bridge, township, Middlesex County	Tennents Brook	Upstream side of Bordentown Avenue	*12
			Approximately 190' upstream of First Golf Course Road.	24
			Upstream side of U.S. Route 9	*35
		Iresick Brook	Approximately 50' upstream of Riverdale Avenue Dam	*17
			Approximately 350' upstream of Englishtown Road	*24
			Upstream side of Birch Street	*31
			Approximately 1,075' downstream of Pleasant Valley Road.	*50
		Barclay Brook	At confluence with Matchaponix Brook	*35
			Approximately 370' downstream of State Route 529	*39
			Approximately 140' downstream of Hawkins Road	*50
			At upstream corporate limits	*74
		Deep Run	At Water Works Road	*12
			Approximately 40' upstream of State Route 516	*14
			Approximately 300' upstream of U.S. Route 9	*42
			Approximately 200' downstream of corporate limits	*57
		South River	At Bordentown Avenue	*12
			At Duhernal Lake Dam	*12
			At confluence of Matchaponix Brook	*15
		Matchaponix Brook	At confluence with South River	*15
			Downstream side of Texas Road State Route 520	*33
			Approximately 80' downstream of Old Bridge-English Road State Route 529.	*50
			At downstream corporate limits	*56
		Raritan Bay	At Garden State Parkway over Cheesequake Creek	*12
			At State Route 35 over Marquis Creek	*13
			At State Route 35 over Cheesequake Creek	*15
			At Ocean Boulevard over Whale creek	*15
			Along entire shoreline	*18

Maps available for inspection at the Old Bridge Township Engineer's Office, Township Hall, 1 Old Bridge Plaza, Old Bridge, New Jersey.
Send comments to Honorable Russell Azzarello, Mayor of the Township of Old Bridge, Old Bridge Municipal Complex, 1 Old Bridge Plaza, Old Bridge, New Jersey 08857.

New Jersey	Parsippany-Troy Hills, Township, Morris County	Rockaway River	At downstream corporate limits (confluence of Whippany River).	*174
			At U.S. Route 46	*175
			At Vail Road	*177
			Upstream Knoll Road	*184
			Upstream Greenback Road	*199
			Downstream Boonton Reservior Dam	*212
			Upstream Boonton Reservior Dam	*309
			Upstream corporate limits	*313
		Whippany River	At confluence with Rockaway River	*174

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At upstream corporate limits	*178
		Troy Brook	At confluence with Whippany River	*175
			Upstream side of Beverwyck Road	*196
			Upstream side of Troy Road	*207
			Upstream side of Spillway at Forge Pond	*227
			Upstream side of Smith Road (2nd upstream crossing)	*263
			Upstream side of Interstate Route 80	*279
			Upstream side of Interstate Route 287	*291
			Upstream side of Parsippany Boulevard	*302
			Upstream side of Homer Street	*310
			Downstream side of Cherry Mill Road	*319
		West Brook	At confluence with Troy Brook	*175
			Upstream side of Beverwyck Road	*177
			Upstream side of Preston Road	*202
			Upstream side of West Brook Pond Dam	*208
		Eastmans Brook	At confluence with Troy Brook	*212
			Upstream side of Old Spillway Ruins	*226
			Downstream side of Smith Road	*239
			At UPS Boulevard	*251
			Downstream side of Interstate Route 287 culvert	*272
			Shoreline of Lake Parsippany	*286
		Watnong Brook	Upstream side of State Route 10 Culvert	*448
			Approximately 430' upstream of Foot Bridge (opposite Tarn Drive).	*459
			Approximately 150' downstream of CONRAIL	*470
			At Powder Mill Road	*506

Maps available for inspection at the Township Engineer's Office, Township Municipal Building, Parsippany-Troy Hills, New Jersey.
Send comments to Honorable Frank Priore, Mayor of the Township of Parsippany-Troy Hills, 1001 Parsippany Boulevard, Parsippany, New Jersey 07054.

New Jersey	Raritan, township, Hunterdon County	Neshanic River	At downstream corporate limits	*121
			Upstream side of Everitts Road	*124
			Upstream side of Kuhl's Road	*136
		First Neshanic River	At confluence with Neshanic River	*136
			Upstream side of U.S. Route 202 (State Route 31)	*153
			Downstream side of Dayton Road	*160
			Approximately 460 feet upstream of Dayton Road	*162
		Second Neshanic River	At confluence with Neshanic River	*136
			Upstream Black River and Western Railroad	*144
			Downstream side of Johanna Farms Road	*170
			Approximately 50 feet upstream side of State Route 523.	*225
			Approximately 950 feet upstream side of State Route 523.	*239
		Third Neshanic River	At confluence with Neshanic River	*135
			Upstream side of Everitts Road	*150
			At upstream corporate limits (downstream Easton Trenton Turnpike).	*161
		Walnut Brook	At confluence with First Neshanic River	*153
			60 feet downstream of Private Drive	*170
			Upstream side of Mine Street	*189
			Approximately 50 feet upstream of Capner Street	*224
		Route 202 Tributary	At confluence with South River Branch Raritan River	*102
			Downstream side of Dory Dilts Road	*120
			Downstream sise of Vorhees Corner Road	*142
			Upstream side of Vorhees Corner Road	*150
		Bushkill Brook	At confluence with South Branch Raritan River	*107
			Approximately 100 feet upstream of Black River and Western Railroad.	*113
			Downstream side of Flemington Junction Road	*126
			Upstream side of State Route 31	*130
			Approximately 1,160 feet upstream of State Route 31	*134
		Assiscong Creek	Upstream side of CONRAIL	*117
			Downstream side of State Route 31	*160
			Approximately 100 feet upstream of Old Clinton Road	*205
			Upstream side of Private Drive (adjacent to Chapel-view Drive).	*250
			Downstream side of 4th upstream Private Drive	*278
			Downstream side of 5th upstream Private Drive	*363
		South Branch Raritan River	At downstream corporate limits	*97
			At confluence of Route 202 Tributary	*102
			Downstream side of Black River and Western Railroad	*107
			Upstream side of 2nd CONRAIL crossing	*111
			Downstream side of Flemington White House Road	*115

Maps available for inspection at the Raritan Township Municipal Building, South Main Street, Flemington, New Jersey.
Send comments to Honorable Don Gootes, Mayor of the Township of Raritan, Raritan Township Municipal Building, South Main Street, P.O. Box 622, Flemington, New Jersey 08822.

New Jersey	Rockaway, borough, Morris County	Rockaway River	At downstream corporate limits	*513
			Upstream side of East Main Street	*523
			At confluence of Fox Brook	*532
			At upstream corporate limits	*541
		Beaver Brook	At confluence with Rockaway River	*513
			Upstream corporate limits	*513
		Fox Brook	At confluence with Rockaway River	*532
			Upstream side of East Main Street	*549
			Downstream side of dam at Foxes Pond	*586
			At upstream corporate limits of Foxes Pond	*604

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at Rockaway Borough Clerk's Office, 1 East Main Street, Rockaway, New Jersey Send comments to Honorable David L. Smith, Mayor of the Borough of Rockaway, Borough hall, 1 East Main Street, Rockaway, New Jersey 07866.				
New Jersey	Washington, township, Morris County	Musconetcong River	Downstream corporate limits	*424
			Stephensburg Road (upstream side)	*435
			Ruth Lane (upstream side)	*443
			Kings Highway (upstream side)	*468
			Newberg Road (upstream side)	*484
			State Route 24 (upstream side)	*503
			East Avenue (upstream side)	*514
			Upstream corporate limits	*522
		Stephensburg Brook	Confluence with Musconetcong River	*436
			Stephensburg Road (upstream side)	*484
			Upstream of fourth upstream dam	*548
		Tributary B	Confluence with Musconetcong River	*482
			Esna Drive (upstream side)	*513
			Approximately 90 feet upstream of State Route 24	*625
		South Branch Raritan River	Downstream corporate limits	*488
			CONRAIL (upstream side)	*501
			State Route 24 (upstream side)	*532
			Naughright Road (upstream side)	*563
			Upstream of dam upstream of North Four Bridges Road.	*581
			Upstream corporate limits	*608
		Electric Brook	Confluence with South Branch Raritan River	*540
			CONRAIL (upstream side)	*548
			Fairview Avenue (upstream side)	*566
			Approximately .35 mile upstream of Fairview Avenue	*647
			Approximately .29 mile downstream Lake George Dam	*729
			Approximately .22 mile downstream Lake George Dam	*810
			Downstream of Lake George Dam	*891
		Stony Brook	Confluence with South Branch Raritan River	*551
			CONRAIL (upstream side)	*560
			Naughright Road (upstream side)	*597
			Downstream of Fairview Avenue	*615
		Drakes Brook	Confluence with South Branch Raritan River	*565
			Downstream corporate limits	*595
		Tanners Brook	Downstream corporate limits' State Route 24 (upstream side).	*711
			At Valley Brook Road	*751
			Downstream of Old Farmers Road	*773
		Drakes Brook Overflow Channel	At confluence with South Branch Raritan River	*575
			At Four Bridges Road	*581
			Inlet from Drakes Brook	*588
Maps available for inspection at the Clerk's office, Washington Township Municipal Building, Long Valley, New Jersey. Send comments to Honorable Edward J. Shields, Mayor of the Township of Washington, P.O. Box 216, Washington Township Municipal Building, Long Valley, New Jersey 07853.				
New York	Cazenovia, Town, Madison County	Chittenango Creek	At downstream corporate limits	*548
			Approximately 1 mile upstream of corporate limits	*606
			Approximately 90' upstream of State Route 13	*882
			Approximately 0.7 mile upstream of State Route 13	*935
			Upstream side of Bingley Road	*1,008
			Approximately 1 mile upstream of Bingley Road	*1,081
			At Village of Cazenovia downstream corporate limits	*1,145
			At Village of Cazenovia upstream corporate limits	*1,199
			Upstream side of Rippleton Crossing Road	*1,219
			Upstream Ballina Road	*1,254
			Approximately 1.4 miles upstream of Ballina Road	*1,929
Maps available for inspection at the Cazenovia Town Hall, 7 Albany Street, Cazenovia, New York. Send comments to Honorable Donald R. Callahan, Town Supervisor of Cazenovia, 7 Albany Street, Cazenovia, New York 13035.				
New York	Cazenovia, Village, Madison County	Chittenango Creek	Downstream Corporate Limits	*1,143
			Approximately 100' Upstream of Downstream Dam	*1,174
			William Street (Upstream side)	*1,182
			U.S. Route 20 (Upstream side)	*1,188
			Mill Street (Upstream side)	*1,195
			Upstream Corporate Limits	*1,199
Maps available for inspection at the Cazenovia Village Hall, 90 Albany Street, Cazenovia, New York. Send comments to Honorable John W. Ryan, Mayor of the Village of Cazenovia, Municipal Building, 90 Albany Street, Cazenovia, New York 13035.				
New York	Delhi, Town, Delaware County	West Branch Delaware River	Downstream corporate limits	*1,296
			Approximately 75' downstream of Platner Brook	*1,314
			Approximately 200' downstream of confluence of Peaks Brook.	*1,325
			At confluence of Little Delaware River	*1,344
			At the downstream Village of Delhi corporate limits	*1,349
			At the upstream Village of Delhi corporate limits	*1,370
			At confluence of Elk Creek	*1,384
			At confluence of Kidd Brook	*1,395
			At upstream corporate limits	*1,410
		Little Delaware River	At confluence with West Branch Delaware River	*1,344
			Approximately .5 mile upstream of Upper Golf Course footbridge.	*1,373
			Approximately 620 feet upstream of Thompson Cross Road Bridge.	*1,398

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Clerk's Office, Delhi, New York. Send comments to Honorable David C. Anderson, Sr., Supervisor of the Town of Delhi, 5 Elm Street, Delhi, New York 13753.				
New York	Delhi, Village, Delaware County	West Branch Delaware River	Approximately 500' downstream of downstream corporate limits.	*1,348
			Upstream side of Bridge Street	*1,363
			Upstream corporate limits	*1,370
		Steel Brook	At confluence with West Branch Delaware River	*1,356
			Upstream side of Woolerton Street	*1,412
			Upstream of Delhi Reservoir Dam	*1,567
Maps available for inspection at the Village Clerk's Office, Delhi, New York. Send comments to Honorable Marc E. Guy, Mayor of the Village of Delhi, P.O. Box 328, Delhi, New York 13753.				
New York	Glens Falls City, Warren County	Hudson River	Downstream corporate limits	*211
			Upstream corporate limits	*275
		Halfway Creek	Area affecting community	*332
Maps available for inspection at the Department of Public Works, 42 Cooper Street, Glens Falls, New York. Send comments to Honorable Edward M. Bartholomew, Mayor of the City of Glens Falls, City Hall, 42 Ridge Street, Glens Falls, New York 12801.				
New York	Hurley, Town, Ulster	Esopus Creek	Approximately 250 feet downstream of U.S. Route 209	*163
			Upstream side of County Route 29A	*167
			Upstream corporate limits	*176
Maps available for inspection at the Town Clerk's Office, Hurley, New York. Send comments to Honorable Raymond Croswell, Town Supervisor of Hurley, P.O. Box 10, Hurley, New York 12443.				
New York	Ithaca Town, Tompkins County	Cayuga Inlet	At downstream corporate limits	*390
			Approximately 600' upstream of State Route 13	*407
			Approximately 80' upstream of second crossing of CONRAIL.	*415
			At upstream corporate limits	*444
		Fall Creek	Approximately 100' upstream of Plantation Road	*825
			Upstream side of Caldwell Road	*832
			At second upstream dam	*860
		Cascadilla Creek	At downstream corporate limits	*823
			Upstream side of New York State Route 366	*841
			Approximately 1,500 feet upstream of Fish Hatchery Road.	*876
		Cayuga Lake	Entire shoreline within community	*386
Maps available for inspection at the Town Hall, Ithaca, New York. Send comments to Honorable Noel Desch, Supervisor of the Town of Ithaca, 126 E. Seneca Street, Ithaca, New York 14850.				
New York	Liberty, Town, Sullivan County	Little Beaver Kill	Approximately 2,130' downstream of downstream corporate limits.	*1,501
			Downstream corporate limits	*1,515
			At State Route 17 (1st crossing)	*1,561
			At State Route 17 (2nd crossing)	*1,579
			Approximately 2,200' downstream of confluence of Tributary to Little Beaver Kill.	*1,620
			At confluence of Tributary to Little Beaver Kill	*1,665
			Upstream side of Lilly Pond Road	*1,691
			Approximately 1,520' upstream of Lily Pond Road	*1,726
		Tributary to Little Beaver Kill	At confluence with Little Beaver Kill	*1,665
			Approximately 1,040' upstream of County Route 176	*1,676
		West Branch Hardin Brook	Downstream corporate limits	*1,292
			Upstream side of dam	*1,329
			At Kelley Road	*1,335
			Downstream side of Shore Road	*1,342
			Downstream side of White Sulphur Road	*1,349
		Middle Mongaup River	At downstream corporate limits	*1,224
			Approximately 1 mile upstream of downstream corporate limits.	*1,256
			Approximately 2 miles upstream of downstream corporate limits.	*1,301
			Approximately 1,240' downstream of County Route 72	*1,328
			Upstream side of County Route 72	*1,354
			At most downstream corporate limits for Village of Liberty.	*1,375
			At most upstream corporate limits for Village of Liberty	*1,402
			At State Route 55	*1,417
Maps available for inspection at the Town Clerk's Office, Town Hall, Liberty, New York. Send comments to Honorable Abraham Kleinman, Liberty Town Supervisor, Town Hall, 120 North Main Street, Liberty, New York 12754.				
New York	Lloyd, Town, Ulster County	Hudson River	Entire Shoreline within community	*9
Maps available for inspection at the Town Hall, 12 Church Street, Highland, New York. Send comments to Honorable Jon Decker, Town Supervisor of Lloyd, 12 Church Street, Highland, New York 12528.				
New York	Marlborough, Town, Ulster County	Hudson River	At downstream corporate limits	*8
			At upstream corporate limits	*9
Maps available for inspection at the Town Clerk's Office and the Building Inspector, Town Hall, Marlborough, New York. Send comments to Honorable Michael Canosa, Marlborough Town Supervisor, Town Hall, Route 9 W, Milton, New York 12547.				
New York	Newburgh, City, Orange County	Quassaic Creek	At confluence with Hudson River	*8
			At Candle Factory Bridge	*43

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At Walsh Road	*102
			Upstream side of Lake Street	*120
			At North Lake Drive	*135
			At confluence of Gidneytown Creek	*147
		Gidneytown Creek	Confluence with Quassaic Creek	*147
			Upstream side of Dupont Avenue	*184
			Upstream face of Creek Industries Dam	*223
			Upstream corporate limit	*238
		Hudson River	Entire shoreline within community	*8
Maps available for inspection at the City Clerk's Office, City Hall, Newburgh, New York. Send comments to Honorable Matthew Gallitan, Newburgh City Manager, City Hall, 83 Broadway, Newburgh, New York 12550.				
New York	Newburgh, Town, Orange County	Quassaic Creek	Approximately 250 feet downstream of Winona Lake Dam.	*266
			Upstream side of Township Route 52	*274
			Upstream side of Power Mill Road	*283
			Upstream side of Union Avenue	*333
			Upstream side of Insulpane Road	*382
			Downstream side of Chadwick Lake Dam	*447
		Bushfield Creek	At confluence with Quassaic Creek	*275
			Upstream side of Powder Mill Road	*318
			Upstream side of Union Avenue	*357
			Upstream side of Interstate Route 87	*391
			Downstream side of Elmhurst Avenue	*464
			At confluence with Orange Lake	*491
		Gidneytown Creek	Approximately 245 feet downstream of corporate limits	*230
			Upstream of Gardnertown Road	*246
			Approximately .42 mile upstream of Garnertown Road	*283
			Approximately .58 mile upstream of Gardnertown Road	*324
			Upstream side of Cronomer Pond Dam	*364
			At confluence of Fostertown Creek	*378
		Fostertown Creek	At confluence with Gidneytown Creek	*378
			Approximately .25 mile downstream of North Fostertown Road.	*406
			At North Fostertown Road	*433
		Hudson River	Entire shoreline within community	*8
		Orange Lake	Entire shoreline	*491
		Chadwick Lake	Entire shoreline	*456
Maps available for inspection at the Town Engineer's Office, 105 Plattekill Turnpike, Newburgh, New York. Send comments to Honorable Robert Kirkpatrick, Newburgh Town Supervisor, Town Hall, 20-26 Union Avenue Extension, Newburgh, New York 12550.				
New York	Schaghticoke, Village, Rensselaer County	Hoosic River	Downstream corporate limits	*139
			Approximately 940' Downstream State Route 40	*185
			Upstream State Route 40	*243
			Upstream corporate limits	*277
Maps available for inspection at the Schaghticoke Municipal Building, Schaghticoke, New York. Send comments to Honorable Albert McDonald, Mayor of the Village of Schaghticoke, Municipal Building, Schaghticoke, New York 12154.				
New York	South Glens Falls, Village, Saratoga County	Hudson River	Entire shoreline from South Glens Falls Dam to upstream corporate limits.	*275
Maps available for inspection at the South Glens Falls Village Hall, 46 Saratoga Avenue, Box 1210, South Glens Falls, New York. Send comments to Honorable Harry Van Scoy, Mayor of the Village of South Glens Falls, Village Hall, 46 Saratoga Avenue, Box 1210, South Gens Falls, New York 12801.				
New York	Valley Falls, Village, Rensselaer County	Hoosic River	Downstream corporate limits	*290
			Upstream dam	*315
			Upstream corporate limits	*316
Maps available for inspection at the Valley Falls Village Hall, 216 State Street, Valley Falls, New York. Send comments to Honorable William Madigan, Mayor of the Village of Valley Falls, 216 State Street, Valley Falls, New York 12185.				
North Carolina	Unincorporated areas of Chowan County	Albemarle Sound	Within community	*7
		Chowan River	Mouth at Albemarle Sound	*7
			Just upstream of Holiday Island	*8
		Pembroke Creek	From mouth at Albemarle Sound to just downstream or SR 1208.	*8
Maps available for inspection at the Chowan County Courthouse, Edenton, North Carolina. Send comments to Honorable Cliff Copeland, County Manager, Chowan County, Chowan County Courthouse, P.O. Box 1030, Edenton, North Carolina 27932.				
North Carolina	Town of Edenton, Chowan County	Albermarle Sound/Edenton Bay	Along southern shoreline from western extraterritorial limit to about 200 feet southeast of Cameron Drive.	*7
			Along southern shoreline from about 200 feet southeast of Cameron Drive to mouth of Queen Anne Creek.	*8
		Pembroke Creek	Within community	*8
		Northeast Tributary of Pembroke Creek.	At extraterritorial limits	*6
			About 1.0 mile upstream of extraterritorial limits	*10
		Queen Anne Creek	From mouth to just downstream of Paxton Lane	*8
			Just upstream of Paxton Lane	*8
			Just downstream of Southern Railway	*17
		Northwest Tributary of Queen Anne Creek.	At confluence with Queen Anne Creek	*11
			Just downstream of Old Hertford Road	*13
		Northeast Tributary of Queen Anne Creek.	From mouth at Queen Anne Creek to about 2,000 feet upstream of the mouth.	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Filberts Creek	From mouth at Pembroke Creek to about 260 feet downstream of Virginia Road.	*8
		Filberts Creek Tributary	From confluence with Filberts Creek to about 250 feet downstream of U.S. Highway 17.	*8
Maps available for inspection at the Town Hall, Edenton, North Carolina. Send comments to the Honorable Samuel Noble, Jr., Town Administrator, Town of Edenton, P.O. Box 300, Edenton, North Carolina 27932.				
North Carolina	Town of Hertford, Perquimans County	Perquimans River	Within community	*7
Maps available for inspection at Town Hall, Hertford, North Carolina. Send comments to the Honorable William D. Cox, Mayor, Town of Hertford, Town Hall, P.O. Box 32, Hertford, North Carolina 27944.				
North Carolina	Unincorporated Areas of Perquimans County	Albermarle Sound	Along southern shoreline from Stevenson Point to about 3,000 feet west of Reed Point.	*5
			Along southern shoreline from Harvey Point to just east of SR 1351.	*5
			Along southern shoreline from just east of SR 1351 to Holiday Lane.	*6
			Along southern shoreline from Holiday Lane to mouth of Yeopim River.	*7
		Perquimans River	Along southwest shoreline from Harvey Point to About 4,500 feet downstream of Blount Point.	*5
			Along northeast shoreline from about 3,000 feet west of Reed Point to Sueola Beach.	*6
			Along shoreline from Sueola Beach to White Hat Landing.	*6
			Along shoreline from White Hat Landing to about 1 mile upstream of confluence of Goodwin Mill Creek.	*7
			About 0.7 mile upstream of SR 1202	*10
		Little River	Along shoreline from Stevenson Point to about 3.7 miles upstream of Stevenson Point.	*5
			Along shoreline from about 3.7 miles upstream of Stevenson Point to just northeast of SR 1332.	*6
			From just northeast of SR 1332 to about 2.6 miles downstream of U.S. Highway 17.	*7
			About 1.46 miles upstream of U.S. Highway 17	*10
Maps available for inspection at the Perquimans County Courthouse, Hertford, North Carolina. Send comments to Honorable Joseph W. Nowell, Jr., Chairman, Perquimans County Board of Commissioners, Perquimans County Courthouse, P.O. Box 74, Herford, North Carolina 27944.				
North Carolina	Town of Winfall, Perquimans County	Perquimans River	Within community	*7
		Mill Creek	Within community	*7
Maps available for inspection at the Town Hall, Winfall, North Carolina. Send comments to Honorable L. R. Morgan, Mayor, Town of Winfall, P.O. Box 206, Winfall, North Carolina 27985.				
North Dakota	Thompson (City), Grand Forks County	Elm Coulee	Intersection of Crescent Drive and Pacific Avenue	*864
Maps are available at City Hall, 208 Pacific Avenue, Thompson, North Dakota. Send Comments to the Honorable James W. Webber, P.O. Box 307, Thompson, North Dakota 58278.				
Ohio	City of Galion, Crawford County	Olentangy River	Just upstream of Hosford Road	*1110
			Just downstream of Cummings Avenue	*1152
Maps available for inspection at the City Hall, 301 Hardingway, East, Galion, Ohio. Send comments to Honorable Donald E. Yunker, Mayor, City of Galion, City Hall, 301 Hardingway, East, Galion, Ohio 44833.				
Ohio	Unincorporated Areas of Logan County	Mad River	At downstream county boundary	*1079
			Just downstream of County Route 5	*1208
			Just upstream of County Route 5	*1219
			Just downstream of State Route 540	*1266
		Mud Run	At mouth	*1079
			About 400 feet upstream of Conrail	*1097
		Tributary A	At mouth	*1107
			Just downstream of County Route 5	*1125
		Tributary B	At mouth	*1132
			Just downstream of County Route 29	*1188
		Tributary C	At mouth	*1145
			Just downstream of County Route 5	*1165
		Tributary D	At mouth	*1152
			About 0.57 mile upstream of County Route 5	*1207
		Sugar Creek	At mouth	*1174
			About 200 feet upstream of Private Drive	*1193
		Tributary E	At mouth	*1235
			About 1.08 miles upstream of mouth	*1300
		Tributary F	At mouth	*1251
			About 750 feet upstream of County Route 25	*1270
		Tributary G	At mouth	*1258
			About 800 feet upstream of County Route 25	*1272
		Peter Ditch	At mouth	*1149
			About 0.3 mile upstream of U.S. Route 33 (upstream of County Route 153).	*1194
		Tributary H	At mouth	*1173
			About 0.56 mile upstream of U.S. Route 33	*1213
		Macochee Creek	At mouth	*1068
			About 1.2 mile upstream of County Route 28	*1197
		Tributary I	At mouth	*1129
			Just upstream of Township Highway 166	*1169
		Tributary J	At mouth	*1160
			About 0.3 mile upstream of Township Highway 178	*1194
		Bokengehalas Creek	About 1100 feet upstream of month	*974

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 0.21 mile upstream of County Route 130	*1188
		Tributary K	At mouth	*1069
			About 1.2 miles upstream of mouth	*1098
		Blue Jacket Creek	At mouth	*1049
			About 500 feet upstream of Conrail (upstream of Troy Road).	*1197
		Tributary L	Just upstream of Ludlow Road	*1241
			Just downstream of Brennan Road	*1273
		Tributary N	At mouth	*1243
			About 650 feet upstream of mouth	*1245
		Possum Run	At mouth	*1155
			About 600 feet upstream of a Private Drive (downstream of City of Bellefontaine corporate limits).	*1175
		Wissahicken Creek	At mouth	*1157
			About 0.45 mile upstream of mouth	*1178
		Flat Branch	At mouth	*1077
			Just downstream of Wish Road	*1256
		Tributary M	At mouth	*1134
			About 0.63 mile upstream of Township Highway 56	*1224
		Stony Creek	About 900 feet upstream of mouth	*977
			About 300 feet upstream of County Route 31	*1011
		Lee Creek	At mouth	*982
			Just upstream of County Route 64	*1041
		Graves Creek	At mouth	*983
			About 1.06 miles upstream of County Route 62	*994
		Tributary P	At mouth	*987
			At county boundary	*995
		Black Lake Outlet	Within community	*983
		McKees Creek	At mouth	*997
			Just downstream of Township Highway 45	*1061
			Just upstream of Township Highway 45	*1070
			Just downstream of Ludlow Road	*1243

Maps available for inspection at the County Commissioner's Office, Logan County Courthouse, Bellefontaine, Ohio. Send comments to Honorable Warren W. Smith, Chairman, Logan County Commission, Logan County Courthouse, Bellefontaine, Ohio 43311.

Oregon	Klamath Falls (City), Klamath County	Lake Ewauna	Intersection of lake and Burlington Northern Railroad	*4086
		Link River	50 feet downstream of center of Link River Dam	*4140
		Upper Klamath Lake	Intersection of Bismark Street and Melhase Avenue	*4142

Maps available for inspection at the Planning Department, City Hall, Klamath Falls, Oregon. Send comments to the Honorable George Flitcraft, P.O. Box 237, Klamath Falls, Oregon 97601.

Tennessee	City of Oak Ridge, Roane and Anderson Counties	Clinch River	About 4.7 miles downstream of Bethel Valley Road	*797
			About 1320 feet upstream of confluence of Ernies Creek.	*798
		Gamble Valley Creek	Mouth at East Fork Poplar Creek	*854
			About 0.05 mile upstream of the abandoned railroad bridge.	*870
		Ernies Creek	Mouth at Clinch River	*798
			Just downstream of Fairbanks Road	*830
			Just upstream of Fairbanks Road	*836
			About 0.51 mile upstream of Fairbanks Road	*852
		Emory Valley Creek	Mouth at Clinch River	*798
			About 2530 feet upstream of Columbia Drive	*836
		East Fork Poplar Creek	Just upstream of U.S. Department of Energy Boundary	*782
			Just downstream of Wiltshire Drive	*828
			About 0.74 mile upstream of East Tulsa Road	*881

Maps available for inspection at the Planning Department, City Hall, Oak Ridge, Tennessee. Send comments to Honorable Lyle Lacy III, City Manager, City of Oak Ridge, City Hall, P.O. Box 1, Oak Ridge, Tennessee 37830.

Texas	Harris County	Halls Bayou	Approximately 1.0 mile upstream of confluence with Greens Bayou.	*33
			Approximately 800 feet downstream of confluence of Tributary 6.71.	*58
			At downstream corporate limits	*61
			At Bertrand (upstream side)	*68
			At Aldine Westfield Road (upstream side)	*70
			At confluence of Tributary 11.96	*74
			At Airline Drive (upstream side)	*78
			Downstream side of Sweetwater Road	*81
			Upstream side of Steubner Airline Road	*87
			Approximately 1.4 miles upstream of Steubner Airline Road.	*90
			Approximately 0.6 mile downstream of Ann Louise Road.	*96
			Downstream of Mosielee Road	*100
		Tributary 6.71 to Halls Bayou	At downstream corporate limits	*58
			At Hopper Road (upstream side)	*62
			Approximately 1,950 feet upstream of Hartwick Lane	*63
		Tributary 11.96 to Halls Bayou	At confluence with Halls Bayou	*74
			Approximately 350 feet downstream of East Canna Road.	*76
		Big Gulch	At confluence with Greens Bayou	*24
			Upstream side of Wallisville Road	*25
			Approximately 0.9 mile upstream of Wallisville Road	*32
			Approximately 0.4 mile downstream of Villagrove	*38
			Upstream side of Tidwell Road	*44

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 300 feet downstream of Little York (extended).	*47
		Spring Gully	At confluence with Greens Bayou	*26
			Approximately 1.3 miles upstream of confluence with Greens Bayou.	*32
		Garners Bayou	Confluence with Greens Bayou	*57
			Approximately 0.8 mile downstream of confluence of Tributary 3.19.	*58
			Approximately 1,700 feet upstream of confluence of Tributary 3.19.	*62
			At corporate limits	*65
		Williams Gully	Confluence with Garners Bayou	*57
			Approximately 1.1 miles upstream of confluence with Garners Bayou.	*59
			Approximately 1,400 feet upstreat of confluence of Tributary 2.01.	*64
			Approximately 2.3 miles upstreat of confluence of Tributary 2.01.	*68
		Tributary 2.01 to Williams Gully	Confluence with Williams Gully	*63
			Approximately 0.9 mile upstream of confluence with Williams Gully.	*66
			Approximately 1.9 miles upstream of confluence with Williams Gully.	*72
		Tributary 3.19 to Garners Bayou	Confluence wity Garners Bayou	*61
			Upstream corporate limits	*68
		Tributary 0.55 to Tributary 3.19 to Garners Bayou.	Confluence with Tributary 3.19	*65
			Upstream corporate limits	*67
		North Fork Greens Bayou	Confluence with Greens Bayou	*92
			Upstream side of Ella Boulevard	*94
			Upstream side of most downstream Shell Road	*104
			Upstream side of most upstream Shell Road	*107
			Approximately 1,875 feet upstream of Walters Road	*108
		Tributary 1.95 to North Fork Greens Bayou.	Confluence with North Fork Greens Bayou	*95
			Approximately 0.6 mile upstream of Kuykendahl Road	*104
			Approximately 0.9 mile upstream of Harrel-Dwyer Road.	*112
		Tributary 14.27 to Greens Bayou	At confluence with Greens Bayou	*41
			At corporate limits	*44
		Tributary 14.82 to Greens Bayou	At confluence with Greens Bayou	*43
			Approximately 1.2 miles upstream of confluence with Green Bayou.	*48
			Upstream side of East Houston Dyersdale Road	*57
			Upstream side of Sheridan Roan	*62
			At upstream corporate limits	*64
		Tributary 20.88 to Greens Bayou	At confluence with Greens Bayou	*59
			Upstream of Parairie Drive	*62
			Corporate limits at Old Humble Road	*68
			Corporate limits at Lee Road (upstream side)	*73
			Approximately .38 mile upstream of Lee Road	*74
		Mason Creek	At corporate limits with the City of Houston	*98
			Upstream side of Fry Road	*102
			Upstream side of park Pine Road	*110
			Approximately 0.5 mile downstream of Interstate 10/ State Route 90.	*123
			Upstream of Interstate Route 10	*125
			At Colonial Parkway	*126
			Approximately 0.4 mile upstream of Franz Road	*130
		Tributary 4.96 to Mason Creek	Confluence with Mason Creek	*125
			Approximately 0.9 mile upstream of Mason Road	*128
			Approximately 1.9 miles upstream of Mason Road	*132
			Approximately 100 feet downstream of Katy-Fort Bend Road.	*135
		Tributary 52.9 to Buffalo Bayou	At corporate limits	*98
			Approximately 1,650 feet upstream of confluence of Tributary 2.17 to Tributary 52.9 to Buffalo Bayou.	*102
		Tributary 2.17 to Tributary 52.9 to Buffalo Bayou.	Confluence with Tributary 52.9 to Buffalo Bayou	*100
			Approximately 0.8 mile upstream of confluence with Tributary 52.9 to Buffalo Bayou.	*103
		Cane Island Branch	Approximately 0.6 mile downstream of county boundary.	*147
			Approximately 0.6 miles upstream of Morton Road	*156
			At Pitts Road	*159
		Hunting Bayou	Confluence with Buffalo Bayou	*12
			At upstream corporate limits (with Galena Park)	*12
		Carpenters Bayou	Confluence with Buffalo Bayou	*12
			Upstream side of Woodford Drive	*24
			Upstream side of Wallisville Road	*33
		Tributary 3.33 to Carpenters Bayou	Confluence with Carpenters Bayou	*13
			Approximately 850 feet upstream of Elgin Road	*29
		Tributary 11.71 to Carpenters Bayou.	Confluence with Carpenters Bayou	*40
			Approximately 1.0 mile upstream of Hatchery Road	*46
		Sheldon Reservior	Entire shoreline	*49
		Buffalo Bayou	At confluence of Tucker Bayou	*12
			At confluence of Tributary 6.77	*12
			At confluence of Sims Bayou	*12
			At Dairy Ashford Road and Houston corpoarate limits	*78
			At confluence of Langham Creek	*80
			Downstream of State Route 6	*80

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Turkey Creek	At downstream City of Houston corporate limits	*88
			At first upstream Houston corporate limits	*92
			Corporate limits at Clay Road	*104
			Upstream side of Tanner Road	*108
			At Fisher Road	*110
		Tributary 3.9 to Turkey Creek	At City of Houston corporate limits	*107
			Approximately 3,000 feet upstream of Tanner Road	*114
		Glenmore Ditch	Confluence with Buffao Bayou	*12
		Tributary 8.17 to Buffalo Bayou	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Tucker Bayou	Confluence with Buffalo Bayou	*11
			At corporate limits with Deer Park	*11
		Patrick Bayou	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Panther Creek	Confluence with Buffalo Bayou	*12
			At corporate limits	*12
		Vince Bayou	Confluence with Buffalo Bayou	*12
		Little Vince Bayou	At confluence with Vine Bayou	*12
		Tributary 6.77 to Buffalo Bayou	At confluence with Buffalo bayou	*12
		Tributary 8.17 to Buffalo Bayou	At confluence with Buffalo Bayou	*12
		Goose Creek	Approximately 200 feet upstream of corporate limits	*25
			Approximately .4 mile upstream of Interstate Route 10	*30
			Approximately 200 feet upstream of Wallisville Road East.	*35
			Approximately .4 mile upstream of Fig Orchard Road	*42
		Extreme downstream elevation at corporate limits.	*18	
		East Fork Goose Creek	Approximately 950 feet upstream of Lynchburg-Cedar Bayou Road.	*18
		Forest Lake	Downstream corporate limits	*11
			Corporate limits with the City of Pasadena	*11
			Approximately 1,200 feet upstream of corporate limits	*11
		Clear Creek	Upstream corporate limits of unincorporated areas of Harris County/City of Seabrook.	*15
			Approximately 2.0 miles downstream of confluence of Cow Bayou.	*12
			At confluence of Cow Bayou	*11
			Upstream side of Interstate Route 45/U.S. Route 25	*12
			Upstrea side of FM 528	*18
			Upstream side of Edgewood Avenue/FM 2351	*23
			At confluence of Halls Road Ditch	*27
			At downstream corporate limits of Harris County/City of Pearland.	*36
			At upstream corporate limits of Harris County/City of Pearland.	*39
			At downstream corporate limits of Harris County/City of Houston.	*53
			Upstream side of Cullen Boulvard/FM 518	*53
			Upstream side of County Route 403	*59
			At county boundary	*63
		Taylor Bayou	Entire shoreline within county	*11
		Cow Bayou	Downstream corporate limits	*12
			Approximately 620 feet upstream of El Camino Real Boulevard.	*16
		Tributary 10.08 to CLear Creek	Downstream corporate limits	*11
			Corporate limits at West Nasa Road	*17
			Approximately 1,550 feet upstream of third downstream corporate limits.	*24
		Cedar Gully	Confluence with Clear Creek	*21
			Approximately 1,388 feet upstream of confluence with Cedar Creek.	*21
		Turkey Creek	Confluence with Clear Creek	*26
			Downstream corporate limits of the City of Houston	*32
			At most upstream corporate limits with the City of Houston.	*32
		Tributary 0.16 to Turkey Creek	Confluence with Turkey Creek	*26
			Approximately 0.7 mile upstream of confluence with Turkey Creek.	*29
		Halls Road Ditch	Confluence with Clear Creek	*27
			At downstream corporate limits with City of Houston	*32
			Most upstream corporate limits	*36
		Calveston Bay	Shoreline of southwestern corporate limits at Atkinson Island.	*15
			Shoreline approximately 1.1 miles east of Lee Drive (extended).	*16
			Shoreline at Diversion Channel	*19
			Shoreline of eastern corporate limits south of the City of Baytown.	*17
		White Oak Bayou	Downstream corporate limits with City of Houston	*84
			Upstream corporate limits with City of Houston	*89
			Fairbanks-North Houston Road (upstream side)	*97
			Windfern Road (upstream side)	*100
			Upstream corporate limits of City of Jersey Village	*110
			Jones Road (upstream side)	*120
		Addicks-Fairbanks Road (upstream side).	*128	
			Huffmeister Road (upstream side)	*133
		Brickhouse Gully	Downstream corporate limits	*100

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 300 feet upstream of Gessner Road	*101
		Cole Creek	Downstream corporate limits	*97
			Windfern Road (upstream side)	*97
			Hempstead Road (upstream side)	*101
			Approximately 1,150 feet upstream of Sommermeyer Road (upstream side).	*102
		Vogel Creek	Downstream corporate limits	*86
			West Mount Houston Road (upstream side)	*87
			Chippewa Boulevard (downstream side)	*95
			Romana Boulevard (upstream side)	*101
			Silent Wood Land (upstream side)	*105
			Bunker Wood Land (upstream side)	*107
			Approximately 2,2500 feet upstream of Fairbanks-North Houston Road.	*115
		Tributary 15.6 to White Oak Bayou	Confluence with White Oak Bayou	*92
			Warren Road (upstream side)	*101
			Rodney Ray Boulevard (upstream side)	*109
			Taub Road (downstream side)	*113
		Rolling Fork	Confluence with White Oak Bayou	*99
			Rodney Boulevard (downstream side)	*106
			Prairie Drive (upstream side)	*112
			Approximately 1,100 feet upstream of Taub Road	*117
			Approximately 2.0 miles upstream of Taub Road	*120
		Tributary 19.82 to White Oak Bayou.	Downstream corporate limits	*110
			Jones Road (upstream side)	*111
			Hempstead Road (upstream side)	*117
		East Fork San Jacinto River	Confluence with Lake Houston	*50
			Approximately 2.75 miles downstream of confluence of Caney Creek.	*58
			Approximately 4 miles upstream of confluence of Church House Gully.	*66
			County boundary	*69
		West Fork San Jacinto River	Confluence with Lake Houston	*50
			Approximately 1.5 upstream of confluence of Bear Branch (Tributary to Kingwood Village).	*58
			Downstream of U.S. Route 59	*64
		White Oak Creek	Downstream corporate limits	*59
			Upstream corporate limits	*65
		Mills Branch	Confluence with White Oak Creek	*61
			Approximately 106 feet upstream of Hamblen Road	*75
		Tributary 16.8 to West Fork San Jacinto River.	Confluence with West Fork San Jacinto River	*62
			Upstream corporate limits	*62
		Tributary 17.7 to West Fork San Jacinto River.	Confluence with West Fork San Jacinto River	*64
			Approximately 0.9 mile upstream of confluence	*64
		Bens Branch	At downstream corporate limits	*50
			Approximately 500 feet upstream of Kingwood Drive	*54
			At county boundary	*74
		Jordon Gully	At corporate limits	*61
			Approximately 2,000 feet upstream of FM 1960	*68
		San Jacinto River	Downstream corporate limits	*14
			Interstate Route 10 upstream	*14
			Missouri Pacific Railroad upstream	*16
			Approximately 2 miles upstream of Missouri Pacific Railroad.	*17
			Approximately 21,120 feet above Missouri Pacific Railroad.	*19
			Beaumont Highway (U.S. Route 90)	*28
			Upstream corporate limits	*32
			Approximately 3,250 feet downstream of Lake Houston Dam.	*33
		Lake Houston	Entire shoreline within community	*50
		Cedar Bayou	Confluence with Galveston Bay	*15
			Upstream side of Tri-Cities Beach Road	*12
			Upstream side of Ferry Road/State Route 146	*15
			Approximately 600 feet upstream of downstream crossing of Southern Pacific Railroad.	*20
			Upstream side of Interstate Route 10/U.S. Route 75	*22
			At Crosby-Barbers Hill Road/FM 1942	*31
			At confluence of Buck Gully	*35
			At confluence of Adlong Ditch	*44
			Approximately 2.1 miles upstream of confluence of Adlong Ditch.	*48
			Upstream side of upstream crossing of Southern Pacific Railroad.	*57
			Upstream side of Crosby-Eastgate Road	*63
			Upstream side of Ramsey Road	*66
			Upstream county boundary	*72
		Cary Bayou	Confluence with Cedar Bayou	*14
			Upstream side of Southern Pacific Railroad	*21
			Upstream side of East Archer Road	*28
			Approximately 0.5 mile upstream of East Archer Road	*30
		McGee Gully	Confluence with Cedar Bayou	*18
			Approximately 350 feet upstream of Needlepoint Road	*26
			At Sjolander Road	*29
			Approximately 1.4 miles upstream of Sjolander Road	*34
		Cypress Creek	Confluence with Spring Creek	*76
			Confluence of Wild Cow Gulch	*76

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Aldine-Westfield Road	*82
			Downstream side of Missouri-Pacific Railroad	*88
			Upstream Interstate Route 45 (southbound)	*96
			Upstream Kuykendahl Road	*104
			Upstream side of Kuykendahl Road	*104
			Confluence of Spring Gully	*107
			Upstream side of Seubner-Airline Road	*111
			Confluence of Dry Gully	*115
			Approximately .36 mile upstream of Champion Forest Drive.	*117
			Upstream Chicago Rock Island and Pacific Railroad	*118
			Upstream FM 149	*120
			Confluence of Faulkey Gully	*123
			Upstream side of Grant Road	*130
			Confluence of Little Cypress Creek	*135
			Downstream side of Telge Road	*138
			Upstream side of Woodworth Drive	*141
			Upstream side of Southern Pacific Railroad	*144
			Approximately 1.2 miles upstream of Southern Pacific Railroad.	*145
			Upstream side of House Hahl Road	*149
			Approximately 1 mile upstream of House Hahl Road	*150
			Approximately 2.1 miles upsteam of House Hahl Road	*153
			Confluence of Tributary 40.7	*157
			At confluence of Tributary 40.7	*157
			Downstream Katy Hockley Road	*160
			Confluence of Tributary 44.5	*166
			Upstream Sharp Road	*169
			County boundary	*171
		Wild Cow Gulch	Confluence with Cypress Creek	*76
			Upstream Treaschwig Road	*76
			Downstream Hickory Gate Drive	*90
		Schultz Gully	Confluence with Cypress Creek	*84
			Approximately 800' upstream of Aldine Westfield Road	*89
		Lemm Gully	Confluence with Cypress Creek	*90
			Upstream Lockridge Drive	*90
			Confluence of Wunsche Gully	*104
			Approximately 1,200 feet downstream of Spring-Cypress Road.	*112
		Turkey Creek	Confluence with Cypress Creek	*76
			Approximately 4,200' upstream of confluence	*76
			Downstream Humble Westfield Road	*82
			Upstream Aldine Westfield Road	*86
			Approximately 4,700' upstream of W.W. Thorne Boulevard.	*88
			Downstream Hardy Road	*91
			Downstream Imperial Valley Drive	*100
			Upstream North Vista Drive	*105
		Senger Gully	Confluence with Lemm Gully	*90
			Upstream Northill Drive	*92
			Upstream Cypresswood Drive	*104
			Upstream side of Louetta Road	*115
		Wunsche Gully	Confluence with Lemm Gully	*104
			Upstream Spring-Cypress Road	*125
			Approximately 1,550' upstream of Interstate Route 45	*127
		Seals Gully	Confluence with Cypress Creek	*99
			Upstream Candle Creek Road	*103
			Downstream Louetta Road	*111
			Upstream side of Spring-Cypress Road	*124
			Upstream side of Rhodes Road	*131
		Kothman Gully	Confluence with Seals Gully	*108
			Upstream Spring-Cypress Road	*129
			Downstream FM 2920	*131
			Approximately 1,400' upstream of Spring Stuebner Road.	*139
		Spring Gully	Confluence with Cypress Creek	*107
			Confluence of Theiss Gully	*111
			Upstream side of Spring Creek Oak Drive	*117
			Downstream side of Spring-Cypress Road	*133
			Approximately .87 mile upstream of Spring-Cypress Road.	*140
		Theiss Gully	Confluence with Spring Gully	*111
			Downstream side of Louetta Road	*117
			Downstream Theisswood Road	*124
			upstream Spring-Cypress Road	*141
			Approximately 1.5 miles upstream of Spring-Cypress Road.	*147
		Tributary 2.1 to Spring Gully	Confluence with Spring Gully	*118
			Downstream Spring-Cypress Road	*130
			Approxiately 1.2 milesupstream of Spring-Cypress Road.	*136
		Dry Gully	Confluence with Cypress Creek	*115
			Downstream side of Herts Road	*116
			Approximately 1.57 miles upstream of Louetta Road	*139
		Pillot Gully	Confluence with Cypress Creek	*119
			Upstream side of Cane Creek Road	*124
			Downstream Cossey Road	*134
			Downstream Huffsmith-Kohrville Road	*143

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Faulkey Gully	Confluence with Cypress Creek	*123
			Downstream side of Malcomson Road	*126
			Upstream of Spring-Cypress Road	*143
			Approximately 1 mile upstream of Spring-Cypress Road.	*151
			Upstream Shaw Road	*155
			Approximately 3,650' upstream of Shaw Road	*158
		Little Cypress Creek	Confluence with Cypress Creek	*134
			Upstream side of Kluge Road	*137
			Approximately 1 mile upstream of Kluge Road	*141
			Upstream side of Spring-Cypress Road	*146
			Approximately 1 mile upstream of Spring-Cypress Road.	*148
			Approximately 2 miles upstream of Spring-Cypress Road.	*152
			Approximately .72 mile downstream of Cypress Rosehill Road.	*157
			Upstream Cypress Rosehill Road	*162
			At confluence of Tributary 9.36	*167
			Approximately .93 mile upstream of Mueschke Road	*173
			Approximately 2.6 miles upstream of Mueschke Road	*179
			Upstream Bauer Road	*189
			Downstream side of Becker Road	*197
			Upstream side of Roberts Road	*206
			Upstream side of Bauer-Hockley Road (downstream crossing).	*210
			Downstream side of Bauer-Hockley Road (upstream crossing).	*218
			Approximately 1,400' upstream of Warren Ranch Road	*221
		Thirbutary 9.36 to Little Cypress Creek.	At confluence with Little Cypress Creek	*167
			Upstream side of Mueschke Road	*173
		Tributary 10.99 to Little Cypress Creek.	Confluence with Little Cypress Creek	*173
			Downstream side of Juergen Road	*180
			Approximately .95 mile upstream of Juergen Road	*202
			Approximately 1.4 miles upstream of Juergen Road	*213
		Tributary 13.92 to Little Cyress Creek.	Confluence with Little Cypress Creek	*187
			Downstream Bauer Road	*189
			Approximately 3,400' downstream of Bothkins Road	*201
			Downstream Botkins Road	*210
			Approximately 2,000' upstream of Botkins Road	*216
		Tributary 0.12 to Tributary 13.92 to Little Cypress Creek.	Confluence with Tributary 13.92 to Little Cypress Creek.	*187
			Approximately 1 mile upstream of Bauer-Hockley Road at Private Road crossing.	*201
		Dry Creek	Confluence with Cypress Creek	*142
			Downstream side of Spring-Cypress Road	*146
			Upstream side of Skinner Road	*150
			Upstream side of Cypress Rosehill Road	*154
			Upstream side of Mueschke Road	*156
			Approximately 1.1 miles above Mueschke Road	*159
		Tributary 36.6 to Cypress Creek	Confluence with Cypress Creek	*148
			Approximately 5,000' upstream of confluence with Cypress Creek.	*149
			Approximately 1.9 miles upstream of confluence with Cypress Creek.	*152
			Approximately 2.4 miles upstream of confluence with Cypress Creek.	*153
		Tribuary 37.1 to Cypress Creek	Confluence with Cyress Creek	*149
			Approximately 5,000' upstream of confluence with Cypress Creek.	*154
		Tribuary 40.7 to Cypress Creek	Confluence with Cypress Creek	*157
			Upstream House Road	*172
			Approximately 5,000' upstream of House Road	*189
			Approximately 1.8 upstream	*195
		Tribuary 42.7 to Cypress Creek	Confluence with Cypress Creek	*161
			Approximately .47 mile upstream of Katy-Hockley Road.	*162
			Approximately 1,450' downstream of Jack Road	*164
			Upstream of Southern Pacific Railroad	*180
			Approximately 1.1 upstream of Southern Pacific Railroad.	*192
			Approximately 300' south of Mound Creek	*195
		Rock Hollow	Confluence with Cypress Creek	*162
			Approximately .95 upstream of confluence with Cypress Creek.	*165
			At confluence of Tributary 1.63	*166
			Approximately 1 mile upstream of confluence of Tributary 1.63.	*171
			Upstream Jack Road	*178
			Approximately 1 mile upstream of Warren Lake Dam	*197
			Approximately 1,450' upstream of Mound Road	*208
		Tributary 1.63 to Rock Hollow	Confluence with Rock Hollow	*166
			Upstream side of Waren Ranch Road	*171
			Approximately 1.1 miles upstream of Warren Ranch Road.	*181
			Approximately 1.8 miles upstream of Warren Ranch Road.	*194
		Tributary 44.5 to Cypress Creek	Confluence with Cypress Creek	*166

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Warren Ranch Road	*170
			Approximately 1 mile upstream of Warren Ranch Road	*172
			Approximately 2 miles upstream of Warren Ranch Road.	*176
			Approximately 3 miles upstream of Warren Ranch Road.	*184
			Approximately 4.1 miles upstream of Warren Ranch Road.	*206
		Mound Creek	At most downstream county boundary	*192
			Approximately 2.46 miles upstream of confluence with Cypress Creek and Snake Creek.	*198
			Approximately .66 mile downstream of confluence of Little Mound Creek.	*203
			At most upstream county boundary	*206
		Little Mound Creek	Confluence with Mound Creek	*205
			Approximately 5,000' upstream of confluence with Cypress Creek.	*212
			Upstream side of Betka Road	*219
			Approximately .9 mile upstream of Betka Road	*232
		Tributary 7.62 to Mound Creek	At county boundary	*221
			Approximately 800' upstream of county boundary	*225
		Tributary 8.18 to Mound Creek	At corporate limits	*264
			Approximately 1,600' upstream of corporate limits	*271
		Luce Bayou	At confluence with East Fork San Jacinto River	*50
			Downstream county boundary	*52
			Confluence of Shook Gully	*55
			Confluence of Mexican Gully	*59
			Approximately 3.6 miles upstream of confluence of Mexican Gully.	*67
		Shook Gully	At confluence with Luce Bayou	*55
			Approximately 1.3 mile upstream of Aftonway Road	*76
		Mexican Gully	At confluence with Luce Bayou	*59
			Approximately 0.3 mile upstream of confluence with Luce Bayou.	*67
		Jackson Bayou	At confluence with the San Jacinto River	*29
			Upstream Avenue E	*29
			Upstream Runneburg Road	*46
			Downstream side of Ramsey Road	*49
		Gum Gully	At confluence with Jackson Bayou	*29
			Approximately .95 mile upstream of Diamondhead Boulevard.	*30
			At confluence of Tributary 3.08	*35
			Approximately .95 mile of confluence of Tributary 3.08	*41
			Upstream side of Foley Road	*47
			Upstream Humble Crosby Road	*53
			Approximately 1,475' upstream of Stroker Road	*59
		Tributary 2.70 to Gum Gully	At confluence with Gum Gully	*33
			Upstream side of Marlin Spike Drive	*41
			Approximately 950' upstream of Humble Crosby Road	*52
		Tributary 3.08 to Gum Gully	At confluence with Gum Gully	*35
			Approximately .59 mile upstream of Golf Creek Road	*46
			Approximately 1.4 miles upstream of Golf Club Road	*54
		Bear Creek	Approximately 5.6 miles upstream of confluence with South Mayde Creek.	109
			Approximately 1.1 miles downstream of Barker Cypress Road.	*111
			Upstream side of Barker Cypress Road	*115
			Approximately .81 mile upstream of Clay Road	*122
			Upstream side of Barker Cypress Road	*126
			Approximately 1.33 miles upstream of Barker Cypress Road.	*130
			Approximately 2.27 miles of Barker Cypress Road	*132
			Approximately 1.88 miles downstream of Stockdick Road.	*135
			Approximately .93 mile downstream of Stockdick Road	*141
			Upstream Stockdick Road	*146
			Upstream FM 529	*150
			Approximately .95 mile upstream of FM 529	*154
			Approximately .78 mile upstream of Logenbaugh Road	*161
		Langham Creek	At downstream corporate limits	*111
			Upstream side of West Little York Road	*114
			Approximately 1.4 miles upstream of West Little York Road.	*118
			Downstream Barker Cypress Road	*124
			Approximately 1,600' upstream of Freeman Road	*130
			Approximately 2.3 miles upstream of Freeman Road	*141
			Approximately 4.3 miles upstream of Freeman Road	*150
			Approximately 7.1 miles upstream of Freeman Road	*156
		Dinner Creek	At confluence with Langham Creek	*124
			Approximately 1 mile upstream of confluence with Langham Creek.	*127
			Approximately 2,200' downstream of Freeman Road	*128
			Approximately 1.4 miles upstream of Freeman Road	*143
		Horsepen Creek	At downstream corporate limits	*110
			Approximately 2,800' upstream of West Little York Road.	*112
			Upstream Huffmeister Road	*117
			Upstream side of State Route 6	*120

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1 mile upstream of State Route 6	*132
			Approximately 2 miles upstream of State Route 6	*136
			Approximately 2.9 miles upstream of State Route 6	*141
			Approximately 4.81 miles upstream of State Route 6	*144
		Tributary 9.4 to South Mayde Creek.	At confluence with South Mayde Creek	*122
			Upstream side of Elrod Road	*135
			Downstream Peek Road	*138
			Upstream side of Porter Road	*143
			Downstream Katy Hockley Cutoff	*148
		South Mayde Creek	Approximately 2,000' downstream of Barker-Cypress Road.	*105
			Downstream Groeschke Road	*109
			Downstream Greenhouse Road	*112
			At confluence of Tributary 9.4	*122
			Upstream Clay Road	*130
			Upstream Stockdick Road	*142
			Downstream side of Katy Hockley Cutoff	*154
			At most upstream corporate limits	*171
		Vince Bayou	Confluence with Buffalo Bayou	*12
			Upstream corporate limits	*12
		Little Vince Bayou	Confluence with Vince Bayou	*12
			Upstream corporate limits	*12
		Greens Bayou	At confluence with Buffalo Bayou	*12
			Corporate limits at Missouri Pacific Railroad crossing	*14
			Downstream side of Normandy Drive	*18
			Approximately 1.14 miles upstream of Normandy Drive	*22
			At confluence of Big Gulch	*24
			Upstream side of South Lake Houston Parkway	*26
			Approximately 1.19 miles upstream of South Lake Houston Parkway.	*28
			Upstream Southern Pacific Railroad	*31
			Upstream Green River Drive	*33
			Downstream Tidwell Road	*35
			Downstream confluence of Tributary 14.27	*40
			Upstream North Lake Houston Parkway	*49
			At confluence of Garners Bayou	*57
			Upstream side of Southern Pacific Railroad	*63
			Upstream U.S. Route 59	*66
			At confluence of Tributary 24.97	*69
			Upstream side of FM 525	*72
			Corporate limits upstream of North Belt	*74
			Upstream side of Aldine Westfield Road	*76
			Corporate limits located downstream of East Hardy Road.	*80
			Pedestrian bridge downstream of Greens Road	*85
			Upstream side of Interstate Route 45	*91
			Downstream Gears Road	*95
			Upstream of Stuebner-Airline Road	*105
			Upstream side of Bammel North Houston Road	*111
			Upstream side of Cutten Road	*118
			Upstream side of Mills Road	*122
			Downstream of Louedd Road	*129
		Sulphur Gully	At confluence with Greens Bayou	*26
			Upstream Thrasher Street	*32
			Approximately 2,000' upstream of Thrasher Street	*33
		Tributary 24.97 to Greens Bayou	At confluence with Greens Bayou	*69
			Upstream side of Aldine Westfield Road	*72
			Upstream side of Reeveston Road	*76
			Downstream side of Sweetwater	*86
			Approximately .5 mile upstream of most upstream crossing of Interstate Route 45.	*87
		Tributary 26.64 to Greens Bayou	Upstream Aldine Westfield Road	*86
			Approximately .8 mile upstream of Aldine Westfield Road.	*88
			Approximately 1.8 miles upstream of Aldine Westfield Road.	*91
		Tributary 32.23 to Greens Bayou	At confluence with Greens Bayou	*93
			Upstream side of Spears Gears Road	*99
			Approximately 1,500' upstream of Hugh Road	*103
		Tributary 34.60 to Greens Bayou	AT confluence with greens Bayou	*101
			Upstream Ann Louise Road	*105
			Approximately .51 mile upstream of Ann Louise Road	*106
		Spring Creek	Downstream county boundary	*73
			Confluence of Cypress Creek	*76
			Approximately 2.0 miles upstream of confluence of Cypress Creek.	*78
			Approximately 1.8 miles downstream of confluence of Bender Lake.	*82
			Confluence of Bender Lake	*87
			Approximately 1.6 miles upstream of confluence of Bender Lake.	*92
			Approximately I mile of Riley Fussel Road	*96
			Riley Fussel Road upstream	*99
			Approximately 8,448' upstream of Riley Fussel Road	*103
			Interstate Route 45 upstream	*108
			Approximately 1 mile upstream of Interstate Rourt 45	*111
			Confluence of Tributary 21.08 to Spring Creek	*118

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 8.4 miles upstream of confluence of Tributary 21.08.	*139
			Huffsmith-Conroe Road	*151
			Downstream City of Tomball Corpoate limits	*156
			Upstream City of Tomball corporate limits	*162
			Approximately 2.68 miles upstream of Cypress-Rosehill-Decker Road.	*185
		Boggs Gully	Confluence with Spring Creek	*151
			Confluence of Tributary 1.25	*158
			Zion Road downstream	*167
		Tributary 1.25 to Boggs Gully	At Confluence with Boggs Gully	*158
			At corporate limits located at upstream side of Zion Road.	*171
			Upstream of Huffsmith Road	*173
		Willow Creek	Confluence with Spring Creek	*120
			First Golf Cart bridge (supstream side)	*122
			Confluence of Hughes Gully	*129
			First crossing of Huffsmith-Kohrville Road (upstream side).	*135
			Stuebner-Airline Road (upstream side)	*144
			Second crossing of Huffsmith-Kohrville Road (upstream side).	*152
			West Montgomery Road (upstream side)	*159
			Telge Road (upstream side)	*164
			Cypress-Rosehill Road (upstream side)	*171
			Juergen Road (upstream side)	*176
			Approximately 7,150 feet upstream of Juergen Road	*196
		Tributary 0.26 to Willow Creek	Confluence with Willow Creek	*121
			Approximately 3,270 feet upstream of confluence with Willow Creek.	*120
		Tributary 2.44 to Willow Creek	Confluence with Willow Creek	*121
			Approximately 5,100 feet upstream of confluence with Willow Creek.	*130
			Approximately 8,450 feet upstream of confluence with Willow Creek.	*135
		Huges Gully	Confluence with Willow Creek	*129
			Approximately 3,070 feet upstream of confluence with Willow Creek.	*135
		Cannon Gully	Confluence with Willow Creek	*130
			Approximately 500 feet upstream of confluence of Metzler Creek.	*135
			Kuykendahl Road (upstream side)	*139
		Metzler Creek	Confluence with Cannon Gully	*131
			Approximately 1,430 feet upstream of London Way Drive.	*140
		Tributary 6.52 to Willow Creek	Confluence with Willow Creek	*138
			Approximately 1.02 mile upstream of confluence with Willow Creek.	*142
			Approximately 1.99 miles upstream of confluence with Willow Creek.	*150
		Tributary 8.16 to Willow Creek	Confluence with Willow Creek	*145
			Tomball Country Club Road (upstream side)	*147
			Approximately .7 mile upstram of Tomball Country Club Road.	*158
		Tributary 13.50 to Willow Creek	Confluence with Willow Creek	*160
			Humble Road (upstream side)	*169
			Access Road (downstream side)	*174
			Approximately 1,600 feet upstream of Triechel Road	*176
		Tributary 26.20 to Brays Bayou	At confluence with Brays Bayou	*79
			Approximately 1,700 feet upstream of Piping Rock	*86
		Tributary 29.16 to Brays Bayou	At confluence with Brays Bayou	*84
			Upstream side of Addicks Clodine Road	*87
		Brays Bayou	Downstream corporate limits	*74
			Upstream side of Southern Pacific Railroad	*81
			Approximately 1,100' upstream Clodine Road	*87
		Keegans Bayou	Downstream corporate limits	*86
			At county boundary	*86

Maps available for inspection at the Harris County Permit Office, County Annex, 301 Main Street, Houston, Texas.
Send comments to Honorable John J. Lindsay, County Judge, Harris County Administration Building, 1001 Preston, Houston, Texas 77002.

Texas	Houston, City, Fort Bend, Harris and Montgomery Counties.	Mustang Bayou	Quail Glen Drive (extended)	*75
		Turkey Creek	Upstream Humbel-Westfield Road	*83
			Upstream corporate limits	*66
		Spring Creek	Confluence with San Jacinto River	*66
			Approximately 2 miles upstream of corporate limits	*74
		Armand Bayou	Near the northeastern corporate limits along Genoa-Red Bluff Road and approximately 1,200 feet north of Tributary 9.40 to Armand Bayou at its downstream corporate limits.	*21
		Horsepen Bayou	Downstream corporate limits	*15
			Ellington Air Force Base Runway (upstream side)	*25
		Tributary 4.13 to Horsepen Bayou	Approximately 2.37 miles upstream of confluence with Horssepen Bayou.	*24
		Tributary 5.44 to Horsepen Bayou	Confluence with Horsepen Bayou	*21
			Approximately .66 mile upstream of confluence with Horsepen Bayou.	*21
		Tributary 9.40 to Armand Bayou	At downstream corporate limits	*19

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately .57 mile upstream corporate limits	*25
			Approximately 1.7 miles upstream of corporate limits	*31
		San Jacinto River	At Black Duck Bay north of Baytown Tunnell	*15
			At Crystal Bay at northern end of Goat Island	*15
			At Little Eddy	*32
			At Lake Houston Dam (downstream face)	*34
		Lake Houston	Entire shoreline	*50
		East Fork, San Jacinto River	Confluence with Lake Houston	*50
			Confluence of Caney Creek	*56
			Approximately 110 miles upstream of corporate limits	*58
		Luce Bayou	Confluence with East Fork San Jacinto River	*50
			Upstream side of Wolf Road	*50
			Approximately .24 mile upstream of corporate limits	*52
		Caney Creek	Confluence with East Fork San Jacinto River	*56
			Confluence of White Oak Creek	*56
			At corporate limits	*64
		White Oak Creek	Confluence with Caney Creek	*56
			Upstream of Dogwood Lane	*59
			Upstream corporate limits	*65
		West Fork San Jacinto River	Confluence with Lake Houston	*50
			Confluence of Jordon Gully	*61
			At upstream side of Southern Pacific Railroad	*64
			Upstream corporate limits	*68
		Jordon Gully	At confluance with West Fork San Jacinto River	*61
			At corporate limits	*61
		Bens Branch	At confluence with West Fork San Jacinto River	*50
			At corporate limits	*50
		Buffalo Bayou	Confluence with San Jacinto River	*11
			Confluence with Greens Bayou	*12
			Confluence with Brays Bayou	*12
			Upstream side of 69th Street	*15
			Upstream sirle of Lockwood Drive	*23
			Upstream side of Jensen Drive	*28
			Upstream side of McKee	*33
			Upstream side of Main Street	*38
			Upstream side of Shepherd Drive	*41
			Upstream side of Interstate Route 610	*46
			At confluence of Spring Branch	*52
			Corporate limits at Voss Road	*58
			Upstream side of San Felipe	*61
			At corporate limits within City of Piney Point Village	*64
			Upstream side of Briar Forest Drive	*67
			Upstream side of West Belt Drive	*72
			Upstream side of North Wilcrest Drive	*74
			Upstream side of Dairy Ashford Road	*78
			At confluence of Turkey Creek	*79
			Upstream side of State Route 6	*80
		Spring Branch	At confluence with Buffalo Bayou	*52
			At Interstate Route 10	*55
			Upstream side of Westview Drive	*65
			Upstream side of Bingle Road	*69
			Upstream side of Bracher Road	*73
			Upstream side of Longpoint Road	*79
			Approximately 900' upstream of Campbell Road	*85
		Bering Ditch	At confluence with Buffalo Bayou	*56
			Upstream side of Woodway Drive	*62
			Olympia Drive (extended)	*66
		Turkey Creek	At confluence with Buffalo Bayou	*80
			Upstream side of Old Katy Road	*84
			At most downstream corporate limits	*88
			Approximately 200' upstream of second upstream corporate limits	*93
			Hammerly Boulevard (extended)	*99
			Downstream side of Clay Road	*103
		Tributary 3.9 to Turkey Creek	At confluence with Turkey Creek	*104
			At corporate limits	*106
		Briar Branch	At confluence with Spring Branch	*51
		Rummel Creek	At confluence with Buffalo Bayou	*72
			250' downstream of Interstate Route 10	*72
		Hunting Bayou	Most downstream corporate limits	*15
			Interstate Route 10 (upstream side)	*24
			Wallisville Road (upstream side)	*31
			McCarty Road (upstream side)	*39
			Homestead Road (upstream side)	*45
			Approximately 0.2 mile upstream of U.S. Route 59	*47
		Tributary 5.22 to Hunting Bayou	Confluence with Hunting Bayou	*25
			Upstream side of Mercury Drive	*30
			Approximately 250 feet downstream of Gellhorn Drive	*35
		Tributary 12.05 to Hunting Bayou	Confluence with Hunting Bayou	*45
			Approximately 0.3 mile upstream of Lockwood Road	*51
		Tributary 12.70 to Hunting Bayou	Confluence with Hunting Bayou	*48
			Upstream side of Octavia Street	*46
		Tributary 13.85 to Hunting Bayou	Confluence with Hunting Bayou	*47
			Bain Street (extended)	*47
		Barker Reservoir	Entire shoreline	*98
		Addicks Reservoir	Entire shoreline	*104
		Bear Creak	Approximately 3.6 miles upstream of confluence with South Mayde Creek.	*102

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 4.8 miles upstream of South Mayde Creek.	*106
			Upstream corporate limits	*110
		Horsepen Creek	Confluence with Langham Creek	*109
			At corporate limits	*110
		Langham Creek	Approximately 3 miles upstream of confluence with Bear Creek.	*104
			Approximately 4 miles upstream of confluence with Bear Creek.	*107
			At corporate limits	*111
		South Mayade Creek	Approximately 3,300' downstream side of Barker-Cypress Road.	*104
			Upstream side of Barker-Cypress Road	*108
			Downstream side of Greenhouse Road	*112
		Mason Creek	At confluence with Buffalo Bayou	*98
			At corporate limits	*98
		Tributary 52.9 to Buffalo Bayou	At confluence with Buffalo Bayou	*98
			At corporate limits	*98
		Clodoine Ditch	Approximately 850 feet upstream of Noble-Goar Road	*80
			Approximately .95 mile upstream of Beeler Road	*91
			Approximately .95 mile downstream of Barker-Clodine Road.	*92
			Approximately 1,475 feet upstream of Barker-Clodine Road.	*95
		Halls Bayou	At confluence with Greens Bayou	*33
			Approximately 500 feet upstream of FM 527	*34
			Approximately 0.9 mile upstream of FM 527	*40
			At Missouri Pacific Railroad	*46
			Upstream side of Homestead Road	*50
			Upstream side of Hirsch Road	*57
			Upstream side of Jensen Drive	*60
			Approximately 0.47 mile upstream of Little York Road	*64
			Corporate limits at Sweetwater Road	*81
			Corporate limits at Sunnywood Street	*83
			Approximately 400 feet upstream of Stuebner-Airline	*87
		Tributary 14.27 to Greens Bayou	At downstream corporate limits	*44
			Approximately 350 feet downstream of Mesa	*50
			Approximately 550 feet upstream of Little York Road	*57
			Approximately 100 feet downstream of Van Zandt	*64
		Tributary 14.82 to Greens Bayou	At downstream corporate limits	*64
			Upstream side of Suburban Road	*84
		Tributary 20.88 to Greens Bayou	Approximately 400' upstream of Smith Road	*67
			At downstream face of Old Humble Road	*68
			At upstream face of Lee Road	*73
		Garners Bayou	At downstream corporate limits	*75
			Approximately 1,400 feet upstream of Jetero Boulevard (westbound).	*82
			Approximately 400 feet downstream of Lee Road	*84
			At upstream corporate limits	*91
		Reinhardt Bayou	At confluence with Garners Bayou	*65
			Approximately 300 feet upstream of Southern Pacific Railroad.	*68
			Approximately 0.8 mile downstream of Lee Road	*75
			Approximately 900 feet upstream of Lee Road	*78
			Approximately 1 mile upstream of Lee Road	*80
		Sims Bayou	Confluence with Buffalo Bayou	*12
			La Porte Freeway/State Route 225 (upstream side)	*14
			Galveston Houston and Henderson Railroad (upstream side).	*18
			Interstate Route 45/U.S. Route 75/Gulf Freeway (upstream side).	*28
			Bellfort Avenue (upstream side)	*32
			Swallow Street (upstream side)	*35
			Timber Branch Road (upstream side)	*39
			Cullen Boulevard (upstream side)	*42
			State Route 288 (upstream side)	*48
			Almeda Road (upstream side)	*54
			White Heather Drive (upstream side)	*55
			Heatherchrook Drive (upstream side)	*59
			Hillcroft (upstream side)	*64
			Approximately 2,400 feet upstream of Settlemont Road.	*69
		Plum Creek	Confluence with Sims Bayou	*14
			La Porte Freeway/State Route 225 (upstream side)	*25
			Interstate 610 culvert (downstream side)	*27
			Interstate 610 culvert (upstream side)	*30
		Pine Gully	Confluence with Sims Bayou	*15
			Broadway Boulevard (upstream side)	*29
			Interstate Route 45/U.S. Route 75/Gulf Freeway (upstream side).	*32
			Plum Drive(upstream side)	*36
		Berry Bayou	Confluence with Sims Bayou	*17
			Allendale Road (upstream side)	*20
			Richey (upstream side)	*23
			Lavaun	*33
			Approximately 1,200 feet upstream of Gilpin Street	*35
		Berry Creek	Confluence with Berry Bayou	*19
			Winkler Road (upstream)	*31

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Wynlea	*37
			Scranton Street	*39
			Approximately 2,200 feet upstream of third crossing of West Monroe Street.	*42
		Tributary 2.00 to Berry Bayou	Confluence with Berry Bayou	*22
			Wynbelts (extended)	*32
			College Avenue culvert (upstream side)	*34
		Tributary 3.31 to Berry Bayou	Downstream corporate limits	*33
			Approximately 650 feet upstream of Edgebrook Drive	*36
		Tributary 10.12 to Sims Bayou	Confluence with Sims Bayou	*39
			Vasser (upstream side)	*40
			Bellfort Avenue (upstream side)	*41
		Tributary 10.77 to Sims Bayou	Confluence with Sims Bayou	*40
			Approximately 3,900 feet upstream of Selinsky Road	*43
		Tributary 13.73 to Sims Bayou	Confluence with Sims Bayou	*45
			Approximately 2,950 feet upstream of Airport Boulevard.	*47
		Tributary 17.76 to Sims Bayou	Confluence with Sims Bayou	*54
			Approximately 2,550 feet upstream of Tidewater Drive	*54
		Tributary 20.12 to Sims Bayou	Confluence with Sims Bayou	*58
			Gatewood (upstream side)	*63
		Greens Bayou	At confluence with Buffalo Bayou	*12
			Approximately .95 mile upstream of confluence with Buffalo Bayou.	*12
			Upstream side of Port Terminal Railroad Association Railroad.	*13
			Upstream side of Interstate Route 10	*15
			Downstream side of Normandy Drive	*18
			Eastbrook Drive (extended)	*23
			Upstream side of South Lake (Houston Parkway)	*26
			Downstream side of U.S. Route 90	*30
			Corporate limits located approximately .87 mile upstream of Greenriver Drive.	*34
			At corporate limits located at confluence of Tributary 26.64.	*74
			Corporate limits at Aldine Westfield Road	*75
			Corporate limits located upstream of East Hardy Road	*81
			At corporate limits upstream of Greens Road	*87
		Tributary 24.97 to Greens Bayou	Corporate limits located at Aldine Westfield Road	*72
			Corporate limits located approximately 150 feet downstream of Old Creek (extended).	*83
			Downstream side of Airline Drive	*86
			Upstream of the most upstream crossing of Interstate Route 45.	*87
		Tributary 26.64 to Greens Bayou	At confluence with Greens Bayou	*74
			Upstream side of Greens Road	*74
			Upstream side of Rankin Road	*80
			Downstream side of Aldine Westfield Road	*85
		Clear Creek	Downstream corporate limits	*43
			State Route 35/Telephone Road (upstream side)	*46
			Stone Road (upstream side)	*52
			Second upstream corporate limits	*53
			Third upstream corporate limits	*65
			Most upstream corporate limits	*66
		Cow Bayou	Downstream corporate limits	*12
			Most upstream corporate limits	*12
		Turkey Creek	Downstream corporate limits	*31
			Corporate limits located upstream of Scarsdale Boulevard.	*32
			Downstream side of Sagedowne Lane	*32
		Halls Road Ditch	Downstream corporate limits	*32
			Kirkfair Drive (upstream side)	*35
			Approximately .66 mile upstream of Fuqua	*40
		Brays Bayou	Confluence with Buffalo Bayou	*12
			Upstream side of Forest Hill Boulevard	*19
			Upstream side of Telephone Road	*28
			Upstream side of Scott	*36
			Houston Belt and Terminal Railroad (upstream side)	*40
			Braeswood Boulevard (upstream side)	*45
			Buffalo Speedway (upstream side)	*50
			Hillcroft Avenue (upstream side)	*60
			South Gessner Road (upstream side)	*64
			Confluence of Tributary 20.86 to Brays Bayou	*68
			Bellaire Boulevard (upstream side)	*72
			Upstream corporate limits	*75
		Willow Waterhole	Confluence with Brays Bayou	*53
			South Post Oak Road (upstream side)	*55
			Approximately 600 feet upstream of Landsdowne Drive	*61
		Chimney Rock Diversion	Confluence with Brays Bayou	*56
			Stillbrooke Drive (upstream side)	*58
			Confluence with Willow Waterhole Bayou	*60
		Tributary 17.42 to Brays Bayou	Confluence with Brays Bayou	*61
			Bissonnet Road (upstream side)	*65
			Upstream of Leader	*67
		Fondren Diversion Channel	Confluence with Brays Bayou	*61
			McLain Boulevard (upstream side)	*68
			Approximately 2,000 feet upstream of Energy Dissipator.	*68

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Keegans Bayou	Confluence with Brays Bayou	*64
			Wilcrest Drive (upstream side)	*78
			Kickwood Road (upstream side)	*82
			Dairy Ashford Road (upstream side)	*84
			Approximately 2,000 feet upstream of corporate limits	*86
		Tributary 19.77 to Brays Bayou	Confluence with Brays Bayou	*66
			Approximately 1,000 feet upstream of Neff	*69
		Tributary 20.86 to Brays Bayou	Confluence with Brays Bayou	*68
			Neff extended (upstream side)	*74
			Downstream of Aliel Road	*76
		Tributary 20.90 to Brays Bayou	Confluence with Brays Bayou	*68
			Boone Road (downstream side)	*74
			Approximately 250 feet downstream of Kirkwood Road	*81
		Tributary 21.95 to Brays Bayou	Confluence with Brays Bayou	*71
			Kirkwood Road (upstream side)	*78
			Synott Road (downstream side)	*85
		Tributary 22.69 to Brays Bayou	Confluence with Brays Bayou	*72
			Approximately 400 feet upstream of intersection of Cooper Road and corporate limits (extended).	*75
		Tributary 23.53 to Brays Bayou	Confluence with Brays Bayou	*73
			Upstream of Cook Road	*80
			Approximately 100 feet downstream of Synott Road	*85
		White Oak Bayou	Confluence with Buffalo Bayou	*35
			Houston Avenue (upstream side)	*41
			Yale Street (upstream side)	*45
			Second crossing of West T.C. Jester Boulevard (upstream side).	*50
			Interstate Route 610/State Route 90 (upstream side)	*53
			Most downstream crossing of Fort Worth and Denver Railroad/Chicago Rock Island and Pacific Railroad (upstream side).	*59
			Pinemont Drive (upstream side)	*63
			West Little York Road (upstream side)	*78
			North Houston-Rosslyn Road (upstream side)	*87
			Upstream corporate limits	*91
		White Oak Bayou	Confluence with Little White Oak Bayou	*41
			Trimblee (upstream)	*43
			Cavalcade Road (upstream)	*53
			Stokes	*60
			Victoria Drive	*63
			West Tidwell Road	*71
			North Shepherd Drive	*78
			West Rittenhouse (upstream)	*82
		Tributary 4.29 to Little White Oak Bayou.	Confluence with Little White Oak Bayou	*61
			North Main (upstream side)	*63
			Approximately 360 feet upstream of Tulane	*69
		Tributary 5.93 to Little White Oak Bayou.	Confluence with Little White Oak Bayou	*64
			Interstate Route 45 and State Route 75 (upstream side).	*74
			Downstream of West Rittenhouse	*80
		Brickhouse Gully	Confluence with White Oak Bayou	*61
			Costa Rica Road (upstream side)	*71
			Bolin Road (upstream side)	*75
			Bingle Road (upstream side)	*80
			Colleen Road (upstream side)	*85
			Campbell Road (upstream side)	*89
			Palo Pinto Drive (upstream side)	*97
			Talina Way (upstream side)	*100
		Tributary 1.61 to Brickhouse Gully	Confluence with Brickhouse Gully	*73
			Lang Road (upstream side)	*80
			Pinemont Drive (upstream side)	*85
		Tributary 10.1 to White Oak Bayou	Confluence with White Oak Bayou	*63
			Rosslyn Extended (upstream side)	*78
			Approximately 2,200 feet upstream of Oak Forest Drive.	*84
		Cole Creek	Confluence with White Oak Bayou	*67
			Antoine Road (upstream side)	*76
			Bingle Road (upstream side)	*81
			Langfield Road (upstream side)	*84
			Fairbanks-North Houston Road (upstream side)	*95
			Downstream of Hempstead Road	*100
		Vogel Creek	Confluence with White Oak Bayou	*77
			Maple Tree Drive (upstream side)	*83
			Upstream corporate limits	*86

Maps available for inspection at the City Hall, 901 Bagby, P.O. Box 1561, Houston, Texas.
Send comments to Honorable Kathryn Whitmire, City Hall, 901 Bagby, P.O. Box 1561, Houston, Texas 77251.

Texas	Unincorporated Areas of Jackson County	Lavaca Bay	Along shoreline at Garcitas Cove	*20
			Along shoreline at Swan Lake	*20
			Along shoreline at Redfish Lake	*18
			At Navidad River just downstream of FM 616	*15
		Keller Bay	At Keller's Creek just downstream of State Route 35	*12
		Carancahua Bay	At the mouth of Five mile Branch	*15
			At Five mile Draw just downstream of State Route 35	*12
		Tres Palacios Bay	Approximately 1,500 feet southeast of the intersection of FM 3280 and State Route 35.	*12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Office of the Jackson County Judge or the Office of the Floodplain Administrator, Jackson County Courthouse, 411 North Wells, Edna, Texas 77957. Send comments to Judge Sam Seale, Jackson County Judge, or Mr. Jim Highberg, Floodplain Administrator, County Health Department, Jackson County Courthouse, 411 North Wells, Edna, Texas 77957.				
Texas	Jones Creek, Village Brazoria County	Brazos River	Frontier Lane	*13
			Peach Point Road	*15
		Gulf of Mexico	Eastern corporate limits	*7
*National Geodetic Vertical Datum of 1929; 1979 Relevoling Maps available for inspection at the Community Hall, 7207 Stephen F. Austin Drive, Jones Creek, Texas. Send comments to Honorable Larry Willis, Mayor of the Village of Jones Creek, Community Hall, 7207 Stephen F. Austin Drive, Jones Creek, Texas 77531.				
Texas	Liverpool, City, Brazoria County	Chocolate Bayou	At downstream corporate limits	*16
			Downstream side of Calhoun Street	*17
			At upstream corporate limits	*18
Maps available for inspection at the City Hall, Liverpool, Texas. Send comments to Honorable Marjorie Glassford, Mayor of the City of Liverpool, City Hall, P.O. Box 68, Liverpool, Texas 77577.				
Texas	Mansfield, City, Tarrant County	Walnut Creek	At downstream corporate limits	*538
			At confluence of Ragland Branch	*555
			At Ragland Road (upstream side)	*565
			Confluence of Hogpen Branch	*573
			Walnut Creek Drive (upstream side)	*584
			Southern Pacific Railroad (upstream side)	*591
			Confluence of Willow Branch	*598
			Upstream corporate limits	*609
		Ragland Branch	At confluence with Walnut Creek	*555
			Approximately 1,800' upstream of Ragland Road	*581
		Hogpen Branch	Confluence with Walnut Creek	*573
			Country Club Drive (upstream side)	*584
			Debbie Lane (upstream side)	*609
			U.S. Route 287 (Southbound) (upstream side)	*634
			Spur 496 Mansfield Highway (upstream side)	*665
		Watson Branch	Confluence with Walnut Creek	*577
			House Road (upstream side)	*619
			Approximately 120' downstream of FM 157	*638
		Pond Branch	At confluence with Walnut Creek	*585
			Dallas Street (upstream side)	*608
		Nichols Branch	At confluence with Walnut Creek	*591
			Approximately 2,500' upstream of Newt Patterson Road.	*607
		Willow Branch	Confluence with Walnut Creek	*598
			Approximately 600 upstream of corporate limits	*603
		Low Branch	Downstream corportate limits	*538
			Seeton Road (upstream side)	*561
			Southern Pacific Railroad (upstream side)	*580
			Mitchell Mansfield Road (upstream side)	*592
			Approximately 600' upstream of upstream corporate limits.	*617
Maps available for inspection at the City Hall, 1305 East Broad Street, Mansfield, Texas. Send comments to Honorable Wayne Wilshire, Mayor of the City of Mansfield, 1305 East Broad Street, Mansfield, Texas 76063.				
Texas	New Braunfels, City, Comal County	Alligator Creek	Approximately 0.44 mile upstream of corporate limits (extended).	*627
			Approximately .82 mile upstream of corporate limits (extended).	*632
			Approximately 1.37 miles upstream of corporate limits (extended).	*638
		Comal River	At confluence with Guadalupe River	*611
			At confluence of Old Channel Comal River	*616
		Dry Comal Creek	At confluence of Old Channel Comal River	*616
			Downstream side of Missouri-Pacific Railroad	*623
			Downstream side of North Live Oak Avenue	*634
			Upstream side of State Loop 337	*641
			Downstream side of Missouri-Kansas-Texas Railroad	*650
			At upstream corporate limits	*663
		Old Channel Comal River	At confluence with Comal River	*616
			At confluence of New Channel Comal River	*622
		Comal Springs	At confluence with New Channel Comal River	*622
			At Klingermann Street	*633
		Blieders Creek	Approximately 840' downstream of Lakeview Boulevard.	*633
			At upstream corporate limits	*651
		Guadalupe River	At downstream corporate limits	*585
			At confluence of North Guadalupe Tributary	*596
			Upstream side of U.S Route 81	*607
			Downstream side of East Common Street	*612
			Upstream side of State Loop 337	*615
			At upstream corporate limits	*627
		North Guadalupe Tributary	At confluence with Guadalupe River	*596
			Approximately .75 mile upstream of confluence with Guadalupe River.	*603
			Downstream side of Seguin Avenue	*614
			Upstream side of McQueeny Road	*625
			Approximately .43 mile upstream of McQueeny Road	*630
			Downstream side of Mesquite Avenue	*652
			Approximately 50' upstream of Farm Road 1044	*679

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		South Guadalupe Tributary	At confluence with North Guadalupe Tributary	*596
			Downstream side of Seguin Avenue	*614
			Upstream side of McQueeny Road	*626
			Approximately .65 mile upstream of McQueeny Road	*640
			At upstream corporate limits	*659

Maps available for inspection at the New Braunfels City Hall, New Braunfels, Texas.
Send comments to Honorable Barbara Tieken, Mayor of the City of New Braunfels, City Hall, P.O. Box 1109, New Braunfels, Texas 78130.

Texas	City of Portland, San Patricio County	Nueces Bay	Approximately 750 feet along Cliff Drive from the intersection of Cliff Drive and Moore Avenue.	*14
		Corpus Christi Bay	The point approximately 200 feet shoreward from the intersection of Markham Place and Shore Drive.	*11

Maps available for inspection at the City Hall, 900 Moore Avenue, Portland, Texas 78374.
Send comments to Mayor Bobby Whittington or Mr. William H. Lewis, City Manager, City Hall, P.O. Drawer 1285, Portland, Texas 78374.

Texas	Quintana, Village, Brazoria County	Gulf of Mexico	Entire shoreline within corporate limits	*151

Maps available for inspection at the City Hall (Village of Quintana), Freeport, Texas.
Send comments to Honorable Woody Irving, Mayor pro tem of the Village of Quintana, Route 1, Box 461, Freeport, Texas 77541.

Texas	Richland Hills, City, Tarrant County	Big Fossil Creek	Downstream of State Route 21	*505
			Approximately 2,000' upstream of downstream corporate limits.	*506
			Upstream corporate limits	*509
		Mackey Creek	Upstream of Baker Boulevard	*532
			Upstream corporate limits	*534
		Stream BF-5	Approximately 340 feet upstream of Big Fossil Creek Levee.	*501
			Upstream of Park Place Drive	*521
			Upstream of Baker Boulevard	*541
			Upstream of Brooks Avenue	*560
			Downstream of Hardisty Street	*581
		Stream BF-5A	Confluence with Stream BF-5	*508
			Upstream of Park Place Drive	*520
			Upstream of Baker Boulevard	*541
		Stream BF-5B	Confluence with Stream BF-5	*501
			Upstream of Allena Lane	*505
			Downstream of Crites Street	*528
		Calloway Branch	Downstream corporate limits	*549
			Upstream corporate limits	*557
		Stream WF-9	Downstream corporate limits	*515
			Upstream of State Route 121	*527
			Downstream of Bridges Avenue	*547

Maps available for inspection at the Richland Hills City Hall, 3200 Diana Drive, Fort Worth, Texas.
Send comments to Honorable David L. Reagan, Mayor of the City of Richland Hills, City Hall, 3200 Diana Drive, Fort Worth, Texas 76118.

Texas	River Oaks, City, Tarrant County	Stream WF-5	River Oaks Boulevard (upstream side)	*574
			At upstream corporate limits	*591
		West Fork Trinity River	At downstream corporate limits	*563
			Amherst Street (extended)	*567
			At upstream corporate limits	*570

Maps available for inspection at the River Oaks City Hall, 4900 River Oaks Boulevard, Fort Worth, Texas.
Send comments to Honorable Thomas M. Holland, Mayor of the City of River Oaks, City Hall, 4900 River Oaks Boulevard, Fort Worth, Texas 76114.

Texas	Surfside Beach, Village, Brazoria County	Gulf of Mexico	Entire shoreline within corporate limits	*15

Maps available for inspection at the Village Hall, Freeport, Texas.
Send comments to Honorable Bob Caraway, Mayor of the Surfside Beach Village, Village Hall, Route 2, P.O. Box 909, Freeport, Texas 77541.

Texas	Timbercreek Canyon, Village, Randall County	Prairie Dog Town Fork of Red River.	At downstream corporate limits	*3,417
			Upstream side of Roberts Drive	*3,423
			At upstream corporate limits	*3,427

Maps available for inspection at the Mayor's Office, Route 7, Box 4-5, Amarillo, Texas.
Send comments to Honorable Ed Tunnicelifs, Mayor of the Village of Timbercreek Canyon, Route 7, Box 4-5, Amarillo, Texas 79105.

Texas	Westover Hills, Town of, Tarrant County	Stream WF-10	Most downstream Corporate Limits	*557
			Upstream side of Roaring Springs Road	*599
			Approximately 80 feet upstream of Indian Creek Drive	*604
		Stream WF-10A	At confluence with Stream WF-10	*599
			Approximately 90 feet upstream of Spring Road	*642

Maps available for inspection at Westover Hills Town Hall, 5824 Merrymount Road, Fort Worth, Texas.
Send comments to Honorable R.B. Kelly, Jr., Mayor of the Town of Westover Hills, 5824 Merrymount Road, Fort Worth, Texas 76107.

Vermont	Manchester, Town, Bennington	Batten Kill	Upstream side of Union Street	*682
			Confluence of West Branch Batten Kill	*691
			Upstream side of Depot Street	*700
			Downstream side of Dufresne Dam	*704
		West Branch Batten Kill	Confluence with Batten Kill	*691
			Upstream side of Depot Street	*698
			Downstream side of Dam	*720
		Bourn Brook	Confluence with Batten Kill	*687
			Upstream side of Vermont Road	*690
			Upstream side of Richville Road	*701
			Upstream side of Old Glen Road	*740

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 80' upstream of U.S. Route 7	*747
			Upstream side of Glen Road	*765

Maps available for inspection at the Office of David Durell, Zoning Administrator Manchester Vermont.
Send comments to Honorable Orland C. Campbell, Chairman of the Board of Selectmen of the Town of Manchester, Town Office, Box 909, Route 1130, Manchester, Vermont 05255.

Virginia	Broadway, Town, Rockingham County	North Fork Shenandoah River	Approximately 1,000' downstream of Shenandoah Road.	*1,031
			Approximately 130' upstream of Shenandoah Road	*1,033
		Linville Creek	At confluence with North Fork Shenandoah River	*1,032
			Upstream side of Holly Hill Street	*1,040
			Approximately 530' upstream of State Route 766	*1,048

Maps available for inspection at the Broadway Town Hall, P.O. Box 234, Broadway, Virginia.
Send comments to Honorable Charles Lohr, Town Manager of Broadway, P.O. Box 234, Broadway, Virginia 22815.

Virginia	Dayton, Town, Rockingham County	Cooks Creek	At downstream corporate limits	*1,202
			Approximately 200 feet upstream of State Route 701 (second crossing).	*1,208
			At northwest corporate limits	*1,221

Maps available for inspection at the Dayton Municipal Building, Dayton, Virginia.
Send comments to Honorable Marion I. Eberly, Mayor of the Town of Dayton, Municipl Building, P.O. Box 215, Dayton, Virginia 22821.

Virginia	Mt. Crawford, Town, Rockingham County	North River	Approximately 420 feet downstream of corporate limits	*1,154
			Upstream side of State Route 727	*1,555
			Upstream corporate limits	*1,157

Maps available for inspection at French's Antique Shop, Mt. Crawford, Virginia.
Send comments to Honorable Roscoe Bishop, Mayor of the Town of Mt. Crawford, P.O. Box 187, Mt. Crawford, Virginia 22841.

Virginia	Timberville, Town, Rockingham County	North Fork Shenandoah River	At downstream corporate limits	*995
			Downstream side of State Route 42	*1,003
			At upstream corporate limits	*1,010

Maps available for inspection at the Town Hall, Timberville, Virginia.
Send comments to Honorable Beverly Coffman, Mayor of the Town of Timberville, P.O. Box 102, Timberville, Virginia 22853.

West Virginia	Vienna, City, Wood County	Ohio River	9th Street (extended)	*612
			39th Street (extended)	*613
		Pond Run	At downstream corporate limits	*612
			Approximately .35 mile upstream of 28th Street bridge	*624
		Tributary A	At downstream corporate limits	*613
			Approximately 620 feet upstream of downstream corporate limits.	*617

Maps available for inspection at the City Building, 609 29th Street, Vienna, West Virginia.
Send comments to Honorable Walter Pifer, Mayor of the City of Vienna, 609 29th Street, Vienna, West Virginia 26105.

Wisconsin	Unincorporated Areas of Grant County	Mississippi River	About 2.3 miles downstream of Dam No. 11	*611
			About 0.4 mile upstream of confluence of Wisconsin River.	*628
		Wisconsin River	Mouth at Mississippi River	*628
			About 0.7 mile upstream of State Highway 80	*682
		Platte River	About 1.3 miles downstream of U.S. Highway 81 (at Ellenboro).	*720
			About 700 feet downstream of U.S. Highway 81 (at Ellenboro).	*730
		Little Platte River	Just upstream of County Highway A	*943
			About 4,500 feet upstream of County Highway A	*962
		Crooked Creek	Mouth of Wisconsin River	*656
			About 3.0 miles upstream of State Highway 133	*706
		Sanders Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*670
			About 1.75 miles upstream of Fremont Street	*694
		Rattlesnake Creek	About 1,850 feet downstream of State Highway 133	*870
			About 1,100 feet upstream of State Highway 133	*881
		Kieler Creek	About 1.0 mile upstream of confluence with Menominee River.	*830
			Just downstream of County Highway H	*882
		Louisburg Creek	About 2.8 miles upstream of confluence with Menominee River.	*880
			Just downstream of County Highway H	*917
		Beetown Branch	About 2,700 feet downstream of State Highway 81	*760
			About 3,700 feet upstream of State Highway 81	*856

Maps available for inspection at the Zoning Administrator's Office, Grant County Courthouse, Lancaster, Wisconsin. Send comments to Honorable Mary Wirth, Chairman, Grant County Board, Grant County Courthouse, Lancaster, Wisconsin 53813.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: September 27, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-27112 Filed 10-17-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550 and 580

[Docket No. 84-35]

Electronic Filing of Tariffs by Common Carriers in the Foreign and Domestic Offshore Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend its foreign and domestic offshore tariff filing rules by permitting the electronic receipt of filings outside of the Commission's offices subject to certain stated conditions. The purpose of the proposed rule is to provide the additional tariff file space and to simultaneously make provision for the continuation of a secure and workable means for electronic filings.

DATE: Comments due November 19, 1984.

ADDRESS: Comments (Original and twenty (20) copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT: James A. Warner, Chief Office of Foreign Tariffs, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523-5827.

SUPPLEMENTARY INFORMATION: In 1983, the Commission amended its tariff filing rules (46 CFR Part 536 (now 46 CFR Part 580) and 46 CFR Part 531 (now 46 CFR Part 550)) to permit the electronic filing of tariff pages (see 48 FR 9646 of March 8, 1983 and 48 FR 55573 of December 15, 1983). These provisions were limited to filing via commercial data processing terminals and required the receiving machines to annotate the tariff page with the date of receipt. The receiving machines were required to be physically located in the Commission's offices in Washington, D.C.

The Commission has now had eighteen months of generally satisfactory experience with electronic tariff filing under these rules. During this time the volume of tariff filing has increased and the nature and types of tariff materials filed is also expanding and changing. The Shipping Act of 1984, Pub. L. 98-237, 98 Stat. 67 (46 U.S.C. app. 1701-1720) has added new responsibilities to the Commission in its provisions for the filing of service contracts. These new responsibilities are reflected in pending Docket No. 84-21, *Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States-Service Contracts and Time/Volume Contracts.* (49 FR 18849; May 3, 1984).

To implement the contract filings, the Commission recognizes that its tariff files will expand. In order to accommodate this expansion it is necessary for the Agency to optimize its limited headquarters' office space. The purpose of the proposed rule is to provide the additional tariff file space and to simultaneously make provision for the continuation of a secure and workable means for electronic filings. To make these provisions possible, it is proposed that the current restriction that the receiving terminals for electronic filings be located within the Commission's offices be lifted. Substituted in its place are two new requirements which will ensure the integrity of electronically filed tariff material.

By the proposed rule, the receipt of electronic filings will continue under the present procedures except the filing must be received on terminals located in the same building as the Commission's offices, i.e. 1100 L Street, NW., Washington, D.C. This is made possible as the commercial vendors of electronic filing services are now able to secure commercial office space through the General Services Administration in the same building as the Commission. Indeed, a number of commercial vendors of tariff information are presently located at the same address as the Commission. The relocation of the data processing receiving terminals for electronic filing outside of the Commission's actual offices, but in the same building, is not perceived as an operational problem for the Commission provided that the additional data element, described below, is added to the electronic filing to preserve their integrity and provide adequate controls.

The Commission, by this rule, will require the receiving terminal(s) to print on the bottom of each page transmitted, in addition to the date received, a unique number. This number will identify the specific terminal and is to be registered with the Director, Bureau of Tariffs. The purpose of requiring the unique number and its registration with the Commission is to preserve the intergrity of electronically filing material which is received by the Commission outside of its immediate offices. By implementing this procedure, the Commission will have a safeguard against improper filings and will be able to ensure that electronically transmitted materials are not received at locations outside of its headquarters building. By restricting the receiving locations to its headquarters building, the Commission can provide surveillance over the receiving terminals by knowing their locations and by having immediate access to these terminals by virtue of their location. Upon implementation of this rule the receiving terminals operated by the commercial services will no longer be located in the Commission's offices.

The Commission has determined that these rules are not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because they will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individuals industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The Chairman, Federal Maritime Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

List of Subjects in 46 CFR Parts 580 and 550

Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

PART 580—[AMENDED]

Therefore, for the reasons set out in the **SUPPLEMENTARY INFORMATION**, and pursuant to 5 U.S.C. 553; secs. 8, 9 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1770, 1708, and 1716); secs. 18(a) and 43 of the Shipping Act, 1916 (46 U.S.C. app. 817(a) and 41(a); and sec. 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 844) the Federal Maritime Commission proposes to amend Parts 580 and 550 of Subchapter D, Chapter IV of Title 46 of the Code of Federal Regulations as follows:

1. In § 580.2, revising paragraph (w) to read as follows:

§ 580.2 Definitions.

* * * * *

(w) *Tariff filings, electronic.* The transmission of tariff filing to the Commission through the use of commercial data processing terminals. The data processing receiving terminal(s) are to be colocated within the same building at the Commission's Washington, D.C. offices. Tariff material filed electronically must conform to all

the regulations applicable to permanent tariff filings, except as follows:

(1) Electronically filed tariff pages received from data processing terminals may be used for filing with the Commission; and

(2) Electronically filed tariff matter shall be accompanied by an electronically filed letter of transmittal.

* * * * *

2. In § 580.3, revising paragraph (a)(2) to read as follows:

§ 580.3 Filing of tariffs; general.

* * * * *

(a) * * *

(2) The Commission will receive tariff filings on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop located in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted to the Commission by electronic modes will be receipted by a date/time device on the receiving machine which will imprint the date and time on the bottom of each received tariff page. The receiving machine will also imprint a unique machine registration number on the bottom of each tariff page. The unique machine registration number must be registered with the Director, Bureau of Tariffs.

* * * * *

PART 550—[AMENDED]

3. In § 550.2, revising paragraph (i) to read as follows:

§ 550.2 Definitions.

* * * * *

(i) *File, Filed, Filing (of Tariff Matter).* The actual receipt by the Federal Maritime Commission at its offices in Washington, D.C. The Commission will receive tariff filings on an around-the-clock basis. Receipt of tariff filings during other than normal business hours will be time stamped at a tariff mail drop in the lobby of the Commission's Washington, D.C. offices. Electronic tariff filings transmitted to the Commission by electronic modes will be receipted by a date/time device on the receiving terminals located with the same building as the Commission's Washington, D.C. offices. Terminals receiving electronic filings must imprint the date and time received on the bottom of each page as well as imprint a unique machine registration number. The unique machine registration number must be registered with the Director, Bureau of Tariffs.

* * * * *

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-27503 Filed 10-17-84; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

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

Forms Under Review by Office of Management and Budget

October 12, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

- Farmers Home Administration

7 CFR 1980–B, Guaranteed Farmer Program Loans
FmHA 449–11, FmHA 449–12
On occasion
Individuals or households, State or local governments, Farms, Businesses or other for-profit; 12,580 responses, 23,620 hours; not applicable under 3504(h)
Jack Holston (202) 382–9736

New

- Federal Grain Inspection Service

Applications for Service and Designation under USGSA and AMA '46 CP–5, CP–5–1, CP–6, CP–33, FGIS–435, WH–30, FGIS 4, FGIS 907, FGIS 908, and FGIS 950
Annually
State or local governments, Businesses or other for profit; 162,902 responses, 28,285 hours; not applicable under 3504(h)
Lewis Lebakken, Jr. (202) 382–1738

Donald Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 84–27581 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Highland Park Critical Area Treatment RC&D Measure, VA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Highland Park Critical Area Treatment RC&D Measure, Washington County, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for grading, shaping and seeding eroding areas in Washington County, Virginia. The planned work will include the establishment of ten (10) acres of permanent vegetative cover, installing a diversion, grassed waterway, and rock-lined waterway.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 9, 1984.

Manly S. Wilder,

State Conservationist.

[FR Doc. 84–27540 Filed 10–17–84; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Application for Commission in the NOAA Corps
Form Number: Agency—NOAA 56–42, 42A, 42C, 42D; OMB—0648–0047
Type of Request: Extension of the expiration date of a currently approved collection
Burden: 216 respondents; 216 reporting hours
Needs and Uses: This collection of information is used to initiate application for commissioning in the Commissioned Corps of the National Oceanic and Atmospheric Administration. Information is used to establish eligibility and degree of qualification of applicants for commissioning in the NOAA Corps.
Affected Public: Individuals
Frequency: On occasion
Respondent's Burden: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW, Washington, DC. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: October 15, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84–27550 Filed 10–17–84; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[C–533–063]

Certain Iron-Metal Castings From India; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 16, 1984, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India. The review covers the period January 1, 1982, through December 31, 1982.

We gave interested parties an opportunity to comment on the preliminary results. After review of the comment received, the Department has determined the net subsidy during the period of review to be 2.58 percent *ad valorem.*

EFFECTIVE DATE: October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION: .

Background

On August 16, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 32779) the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India (46 FR 16921, October 16, 1980). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Indian manhole covers and frames, and catch basin grates and frames. Such merchandise is currently classifiable under items 657.0950 and 657.0990 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1982, through December 31, 1982, and nine programs: (1) A rebate upon export of indirect taxes under the Cash Compensatory Support Program ("CCS"); (2) pre-shipment export loans; (3) income tax deductions under the Export Markets Development Allowance; (4) grants through the Market Development Assistance Program; (5) the sale of Import Replenishment Licenses; (6) extension of the Kandla Free Trade Zone; (7) supply of raw materials at "subsidized prices"; (8) preferential freight rates; and (9) import duty exemptions on capital equipment purchases.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received a comment from the Engineering Export Promotion Council ("the EEPC").

Comment. The EEPC claims that in calculating the weighted average overrebate of indirect taxes under the CCS Program, we reversed the proportion of total exports for two companies, thus undervaluing the allowable indirect tax incidence and overstating the total benefit.

Department's Position

We agree and, accordingly, have adjusted our calculation of the benefit under the CCS program for assessment and cash deposit purposes. We have determined the net subsidy under the CCS program to be 1.66 percent *ad valorem* during the review period and 1.45 percent *ad valorem* for cash deposit purposes.

Final Results of the Review

After review of the comment received, adjusting for the change described in the comment, we determine the net subsidy to be 2.58 percent *ad valorem* for the period January 1, 1982, through December 31, 1982. The Department will instruct the Customs Service to assess countervailing duties of 2.58 percent of f.o.b. invoice price on any shipments of this merchandise exported on or after January 1, 1982 and on or before December 31, 1982.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 2.19 percent of the entered value on shipments of this merchandise entered, or with drawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: October 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84–27586 Filed 10–17–84; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application

for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before November 7, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00033."

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (Mar. 11, 1983) (codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards For Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–15940 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Application: International Continental Agri-Tech, Inc., Route 2, Box 8–A, Florence, Mississippi 39073, Telephone: 504/524–3223
Application #: 84–00033
Date Received: September 28, 1984
Date Deemed Submitted: October 5, 1984
Members in Addition to Applicant: Mr. R.S. Norsworthy, Florence, Mississippi; Mr. G.F. Corcoran, New Orleans, Lousiana
Controlling Entity: None

Summary of the Application

International Continental Agri-Tech, Inc. has submitted an application seeking certification for the following export-related activities:

A. Export Markets

The Applicant and its members intend to export and market products and services worldwide.

B. Export Trade

The applicant will act as an agent, distributor, consultant or representative for U.S. suppliers of goods and services for export. The goods and services which the applicant intends to export or represent for export include all agricultural produce, fish and fish products (including all processed foods and kindred products), forest products, metallic minerals (ores), lignite, anthracite and bituminous coal, and services related to the production, gathering, processing or distribution of these products; work clothing and footwear, paper and allied products, educational materials, rubber and miscellaneous plastics products, stone, clay and glass products, fabricated metal products, machinery, transportation equipment, instruments and related products, for use in the course of, or as supplies to facilities engaged in, the production, gathering processing or distribution of agriculture, forest, fish, ore, coal or petroleum products; lumber and wood products, excluding furniture, and chemical and allied products.

The following export trade services may be provided or secured by the Applicant and its members for U.S. suppliers of goods and services for export: Accounting, advertising, agency, architectural, brokerage, clerical, communications, consultation, currency conversion, custom documentation, engineering, feasibility studies, financial, freight forwarding, insurance, investment, legal, management, marketing & sales service, packaging, product design, export services, representation, real estate, sales, translation, transportation and warehousing.

C. Export Trade Activities and Methods of Operation

The Applicant and its members seek to enter into exclusive and non-exclusive agency, distributorship, consulting and representation agreements with U.S. suppliers of goods

and services for export, including competing suppliers in the same industry. These agreements may contain territorial, customer, price and/or quantity restrictions.

The Applicant and its members further propose to enter into, and from time to time terminate, exclusive and non-exclusive agreements with distributors, sales representatives, agents and customers located in foreign countries and in the United States for goods and services being exported or in the course of being exported. The foregoing agreements may contain territorial, customer, price and/or quantity restrictions.

In addition, the Applicant and its members seek to have certified the "packaging" of quotations responsive to invitations to bid, including the supply of products or services in the same industry, and seek certification for the designation and coordination of the sharing of business among suppliers of the applicant and its members. Also, with respect to goods and/or services to be exported or in the course of being exported, the Applicant and its members propose to consult and exchange information with competitors, to ascertain the existence of, prepare bids for, and share business from foreign customers.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to pubish a notice of the application in the Federal Register identifying the persons submitting an application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: October 15, 1984.

Richard H. Shay,

Deputy General Counsel.

[FR Doc. 84-27557 Filed 10-17-84; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing a Specific Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

October 15, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 19, 1984. For further information contact Kyle Poole, Trade Reference Assistant, (202) 377-4212.

Background

On March 8, 1984 a notice was published in the **Federal Register** (49 FR 8658) which established an import restraint limit for women's, girls' and infants' suits in Category 644, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on November 30, 1983 and extends through November 30, 1984. During consultations with the Government of the Dominican Republic agreement was reached under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Agreement of December 30, 1983 between the Governments of the United States and the Dominican Republic to establish a specific limit of 43,000 dozen for goods exported during the twelve-month period which began on June 1, 1984 and extends through May 31, 1985. Flexibility in the form of swing, carryover and carryforward is available for application to this new specific limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 15, 1984

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive cancels and supersedes the directive of March 5, 1984.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1983, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on October 19, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 644, produced or manufactured in the Dominican Republic and exported during the period which began on June 1, 1984 and extends through May 31, 1985, in excess of 43,000 dozen.[1]

Textile products in Category 644 which have been exported to the United States prior to June 1, 1984 shall not subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-27540 Filed 10-17-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Cancellation of Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Small Flood Protection Project at Willoughby Hills, Lake County, OH

AGENCY: U.S. Army Engineer District, Buffalo, Department of Defense.

ACTION: Cancellation of Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The Buffalo District of the U.S. Army Corps of Engineers hereby cancels its Notice of Intent to Prepare a Draft Environmental Impact Statement as published in 49 FR 5988, 16 February 1984. The DEIS was to be prepared for a proposed Federal action to reduce flood damages within the Chagrin River flood plain.

The Notice is cancelled because at a public meeting held on 26 June 1984, local residents rejected the only feasible alternative—relocation. As a result, the Buffalo District will recommend no further Federal action except to provide technical advice on floodproofing and flood warning to the local interests. The

[1] The level has not been adjusted to account for any imports exported after May 31, 1984.

cancellation of the Federal project nullifies any need for environmental review associated with that project.

ADDRESS: Questions can be forwarded to Mr. William Werick, Small Projects and Special Services Branch, Planning Division, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207, Phone (716) 876–5454 or FTS 473–2144.

Dated: October 9, 1984.

Robert R. Hardiman,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 84–27525 Filed 10–17–84; 8:45 am]

BILLING CODE 3710–GP–M

Department of the Navy

Privacy Act of 1974; Addition of a New System of Records and an Altered System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new and altered system of records.

SUMMARY: The Department of the Navy proposes to add one system of records and alter an existing system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice November 19, 1984, unless comments are received which would result in a contrary detemination.

ADDRESS: Send any comments to the system manager identified in the particular system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op–Q9B30) Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: 202/697–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C 552a) Pub. L. 93–579 were published in the Federal Register as follows:

FR Doc. 83–109 (49 FR 26029) June 6, 1983
FR Doc. 84–2616 (49 FR 3901) January 31, 1984
FR Doc. 84–2828 (49 FR 4124) February 2, 1984
FR Doc. 84–4908 (49 FR 6967) February 24, 1984
FR Doc. 84–8893 (49 FR 13350) April 4, 1984
FR Doc. 84–8901 (49 FR 13399) April 4, 1984
FR Doc. 84–10509 (49 FR 15601) April 19, 1984
FR Doc. 84–10681 (49 FR 16777) April 20, 1984
FR Doc. 84–14818 (49 FR 23107) June 4, 1984
FR Doc. 84–16521 (49 FR 25507) June 21, 1984
FR Doc. 84–23495 (49 FR 35172) September 6, 1984
FR Doc. 84–25459 (49 FR 37825) September 26, 1984

The Department of the Navy has submitted both a new, and an altered, system report for these systems of record on September 4, 1984 under the provisions of 5 U.S.C. 552a(o) of the Privacy Act of 1974, as amended.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 11, 1984.

NO5353–1

SYSTEM NAME:

Treatment Effectiveness Assessment System.

SYSTEM LOCATION:

Primary system—Alcohol Rehabilitation Branch, Health Promotion Division, Naval Medical Command, 23rd and E Streets, NW, Washington, DC 20372.

Secondary system—27 Alcohol Rehabilitation Services at Naval Hospitals in Bethesda, Maryland; Jacksonville, Florida; Pensacola, Florida; Orlando, Florida; San Diego, California; Long Beach, California; Oakland, California; Camp Pendleton, California; Bremerton, Washington; Charleston, South Carolina; Beaufort, South Carolina; Corpus Christi, Texas; Great Lakes, Illinois; Groton, Connecticut; Camp LeJeune, North Carolina; Millington, Tennessee; Newport, Rhode Island; Philadelphia, Pennsylvania; Quantico, Virginia; Guam; Guantanamo Bay, Cuba; Naples, Italy; Roosevelt Roads, Puerto Rico; Okinawa, Japan; Yokosuka, Japan; Subic Bay, Republic of the Philippines; and Rota, Spain.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have successfully completed a six-week residential alcohol rehabilitation program at a Navy alcohol rehabilitation service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected is in three categories:

a. *Treatment Facility Records.* Title and address of facility; prognosis of individual; dates of treatment completion; and entry for whether an individualized aftercase program has been established.

b. *Reviewer's Information.* Reviewing official's name, grade and title, and date of review.

c. *Service Member's Information.* Name, SSNA, grade, date of birth, current status, type of discharge, if applicable, and general information regarding individual's progress subsequent to treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 and 10 U.S.C. 5031.

PURPOSE(S):

For officials and employees of the Naval Medical Command to maintain a data base which will permit monitoring treatment effectiveness of services that provide alcohol rehabilitation (Alcohol Rehabilitation Services/Substances Abuse Departments) at Navy medical treatment facilities in accordance with the Navy Substance Abuse program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on hard copy forms in a secured safe.

RETRIEVABILITY:

Data will be indexed by name and social security number.

SAFEGUARDS:

The records will be maintained in a secured, locked safe accessible only by combination number. Access to the secured safe is under the control of authorized personnel during working hours. In addition, access to the compound is protected by uniformed guards and requires positive identification for admission.

RETENTION AND DISPOSAL:

Records are retained for three years after the individual successfully completes a residential Navy alcohol rehabilitation program. The records are then destroyed.

SYSTEMS MANAGER(S) AND ADDRESS:

Head, Alcohol Rehabilitation Branch, Health Promotion Division, Naval Medical Command, Department of the Navy, 23rd and E Streets, NW, Washington, DC 20372.

NOTIFICATION PROCEDURES:

Information should be obtained from the system manager. Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual to whom it applies, the individual's current duty station, and from Alcohol Rehabilitation Service in which attended.

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

None.

N06320–1

System name:

Uncollectible Accounts (48 FR 26128) June 6, 1983.

Changes:

System location:

Delete lines one and two in their entirety and substitute with: "Primary System-Commander, Naval Medical Command, Navy * * *"

Categories of records in the system:

Delete the entire entry and substitute with the following: "Individual's name and SSN, sponsor's SSN, if applicable, paygrade, branch of service, duty station address, account number, activity performing service, insurance company, civilian employer, patient category, time and dates of service, units of service, physicians' and hospitals' statements of service and total charges for treatment including interest, administrative and penalty charges, payment receipts, admission documents, correspondence relating to collection attempts to ascertain eligibility status, patient category, and third party insurer liability, records of payment received and outstanding balances, letter reports of uncollectible accounts receivable, records suspending or terminating collection action or effecting compromise settlement agreements, and requests for recovery of Champus funds and substantiating documents."

Purpose(s):

Add the following entry: "To identify and facilitate payment of amounts owed the U.S. Users of the information include Naval Medical Command personnel who are directly involved in processing payments or billings of patient accounts. The information is used to determine amounts owed, methods to be employed to effect recovery, whether or not the claim can be compromised or collection action thereon terminated or suspended, and to collect charges for utility bills and other miscellaneous items. File may be forwarded to the Naval Investigative Service for investigation or to any component of DOD, as needed, in the performance of their duties related to same.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system."

Disclosure to consumer reporting agencies:

Add caption and insert: "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 Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Delete the entire entry and substitute with: "Records are maintained on magnetic disk, magnetic tape and hard copy forms."

Retrievability:

Delete the entire entry and substitute with: "Automated records are retrieved by either a query or a request for a standard report. Data may be indexed by any data element although the primary search keys are name and SSN. Paper records are filed alphabetically by last name of debter."

Safeguards:

Delete the entire entry and substitute with: "Access to the automated system requires user account number and password sign on. Access to the paper records and/or terminals are limited to only authorized personnel that are properly screened and trained. Office space where records and/or terminals are located is locked after official working hours."

System manager(s) and address:

In lines one and two, delete the phrase "Chief, Bureau of Medicine and Surgery, * * *" and substitute with: "Commander, Naval Medical Command, * * *" In lines five and six, delete the words: "* * * Command of the Chief, Bureau of Medicine and Surgery," and substitute with: "* * * Commander, Naval Medical Command."

Notification procedure:

In line two, delete the phrase: "* * * Chief, Bureau of Medicine and Surgery" and substitute with: "Commander, Naval Medical Command." In line seven, delete the entire sentence beginning with: "The requester may visit the Comptroller, Bureau * * *"

Records source categories:

Delete the entire entry and substitute with the folowing: "Automated patient administration system records produced at Medical Treatment Facilities include but not limited to Inpatient Admission/Disposition Records, NAVMEDCOM 6300/5; Report of Treatment Furnished Pay Patients-Hospitalization/Outpatient Treatment Furnished, DOD 7/7A, Part A/B. Other record source categories are: OCHAMPUS, Denver; U.S. Postal Service; Military Locator Services; State Departments of Motor Vehicles; any component of the DOD; the Department of Justice, the General Accounting Office, retail credit associations, financial institutions, current or previous employers, educational institutions, trade associations, automated system interfaces, local law enforcement agencies, the Department of Health and Human Services, the Internal Revenue Service, and the Office of Personnel Management."

N06320–1

SYSTEM NAME:

Uncollectible Accounts.

SYSTEM LOCATION:

Primary system-Commander, Naval Medical Command, Navy Department, Washington, DC 20372.

Decentralized Segments-Naval Hospitals and Medical Centers which provide services or perform work giving rise to such accounts receivable. (Mailing addresses are listed in the directory of Department of the Navy mailing addresses in the Appendix to the Component System Notice.)

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' name and SSN, sponsor's SSN, if applicable, paygrade, branch of service, duty station address, account number, activity performing service, insurance company, civilian employer, patient category, time and dates of service, units of service, physicians' and hospitals' statements of services and total charges for treatment including interest, administrative and penalty

charges, payment receipts, admission documents, correspondence relating to collection attempts to ascertain eligibility status, patient category, and third party insurer liability, records of payment received and outstanding balances, letter reports of uncollectible accounts receivable, records suspending or terminating collection action or effecting compromise settlement agreements, and requests for recovery of Champus funds and substantiating documents.

* * * * *

PURPOSE(S):

To identify and facilitate payment of amounts owed the U.S. Users of the information include Naval Medical Command personnel who are directly involved in processing payments or billings of patient accounts. The information is used to determine amounts owed, methods to be employed to effect recovery, whether or not the claim can be compromised or collection action thereon terminated or suspended, and to collect charges for utility bills and other miscellaneous items. File may be forwarded to the Naval Investigative Service for investigation or to any component of DOD, as needed, in the performance of their duties related to same.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (16 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disk, magnetic tape and hard copy forms.

RETRIEVABILITY:

Automated records are retrieved by either a query or a request for a standard report. Data may be indexed by any data element although the primary search keys are name and SSN. Paper records are filed alphabetically by last name of debter.

SAFEGUARDS:

Access to the automated system requires user account number and password sign on. Access to the paper records and/or terminals are limited to only authorized personnel that are properly screened and trained. Office space where records and/or terminals are located is locked after official working hours.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Medical Command, Navy Department, Washington, DC 20372 and Commanding Officers of Medical Treatment Facilities under the Commander, Naval Medical Command.

NOTIFICATION PROCEDURES:

Information may be obtained from the Commander, Naval Medical Command. Requests should provide the full name of the debter, the military or dependency status of the debter, and the location and approximate dates of treatment or examination.

* * * * *

RECORD SOURCE CATEGORIES:

Automated patient administration system records produced at Medical Treatment Facilities include but not limited to Inpatient Admission/Disposition Records, NAVMEDCOM 6300/5; Report of Treatment Furnished Pay Patients—Hospitalization/Outpatient Treatment Furnished, DOD 7/7A, Part A/B. Other record source categories are: OCHAMPUS, Denver; U.S. Postal Service; Military Locator Services; State Departments of Motor Vehicles; any component of the DOD; the Department of Justice, the General Accounting Office, retail credit associations, financial institutions, current or previous employers, educational institutions, trade associations, automated system interfaces, local law enforcement agencies, the Department of Health and Human Services, the Internal Revenue Service, and the Office of Personnel Management.

* * * * *

[FR Doc. 84-27398 Filed 10-17-84; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy.

ACTION: Notice of amendments of systems of records.

SUMMARY: The Department of the Navy proposes to amend sixteen systems of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed actions will be effective without further notice November 19, 1984, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the systems managers identified in the systems notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B30), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 697-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the Federal Register as follows:

FR Doc. 83-109 (48 FR 26029) June 6, 1984
FR Doc. 84-2616 (49 FR 3901) January 31, 1984
FR Doc. 84-2828 (49 FR 4124) February 2, 1984
FR Doc. 84-4908 (49 FR 6967) February 24, 1984
FR Doc. 84-8893 (49 FR 13350) April 4, 1984
FR Doc. 84-8901 (49 FR 13399) April 4, 1984
FR Doc. 84-10509 (49 FR 15601) April 19, 1984
FR Doc. 84-10681 (49 FR 16777) April 20, 1984
FR Doc. 84-14818 (49 FR 23107) June 4, 1984
FR Doc. 84-16521 (49 FR 25507) June 21, 1984
FR Doc. 84-23495 (49 FR 35172) September 6, 1984
FR Doc. 84-25459 (49 FR 37825) September 26, 1984

The proposed amendments are not within the purview of the provision of 5 USC 552a(o) which requires the submission of altered systems reports.

Patricia H. Means,

OSD Federal Register Liaison Oficer, Department of Defense.

October 11, 1984.

N01070-3

System name:

Navy Personnel Records System (49 FR 4124) February 2, 1984.

Changes:

System location:

Delete the first and second lines in their entirety and substitute with the following: "Primary System—Navy Military Personnel Command, Navy Department."

Purpose(s):

Delete the entire entry and substitute with the following: "To assist officials and employees of the Navy in the management, supervision and administration of Naval personnel

(officer and enlisted) and the operations of related personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete paras 1, 2, 9 and 11 in their entirety. In para 5, delete lines 9 through 16 beginning with: "* * * The Senate or the * * *". At the end of the entry, add the following paragraphs:

State, local, and foreign (within status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system."

System Manager(s) and address:

Delete the first line in its entirety and substitute with the following: "Commander, Naval Military Personnel Command,"

The revised portions of System N01070-3 read as follows:

N01070-3

SYSTEM NAME:

Navy Personnel Records System.

SYSTEM LOCATION:

Primary System—Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg 603, New Orleans, LA 70159; and local activity to which individual is assigned (see Directory of Department of the Navy Mailing Addresses).

Secondary System—Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing Addresses); Federal Records Storage Centers; National Archives.

* * * * *

PURPOSE(S):

To assist officials and employees of the Navy in the management, supervision and administration of Naval personnel (officer and enlisted) and the operations of related personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of military personnel and the operation of personnel affairs and functions.

To officials and employees of the National Research Council in Cooperative Studies of the National History of Disease; of Prognosis and of Epidemology. Each study in which the records of members and former members of the naval service are used must be approved by the Commander, Naval Military Personnel Command.

To officials and employees of the Department of Health and Human Services, Veterans Administration, and Selective Service Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and the American Red Cross in the performance of their duties related to assistance of the members and their dependents and relatives.

To duly appointed Family Ombudsmen in the performance of their duties related to the assistance of the members and their families.

To state and local agencies in performance of their official duties related to verification of status for determination of eligibility for Veterans Bonuses and other benefits and entitlements.

To officials and employees of the Office of the Sergeant at Arms of the United States House of Representatives in the performance of their official duties related to the verification of the active duty naval service of members of Congress.

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged or retired from the Armed Forces information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual the United States Government will be liable for the losses the facility may incur.

To state, local, and foreign (within Status of Forces agreements) law enforcement agencies or their authorized representatives in connection with litigation, law enforcement, or other matters under the jurisdiction of such agencies.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Washington, D.C. 20370; Commanding Officers, Officers in Charge, and Heads of Department of the Navy activities as listed in the Directory of the Department of the Navy Mailing Addresses.

* * * * *

N01080-1

System name:

Enlisted Master File Automated System (48 FR 26043) June 6, 1983.

Changes:

System location:

Delete the first line in its entirety and substitute with the following: "Naval Military Personnel Command, Navy * * *"

Purpose(s):

Add the following new paragraph: "To assist in the administration, management, and supervision of Navy enlisted personnel and the operation of personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy enlisted personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to

the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

Delete the first line in its entirety and substitute with the following: "Commander, Naval Military Personnel Command, Navy * * *"

Notification Procedure:

In line 3, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01080–1 read as follows:

N01080–1

SYSTEM NAME:

Enlisted Master File Automated System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Personnel Management Information Center, New Orlenas, LA 70149; Naval Reserve Personnel Center, New Orleans, LA 70149

* * * * *

PURPOSE(S):

To assist in the administration, management, and supervision of Navy enlisted personnel and the operation of personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy enlisted personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURES:

Requests by correspondence from active duty enlisted personnel shall be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; requests by correspondence from inactive duty and reserve personnel shall be addressed to: Commanding Officer, Naval Reserve Personnel Center (Attn: Privacy Act Coordinator), New Orleans, LA 70149; request shall contain full name, social security account number, rank, status, and signature of requester.

* * * * *

N01080–2

System name:

Officer Master File Automated System (48 FR 26044) June 6, 1983.

Changes:

System location:

Delete the first line in its entirety and substitute with the following: "Naval Military Personnel Command, Navy * * *"

Purpose(s):

Add the following new paragraph: "To assist officials and employees of the Navy in their official duties related to the management, supervision, and administration of both active duty and retired Naval officers, and in the operation of personnel affairs and functions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 3 and 4, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01080–2 read as follows:

N01080–2

SYSTEM NAME:

Officer Master File Automated System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Personnel Management Information Center, New Orleans, LA 70149; Naval Reserve Personnel Center, New Orleans, LA 70149.

* * * * *

PURPOSE(S):

To assist officials and employees of the Navy in their official duties related to the management, supervision and administration of both active duty and retired Naval officers, and in the operation of personnel affairs and functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management, supervision and administration of Navy officer personnel and the operation of personnel affairs and functions.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Department of the Navy, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Active duty Navy Officers/Officer Candidates shall make requests by correspondence addressed to: Commander, Naval Military Personnel

Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. Naval Reserve and retired officers shall make requests by correspondence to the Commanding Officer, Naval Reserve Personnel Center, New Orleans, LA 70149. Requests shall contain full name, social security account number, rank, status, address and signature of the requester.

* * * * *

N01301–2

System name:

Naval Officer Development and Distribution Support System (48 FR 26050) June 6, 1983.

Changes:

System location:

Delete the entire entry and substitute with the following: "Naval Military Personnel Command, Navy Department, Washington, D.C. 20370."

Purpose(s):

Add the following new paragraph: "To assist Navy officials and employees in the classification, qualification determinations, assignment, placement, career development, education, training, recall and release of officer personnel pursuant to meet manpower allocations and requirements."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Naval officer personnel to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

System manager(s) and address:

Delete the entire entry and substitute with the following: "Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370."

Notification procedure:

In para 1, lines 2 and 3, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * * "

In para 2, lines 1 and 2, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of system N01301–2 read as follows:

N01301–2

SYSTEM NAME:

Naval Officer Development and Distribution Support System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

* * * * *

PURPOSE(S):

To assist Navy officials and employees in the classification, qualification determinations, assignment, placement, career development, education, training, recall and release of officer personnel pursuant to meet manpower allocations and requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Naval officer personnel to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. The letter should contain full name, rank, social security account number, designator, address and signature.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance. Advance notification is requested for personal visits. Proof of identification will consist of military identification card.

* * * * *

N01306–1

System name:

Enlisted Development and Distribution Support System (48 FR 26051) June 6, 1983

Changes:

System location:

Delete lines 1 and 2 in their entirety and substitute with the following: "Primary System-Naval Military Personnel Command, Navy Department * * *"

Purpose(s):

Add the following new paragraph: "To assist Navy officials and employees in the initiation, development, implementation of policies pertaining to enlisted personnel assignment, placement, retention, career enhancement, and motivation, and other career related matters, in order to meet manpower allocations and requirements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Navy enlisted personnel in order to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

Delete line 1 in its entirety and substitute with the following: "Commander, Naval Military Personnel Command, Navy * * *"

Notification procedure:

In lines 2, 3, 16, and 17, delete the phrase: "Chief of Naval Personnel" and substitute with: "Commander, Naval Military Personnel Command."

The revised portions of System N01306–1 read as follows:

N01306–1

SYSTEM NAME:

Enlisted Development and Distribution Support.

SYSTEM LOCATION:

Primary System-Naval Military Personnel Command, Navy Department, Washington, D.C. 20370. Secondary System-Enlisted Personnel Management Information Center, New Orleans, LA 70149 and Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg 603, New Orleans, LA 70146.

* * * * *

PURPOSE(S):

To assist Navy officials and employees in the initiation, development, implementation of policies pertaining to enlisted personnel assignment, placement, retention, career enhancement, and motivation, and other career related matters, in order to meet manpower allocations and requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the management and administration of Navy enlisted personnel in order to meet manpower allocations and requirements.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370: or, for Training and Administration of Reserve personnel only, to Commanding Officer, (Attn: Privacy Act Coordinator), Naval Reserve Personnel Center, Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70146. The letter should contain full name, social security account number (and/or enlisted service number), rate, military status, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or Training and Administration of Reserve personnel may visit the Commanding Officer (Privacy Act Coordinator), Naval Support Activity (East Bank), Bldg. 603, New Orleans, LA 70146. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01420–1

System name:

Officer Promotion System (48 FR 26052) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist officials and employees of the Department of the Navy relating to the promotion of naval officers."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the Navy's Officer Promotion System and the records contained therein.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase "Chief of Naval Personnel * * *" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, 12 and 13, delete the phrase: "Chief of Naval Personnel" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N01420–1 read as follows:

N01420–1

SYSTEM NAME:

Officer Promotion System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and Reporting Seniors (see Directory of the Department of the Navy Mailing Addresses); Federal Records Storage Centers; National Archives.

* * * * *

PURPOSE(S):

To assist official and employees of the Department of the Navy relating to the promotion of naval officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to the Navy's Officer Promotion System and the records contained therein.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy complilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or to Reporting Seniors (see Director of the Department of the Navy Mailing Addresses). The letter should contain

full name, social security account number (and/or officer file number), rank, military status, address and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the Reporting Senior for records maintained for that individual. Proof of identification will consist of military identification card.

* * * * * *

N01610–1

System name:

Navy Personnel Evaluation System (48 FR 26061) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in personnel administration of Navy members, including but not limited to retention, assignment, and separation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To the Director, Veterans, Administration, and Director, Selective Service Administration and their officials and employees in connection with notification and assistance in obtaining benefits by members and former members;

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to personnel administration.

To state and local government agencies in the performance of their official duties related to personnel administration.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *".

Notification procedure:

In lines 2, 3, and 10, delete the phrase: "Chief of Naval Personnel" and substitute with: "Commander, Naval Military Personnel Command".

The revised portions of System N01610–1 read as follows:

N01610–1

SYSTEM NAME:

Navy Personnel Evaluation System.

SYSTEM LOCATION:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

* * * * *

PURPOSE(S):

To assist in personnel administration of Navy members, including but not limited to retention, assignment, and separation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PROPOSES OF SUCH USES:

To the Director, Veterans Administration, and Director, Selective Service Administration and their officials and employees in connection with notification and assistance in obtaining benefits by members and former members.

To officials and employees of other Departments and Agencies of the Executive Branch of government, upon request, in the performance of their official duties related to personnel administration.

To state and local government agencies in the performance of their official duties related to personnel administration.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370. The letter should contain full name, social security account number, rank/rate/civilian status, address and notarized signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building. Prior written notification of personal visits is required to ensure that all parts of the record are available at the time of the visit. Proof of identity will be required and will consist of a military identification card for persons having such cards and picture-bearning identification.

* * * * *

N01740–1

System name:

Personal Services and Dependents Services Support System (48 FR 26063) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with: * * * "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in the management, supervision, and administration of personal services, benefits and entitlements for Navy service members and their dependents."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of the Veterans Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and American Red Cross in the performance of their duties related to assistance of members, their dependents and relatives.

To state and local government agencies in the performance of their official duties related to assistance of members and their dependents.

To non-government agencies only to assist members and their dependents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routing Uses that appear at the beginning of the Department of the Navy compilation also apply to this syster."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * * " and substitute with the following: "Commander, Naval Military Personnel Command * * * "

Notification procedure:

In lines 2 and 17, delete the phrase: "Chief of of Naval Personnel * * * " and substitute with: "Commander, Naval Military Personnel Command * * * "

The revised portions of System NO 1740–1 read as follows:

N01740–1

SYSTEM NAME:

Personal Services and Dependents Services Support System.

SYSTEM LOCATION:

Primary System-Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; Navy Family Allowance Activity, Anthony J. Celebreeze Federal Building, Room 967, Cleveland, Ohio 44199; local activity to which individual is assigned (see Directory of the Department of the Naval Mailing Addresses).

Secondary System-Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Naval Mailing Addresses).

* * * * *

PURPOSE(S):

To assist in the management, supervision, and administration of personal services, benefits and entitlements for Navy service members and their dependents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

"To officials and employees of the Veterans Administration in the performance of their official duties related to eligibility, notification and assistance in obtaining benefits by members and former members of the Navy.

To officials and employees of Navy Relief and American Red Cross in the performance of their duties related to assistance of members, their dependents and relatives.

To state and local government agencies in the performance of their official duties related to assistance of members and their dependents.

To non-government agencies only to assist members and their dependents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this syster.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or in accordance with the Directory of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, (and/or enlisted service number/officer file number), rank/rate, military status, or name of the dependent, name of sponsor, sponsor's social security account number, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex, (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01746–1

System name:

Nonappropriated Fund Activity Information Support System (48 FR 26064) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Naval Personnel * * *" and substitute with: "* * * Naval Military Personnel Command * * *" In line 5, delete the phrase: "Chief of Naval Pesonnel" and substitute with: "Comander, Naval Military Personnel Command."

Categories of individuals covered by the system:

In line 9, delete the phrase: "* * * Chief of Naval Personnel," and substitute with "* * * Commander, Naval Military Personnel Command."

Categories of records in the system:

In line 9, delete the phrase: "* * * Chief of Naval Personnel," and substitute with: "* * * Commander, Naval Military Personnel Command."

Purpose(s):

Add the following new paragraph: "To assist in the management, supervision and administration of Nonappropriated Fund Activities such as messes, clubs, package stores and special-services facilities."

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with the following: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 2, 3, 11, and 12, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System NO1746–1 read as follows:

N01746–1

SYSTEM NAME:

Nonappropriated Fund Activity Information Support System.

SYSTEM LOCATION:

Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and local Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals authorized under current regulations to use Commissioned Officers Messes (open), Chief Petty Officer Messes, Petty Officer First and Second Class Messes, Enlisted Men's Clubs, Consolidated Package Stores, Special Services facilities, and other Nonappropirated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, records, membership applications, membership and user listings of Nonappropriated Fund Activity facilities, accounts receivable records, bad check listings, investigatory reports involving abuse of facilities, required for management of Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

* * * * *

PURPOSE(S):

To assist in the management, supervision and administration of Nonappropriated Fund Activities such as messes, clubs, package stores and special-services facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, DC 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, DC 20370; or to the head of the local Nonappropriated Fund Activity concerned. The letter should contain full name, social security account number, status, address, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Washington, DC 20370 (Arlington Annex, FOB 2) for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N01770-1

System name:

Decedent Affairs Records System (48 FR 26065) June 6, 1983.

Changes:

System location:

Delete the entire entry and substitute with the following: "Commander, Naval Medical Command, 23rd, & E Sts, NW., Washington, DC 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities."

Purpose(s):

Add the following new paragraph: "To facilitate and monitor the return of remains and associated benefits; to verify eligibility of beneficiaries for benefits; to assist officials in the identification, care and return of decedent's remains, and the notification of the next of kin of the cause of death, and payment of allowances thereto."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation apply to this system."

Retention and disposal:

Delete the last word "bureau" in the entry and substitute with "Command." Add the following new sentence at the end: "Records are held for two years and then destroyed at the Office of Medical Affairs Geographic Commands."

System manager(s) and address:

Delete the entire entry and substitute with the following: "Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, DC 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities."

Notification procedure:

In lines 6 and 7, delete the phrase: "Bureau of Medicine and Surgery (Code 73) * * *" and substitute with: "Naval Medical Command * * *"

The revised portions of system N01770-1 read as follows:

N01770-1

SYSTEM NAME:

Decedent Affairs Records System.

SYSTEM LOCATION:

Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, D.C. 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities.

* * * * *

PURPOSE(S):

To facilitate and monitor the return of remains and associated benefits; to verify eligibility of beneficiaries for benefits; to assist officials in the identification, care and return of decedent's remains, and the notification of the next of kin of the cause of death, and payment of allowances thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation apply to this system.

* * * * *

RETENTION AND DISPOSAL:

Permanent-Records are accumulated chronologically and filed alphabetically by fiscal year; held three years and retired to the Federal Records Center for permanent retention under control of this Command. Records are held for two years and then destroyed at the Office of Medical Affairs Geographic Commands.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Medical Command, 23rd & E Sts, NW., Washington, D.C. 20372; Office of Medical Affairs Geographic Commands and Commanding Officers, Naval Medical Treatment Facilities.

NOTIFICATION PROCEDURE:

Address inquiries to the systems manager. Inquiry must include name of decedent, military status at time of death, SSAN and/or service number, and date of death. Requester may visit the Naval Medical Command, 23rd & E Sts NW., Washington, D.C. 20372.

* * * * *

N01770-2

System name:

Casualty Information Support System (48 FR 26066) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command . . ."

Purpose(s):

Add the following new paragraph: "To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To officials and employees of the Department of Health and Human Services in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Veterans Administration and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of state and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, 15, and 16, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of system N01770–2 read as follows:

N01770–2

SYSTEM NAME:

Casualty Information Support System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370 and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses); Washington National Records Center, Suitland, Maryland.

* * * * *

PURPOSE(S):

To assist in the management of the casualty assistance program and to provide swift accurate responses to beneficiaries and survivors of Navy military personnel; to aid in the efficient settlement of the service member's estate and other affairs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Department of Health and Human Services in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of the Veterans Administration and the Selective Service Administration in connection with eligibility, notification and assistance in obtaining benefits due.

To officials and employees of state and local government agencies in connection with eligibility, notification and assistance in obtaining benefits due.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number (and/or enlisted service number/officer file number), rank/rate, military status, date of casualty and status at time of casualty, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05340–2

System name:

Personal Commercial Affairs Solicitation Privilege File System (48 FR 26090) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in responding to letters of application for solicitation privileges, granting letters of accreditation, responding to appeals and compiling of statistics pertaining thereto."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To state and local agencies in the performance of their official duties related to agent qualifications.

To private firms whose agents have been banned may request verification of the status of agents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager (s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification Procedure:

In lines 2, 3, 13, and 14, delete the phrase: "Chief of Naval Personnel * * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of system N05340–2 read as follows:

N05340–2

SYSTEM NAME:

Personal Commercial Affairs Solicitation Privilege File System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Secondary System-Local Navy Activities involved in the Personal Commercial Affairs Solicitation Privilege System (see Directory of Department of the Navy Mailing Addresses).

* * * * *

PURPOSE(S):

To assist in responding to letters of application for solicitation privileges, granting letters of accreditation, responding to appeals and compiling of statistics pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To state and local agencies in the performance of their official duties related to agent qualifications.

To private firms whose agents have been banned may request verification of the status of agents.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number of the applicant, firm represented and dates or time period in question, and signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity for access to locally maintained records. Proof of identification will consist of picture-bearing identification.

* * * * *

N05350–1

System name:

Navy Personnel Rehabilitation Support System (48 FR 26091) June 6, 1983.

Changes:

Purpose(s):

Add the following new paragraph: "To assist in the identification, diagnosis, prognosis, or treatment of personnel requiring same for drug or alcohol abuse; to assist them in the prevention of such abuse and to do same for dependents and civilian employees."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * * " and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 3, 4, and 13, delete the phrase: "* * * Chief of Naval Personnel * * * " and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System N05350–1 read as follows:

N05350–1

SYSTEM NAME:

Navy Personnel Rehabilitation Support System.

* * * * *

PURPOSE(S):

To assist in the identification, diagnosis, prognosis, or treatment of personnel requiring same for drug or alcohol abuse; to assist them in the prevention of such abuse and to do same for dependents and civilian employees.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Written requests should be addressed to activity to which the individual received treatment or to the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Washington, D.C. 20370. Requests must contain full name, social security account number, military status, address and signature of requester. (Those inquiring about records at Confinement Centers must have their signature notarized, if not confined at the time of the request.) The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2) for assistance with records located in the Naval Military Personnel Command; the individual may also visit local activities concerned (see Directory of Department of the Navy mailing addresses). Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05354–1

System name:

Equal Opportunity Information and Support System (48 FR 26092) June 6, 1983.

Changes:

System location:

In lines 1 and 2, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with: "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To assist in equal opportunity measures, including but not limited to, investigations and correspondence."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency, as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedures:

In lines 2, 3, 12, and 13, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

The revised portions of System NO5354–1 read as follows:

NO5354-1

SYSTEM NAME:

Equal Opportunity Information and Support System.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370; and local activity to which individual is attached (see Directory of the Department of the Navy Mailing Addresses).

Secondary System-Department of the Navy Activities in the Chain of Command between the local activity and the Headquarters level (see Directory of the Department of the Navy Mailing Addresses).

PURPOSE(S):

To assist in equal opportunity measures, including but not limited to, investigations and correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Requests by correspondence should be addressed to the Commander, Naval Military Command (Attn: Privacy Act Coordinator), Washington, D.C. 20370; or, in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, rank/rate, military status, and signature of requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex, (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may also visit local activity to which attached for access to locally maintained records. Proof of identification will consist of military identification card for persons having such cards, or other picture-bearing identification.

* * * * *

N05520-1

System name:

Personnel Security Eligibility Information System (48 FR 26095) June 6, 1983.

Changes:

System location:

In lines 2 and 3, delete the phrase: "* * * Bureau of Naval Personnel * * *" and substitute with "* * * Naval Military Personnel Command * * *"

Purpose(s):

Add the following new paragraph: "To determine service member's eligibility for acceptance and retention, personnel security clearances, assignment to the Nuclear Weapon Personnel Reliability Program and other "high risk" programs requiring quality control."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

"To state and local government agencies in the performance of their officials duties relating to personnel security eligibility.

To officials and employees of other Executive Branches of the government, upon request, in the performance of their duties related to personnel security eligibility.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System manager(s) and address:

In line, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command * * *"

Notification procedure:

In lines 2, 3, and 13, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of System N05520-1 read as follows:

N05520-1

SYSTEM NAME:

Personnel Security Eligibility Information System.

* * * * *

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

Secondary System-local activity to which individual is assigned (see Directory of Department of the Navy Mailing Addresses).

PURPOSE(S):

To determine service member's eligibility for acceptance and retention, personnel security clearances, assignment to the Nuclear Weapon Personnel Reliability Program and other "high risk" programs requiring quality control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To state and local government agencies in the performance of their officials duties relating to personnel security eligibility.

To officials and employees of other Executive Branches of the government, upon request, in the performance of their duties related to personnel security eligibility.

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Navy Department, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to Commander, Naval Military Personnel Command, (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or in accordance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities). The letter should contain full name, social security account number, rank/rate/civilian status, address and notarized signature of the requester. The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity to which attached for access to locally maintained records. Prior written notification of personal visits is required

to ensure that all parts of the record will be available at the time of the visit. Proof of identity will be required and will consist of a military identification card for persons having such cards and picture-bearing identification.

N12290–1

System name:

Record System for Civilian Employees of Nonappropriated Fund (NAF) Activities (48 FR 26151) June 6, 1983.

Changes:

System location:

In line 1, delete the phrase: "Bureau of Navel Personnel * * *" and substitute with: "Naval Military Personnel Command * * *"

Categories of individuals covered by the system:

In line 3, delete the phrase: "Chief of Naval Personnel," and substitute with: "Commander, Naval Military Personnel Command."

Purpose(s):

Add the following new paragraph: "To manage, supervise, and administer the Nonappropriated Fund civilian program."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following:

When required by Federal statute, by Executive Order, or by treaty personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system."

System Manager(s) and address:

In line 1, delete the phrase: "Chief of Naval Personnel * * *" and substitute with: "Commander, Naval Military Personnel Command* * *"

Notification Procedure:

In lines 2, 3, 13, and 14, delete the phrase: "* * * Chief of Naval Personnel * * *" and substitute with: "* * * Commander, Naval Military Personnel Command * * *"

The revised portions of System N12290–1 read as follows:

N12290–1

SYSTEM NAME:

Record System for Civilian Employees of Nonappropriated Fund (NAF) Activities.

SYSTEM LOCATION:

Primary System-Commander, Naval Military Personnel Command, Washington, D.C. 20370; and local activity to which individual is assigned (see Directory of the Department of the Navy Mailing Addresses); National Personnel Records Center, St. Louis, Missouri 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of Nonappropriated Fund Activities under the cognizance of the Commander, Naval Military Personnel Command.

* * * * *

PURPOSE(S):

To manage, supervise, and administer the nonappropriated fund civilian program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When required by Federal statute, by Executive Order, or by treaty, personnel record information will be disclosed to the individual, organization, or governmental agency as necessary.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy compilation also apply to this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Military Personnel Command, Department of the Navy, Washington, D.C. 20370.

NOTIFICATION PROCEDURE:

Requests by correspondence should be addressed to: Commander, Naval Military Personnel Command (Attn: Privacy Act Coordinator), Navy Department, Washington, D.C. 20370; or, in accorance with the Directory of the Department of the Navy Mailing Addresses (i.e., local activities).

The letter should contain full name, social security account number, activity at which employed, and signature of the requester.

The individual may visit the Commander, Naval Military Personnel Command, Arlington Annex (FOB 2), Rm. 1066, Washington, D.C. for assistance with records located in that building; or the individual may visit the local activity in which attached for access to locally maintained records.

* * * * *

[FR Doc. 84–27397 Filed 10–17–84; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Record of Decision the Expanded Residential Weatherization Program

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of decision.

SUMMARY: The Administrator of the Bonneville Power Administration has decided to expand the present BPA Residential Weatherization Program to make "house tightening" measures—storm windows, other window treatments conserving energy, wall insulation, weatherstripping, caulking, and door treatments such as thermal pane replacements—available to all electrically heated homes in the BPA service area otherwise eligible for the program, and to adopt mitigation strategies to lessen the risk of adverse human health effects. The mitigation strategies include: (1) Giving program participants (residents) information on indoor air pollutant sources and practical steps for reducing concentrations; (2) giving program participants options for having their homes monitored for radon concentrations; and (3) partially subsidizing the installation of a proven mitigation device, if radon concentrations exceed 5 picoCuries per liter, the action level selected by BPA

This is the "preferred alternative" analyzed in BPA's Final Environmental Impact Statement for The Expanded Residential Weatherization Program, issued August 10, 1984 (DOE/EIS–0095F).

Five alternatives were analyzed and compared in reaching the above decision: (1) *No action,* or continuation of the present Residential Weatherization Program, which limits the availability of house tightening measures to dwellings devoid of possible major sources of radon, formaldehyde, and combustion by-products; (2) the *proposed action,* offering house tightening measures to all electrically heated homes in the BPA service area; (3) the *preferred alternative,* which offers house tightening measures to all electrically heated homes in the service area plus mitigates the increment of indoor air pollution by giving information on indoor air pollutants, providing options for radon monitoring and subsidized air-to-air heat exchanges to program participants; (4) the *environmentally preferred alternative,* which entails tightening all electrically heated homes in the service area plus fully mitigating

the increment of indoor air pollution by installing air-to-air heat exchangers in each participating home; and (5) the *delayed action alternative*, which retains the restrictions of the present program for another 3 to 5 years, to see if ongoing research throughout the country leads to a better understanding of indoor air pollution and associated health risks.

The following decision factors entered into the decision to implement the preferred alternative: (1) *Health risk*, the increment of risk to human health from house tightening measures; (2) *energy savings*, the amount of electric power acquired under each alternative; (3) *cost*, the price of each alternative; (4) *public comment*, the views of those responding to the Draft Environmental Impact Statement; (5) *statutory mission*, BPA's obligations under the Pacific Northwest Electric Power Planning and Conservation Act including the obligation to give first priority to energy conservation; (6) *Northwest Conservation and Electric Power Plan*, consistency with the plan of the Northwest Power Planning Council; (7) *choice*, the voluntary nature of participation in the program by residents, and the effect of their actions on indoor air pollutant concentrations in their dwellings; (8) *self-help*, the ability of occupants to reduce indoor air pollution by avoiding known pollution sources or exercising other options based on information received; (9) *uncertainty*, the recent recognition of the problem of indoor air pollution and lack of conclusive information on related health effects; (10) *behavioral variability*, that differences in resident's ways of life contribute to differences in indoor air pollution; (11) *home variability*, that indoor air pollution varies across dwellings because they differ in construction practices, structure, air volume, pollutant sources, and emission rates of these sources; (12) *environmental policy*, the protection of the quality of the human environment, taking into account the effectiveness of alternative means for reducing risks of ill-health, and the possible need of acquiring electric generating plants, in lieu of conservation, which would consume land and water resources; (13) *administrative practicality*, the ease and fairness of administering a regional program in cooperation with Pacific Northwest utilities, States, and other entities; (14) *intergovernmental relations*, minimizing conflict over differences in conservation programs with Federal, State, and local agencies; (15) *BPA's role*, the agency's limited ability to regulate individual behavior in private homes; and (16) *employment*, providing jobs.

The Administrator is using his discretionary authority in deciding to implement the preferred alternative rather than any of the other four alternatives considered. In reaching this decision, a series of policy judgments were made, based on the foregoing decision factors, to develop a risk management strategy that balances the uncertain incremental risk of ill health from house tightening with the costs of reducing that risk while obtaining most of the cost-effective potential energy savings which are available from home weatherization.

The preferred alternative is chosen over the other alternatives because:

—By offering all tightening measures to all homes, more potential energy savings from home weatherization can be obtained, thereby fulfilling the mandates of Congress and recommendations of the Northwest Power Planning Council for giving first priority to cost-effective conservation before acquiring other forms of electric energy resources;

—By offering to monitor for radon, the agency is taking steps to identify the presence of a pollutant in individual homes which can present a serious health hazard, accounting for almost half of the health risks from the indoor air pollutants reviewed for this record of decision; radon monitoring devices are readily available, practical to use in a regional program, inexpensive, and give relatively reliable results;

—By offering radon monitoring to program participants, there will be opportunity to identify high risk homes which can then be matched with appropriate mitigation; mitigation in homes with high radon concentrations will reduce the risk of cancer from randon exposure for individuals living in these dwellings, and will eliminate their incremental health risk from house tightening; therefore, the expenditures of funds for radon monitoring is warranted;

—By paying for mitigation in high risk homes, BPA's mitigation expenditures (about 8 percent of the funds needed for program expansion) will directly benefit those program participants at high risk; although these participants are few in number (about 5 percent of all potential program participants), they carry a disproportionate share of the regional health risk from radon exposure, and therefore warrant the expenditures of funds for radon mitigation;

—By giving mitigation only to high risk homes, rather than all homes participating in the program, energy savings will be increased and program costs reduced while attaining a level of risk likely to be accepted by program participants; and

—Because public comments on the Draft Environmental Impact Statement indicated strong support for informing program participants about the relationship between house tightening and indoor air quality, and letting them make their own choices regarding house tightening and mitigation.

The decision to implement the preferred alternative means that no special steps will be taken to monitor and mitigate for formaldehyde and combustion by-products, other than informing program participants about these indoor pollutants. The factors contributing to this policy judgment are:

—Formaldehyde is a very minor contributor to the increment of cancer risk from house tightening;

—Mitigation devices are not warranted for formaldehyde because of its transient nature (as home products containing formaldehyde age, the off-gassing of this chemical decreases);

—Information is the most effective means for mitigating health effects from formaldehyde, which include irritation to skin, eyes, mucous membranes and the respiratory tract, because residents are likely to be aware of recently installed furnishings containing formaldehyde (e.g., kitchen cabinets);

—The uncertainty associated with the effectiveness of available techniques for reducing formaldehyde concentrations does not warrant the expense of paying for the mitigation, or expending energy to operate mitigation devices;

—Because combustion by-products are present in a home directly as a result of human activities such as smoking or operating woodstoves, and because combustion can easily be detected through the senses, it was decided that the most effective way of mitigating for the health effects of house tightening is to inform residents about how to recognize combustion pollutants and correct for them, thereby letting them make their own choices regarding the incremental risks of ill-health from combustion in a tightened house;

—Of the various combustion by-products, benzo-a-pyrene was shown to contribute over half of the risk increment from house tightening; however, no special monitoring was incorporated into the preferred alternative for combustion by-

products in general, or benzo-a-pyrene in particular, because the technology for such monitoring is neither well-developed nor readily available.

In summary, the expanded weatherization program constitutes a risk management strategy which will lead to most of the potential energy savings possible from home weatherization at a cost-effective price. It allows for the matching of homes at high risk from radon gas with appropriate mitigation at an acceptable cost, while keeping risk at a minimum level. It gives information to program participants regarding pollutants which they can recognize and control themselves if they so choose, thereby limiting BPA's intrusion into areas normally left to individual choice.

All practical means will be adopted to avoid or minimize environmental harm from the alternative selected. In 1983, BPA entered into a Programmatic Memorandum of Agreement with the Advisory Council for Historic Preservation and the State Historic Preservation Officers of the States served by the agency, to avoid adverse effects to properties on or eligible for the National Register of Historic Places.

This agreement is standard policy for all BPA conservation programs, including this action. All conservation programs also have oversight and compliance features to insure that program implementors meet all requirements for avoiding or minimizing adverse effects on the quality of the human evnvironment. A standard environmental monitoring program is not applicable to residential conservation programs. However, the results of research on indoor air quality effects and mitigation being conducted by BPA, and other entities across the Nation, will be reviewed regularly to determine whether adjustments need to be made in the preferred alternative to avoid or minimize environmental harm.

SUPPLEMENTARY INFORMATION:

Background

The Revised Environmental Assessment for the current Residential Weatherization Program, which went into effect in September 1981, showed that occupants of dwellings would be exposed to increased concentrations of indoor air pollutants as a result of installing conservation measures which reduce air infiltration (i.e., caulking, storm windows and doors, weatherstripping, and switchplate and outlet box gaskets). This would, in turn, increase occupants' risks of adverse health effects, including the risk of lung cancer, and the risk of more headaches, eye, nose, and throat irritation.

To avoid these effects, the agency developed and implemented a limited program. Of the homes eligible for the program, only those which met the following criteria were allowed to receive house tightening measures: (1) Presence of a fully ventilated crawlspace, as specified by the 1979 Uniform Building Code; (2) absence of wood-stoves, unvented combustion appliances, and urea foam formaldehyde insulation; and (3) domestic water supplied from surface water or municipal water system. Also, no tightening measures were to be installed in mobile homes, which tend to have higher concentrations of formaldehyde than other types of homes. The crawlspace requirement allows for ventilation of radon gas, which enters dwellings mainly from the soils on which they are built. The other requirements reduce the probability that dwellings with major sources of indoor air pollutants, especially combustion by-products and formaldehyde, will receive tightening measures financed by BPA. These homes, however, may still receive nontightening measures such as ceiling insulation and clock thermostats.

Brochures on indoor air quality are distributed to all present program participants, on the assumption that once informed about indoor air quality, some people may take steps to upgrade their indoor air quality. Since indoor air quality is extensively affected by consumer practices and household activities, BPA believes public education is one way of enhancing indoor air quality in dwellings.

Upon implementation of the limited program, the agency began preparation of a Draft Environmental Impact Statement (EIS) which examined more thoroughly the effects of 3 alternatives and 11 mitigation strategies for offering tightening measures to electrically heated dwellings in the agency's service territory. The Draft EIS was issued in August 1983. The Final EIS, issued in August 1984, assessed 5 alternatives and 11 mitigation strategies, reflecting public comments received on the Draft EIS.

The Environmental Effects of Alternatives Considered in the Final Environmental Impact Statement

1. *No action* (continuing the present BPA Residential Weatherization Program).

Increase in annual risk of cancer: 0.047 per 100,000 persons above a baseline of 5.3 cancers per 100,000 persons because house tightening increases existing levels of indoor air pollutants, even in homes meeting the criteria for receiving house tightening measures.

Range of uncertainty for estimated risk increase: 0.0074 to 0.39 per 100,000 persons per year. Range of uncertainty for baseline: 1.78 to 35.05 per 100,000 persons per year.

Increase in annual cancer risk by pollutant:

Benzo-a-pyrene: 0.04 per 100,000 above a baseline of 2.6 per 100,000;
Radon: 0.004 per 100,000 above a baseline of 2.5 per 100,000 persons;
Formaldehyde: 0.003 per 100,000 above a baseline of 0.2 per 100,000.

Homes eligible for tightening measures: 327,000 dwellings.

Homes eligible for non-tightening measures: 1,209,000 dwellings.

Energy saved: 191 megawatts (1981 estimate).

Energy savings foregone because tightening measures applicable to only 30 percent of electrically heated homes: 105.7 average annual megawatts.

Cost: $550 million or a levelized cost of 25.9 mills per kilowatt hour (1983 estimate).

Land and water resources foregone since a generating plant may have to be built sooner to cover foregone energy savings: 2, 535 acres of land; 134,000 acre-feet of water.

2. *The proposed action* (offering tightening measures to all electrically heated homes in the BPA service area).

Increase in risk of cancer: 0.79 per 100,000 people per year above the *no action* level.

Range of uncertainty for estimated annual risk increase: 0.102 to 7.95 cancers per 100,000 people.

Increase in annual cancer risk by pollutant:

Benzo-a-pyrene: 0.43 per 100,000 persons above *no action;*
Radon: 0.32 per 100,000 persons above *no action;*
Formaldehyde: 0.04 per 100,000 above *no action.*

Homes in program assuming 85 percent participation rate: 1,209,000 dwellings.

Energy saved: 105.7 average annual megawatts above *no action.*

Energy foregone: none because all homes participating in program will be eligible for tightening measures.

Cost: $843.9 to $1569.3 million above the *no action* level, or a levelized cost of 13.4 to 23.3 mills per kilowatt hour (kWh).

Land and water resources foregone: none in comparison to *no action.*

3. *The preferred alternative* (offering tightening measures to all electrically heated homes in the BPA service area plus mitigating the increment in indoor air pollution by giving information and

options for monitoring and air-to-air heat exchangers to program participants).

Increase in risk of cancer: 0.78 per 100,000 people per year above the *no action* level.

Range of uncertainty for estimated risk increase: 0.092 to 7.95 per 100,000 people per year.

Increase in annual cancer rate by pollutant:

Benzo-a-pyrene: slightly less than *proposed action;*

Radon: 0.31 per 100,000 people above *no action;*

Formaldehyde: slightly less than *proposed action.*

Homes in program: same as *proposed action.*

Homes expected to exceed action level for radon and be eligible for proven mitigation devices: about 60,500 dwellings. (The U.S. Census Bureau estimates that in 1984 the average household size is 2.71 persons.)

Energy saved: 104.5 average annual megawatts above *no action.*

Energy foregone: 1.2 average annual megawatts for operation of mitigation devices.

Cost: $920.5 to $1699.3 million above *no action,* or a levelized cost of 14.3 to 25.9 mills per kWh.

Land and water resources foregone: almost none in comparison to *no action.*

Special Note

The risk assessment model which was used to estimate the health effects of the various alternatives, discussed in detail in the Final EIS, contains the assumption that all homes have the same average concentrations of indoor air pollutants, including radon. This means that the residents of these homes have the same average risks of ill-health from indoor air pollutants, and the same average incremental risk from house tightening. In reality, a relatively small percentage (about 4 to 6 percent) of the 1,209,000 homes likely to participate in the program are expected to have radon concentrations which exceed BPA's action level of 5 picoCuries per liter. These homes carry a disproportionate share of the incremental regional risk of cancer from house tightening. The monitoring and mitigation risk management strategy of the preferred alternative concentrates precisely on those homes which are at high risk from radon. Therefore, the overall health effects of the risk management strategy can reasonably be expected to be considerably greater than those estimated by the model, which assumes that the risk reduction effect of mitigation is spread evenly across all homes (see section 7 for more discussion).

As radon monitoring data becomes available from implementation of the preferred alternative, BPA will be able to prepare a more realistic estimate of the efficacy of its monitoring and mitigation strategy for reducing health risks from house tightening. This strategy accounts for about 8 percent of the costs of the preferred alternative, or about 1 mill per kWh of the levelized cost. BPA takes the position that the monitoring and mitigation strategy, which will facilitate a comprehensive residential weatherization program by assisting program participants at high risk from radon exposure, warrants the additional expenditure of funds.

4. *The environmentally preferred alternative* (offering tightening measures to all electrically heated homes in the BPA service area, plus mitigating the indoor air pollution increment by installing air-to-air heat exchangers in each home) considered to be environmentally preferable because it yields some additional energy savings without increasing risks of ill health.

Increase in risk of cancer: similar to *no action.*

Homes in program: similar to *proposed action.*

Energy saved: 87.4 average annual megawatts above *no action.*

Energy savings foregone: 18.3 average annual megawatts for operation of mitigation devices.

Cost: $1409.1 $2956.6 million above *no action* or a levelized cost of 19.8 to 50.6 mills per kWh.

Land and water resources foregone: 183 to 2, 104 acres of land and 111,000 to 7.1 million acre-feet of water.

5. *The delayed action alternative* (retaining the present program's restrictions until continuing research leads to a better understanding of indoor air pollution and associated health effects).

Increase in risk of cancer: same as *no action* until a new decision is made.

Homes in program: same as *no action* until a new decision is made.

Energy saved: same as *no action* until a new decision is made.

Energy savings foregone: same as *no action* until a new decision is made.

Cost: same as *no action* plus cost of any additional research which BPA chooses to incorporate into its present indoor air quality research program.

Land and water resources foregone: same as *no action* until a new decision is made.

The Nature of the Decision

The decisoin to select the preferred alternative consists of a series of policy judgments, using the decision factors listed in the summary. The decision will result in a strategy for managing risks which balances the incremental risk of ill health resulting from house tightening with the costs of reducing that risk while acquiring all available cost-effective electric energy savings from home weatherization. The Administrator exercises discretion in choosing the preferred alternative by making a judgment of the best course for pursuing residential energy conservation. In making this judgment, the Administrator determines the appropriate expenditure of Federal funds in the execution of a Federal action, The Expanded Residential Weatherization Program.

Decisions Made and Underlying Reasoning

1. *The decision to expand the present program.*—BPA's five alternatives for expanding the current residential weatherization program present three different basic courses of action from which to choose. The proposed action, the preferred alternative, and the environmentally preferred alternative all expand the program in some way. The no action plan means continuing the program as is, without additional action. The delayed action alternative means postponing decisions until a future date. Essentially, the alternatives are to do something, do nothing, or postpone action. The paramount considerations in making this choice were the amount of energy savings to be acquired, the costs of the energy savings to be acquired, the potential increment of harmful health effects from conservation, and public preferences.

The acquisition of an additional 104.5 average annual energy savings from program expansion will aid the agency in assuring an adequate, efficent, economical, and reliable power supply in its service area, as stated by the Pacific Northwest Electric Power Planning and Conservation Act (the Act). This acquisition is also consistent with the Act's requirement that the agency give first priority to the acquisition of cost-effective conservation in assuring an adequate power supply. Finally, the expansion of the weatherization program is consistent with the Two-Year Action Plan of the Northwest Power Planning Council, which asks BPA to acquire cost-effective conservation by weatherizing the existing, electrically heated housing stock.

In deciding to acquire an additional 104.5 average annual megawatts of conservation, the Administrator took into account that the current surplus of electic energy resources is projected to continue through about 1991, after which additional resources may have to be in place to assure an adequate electric power system. To have sufficient cost-effective conservation on hand for the projected future deficits, the agency must begin acquiring the resource now. Energy savings from the expanded weatherization program will occur incrementally, house by house, over 10

years of program operation before maxium conservation is reached.

The entire residential weatherization program, with the expansion described here, is estimated to have a levelized cost of between 21.6 and 25.8 mills per kilowatt-hour. These estimates are within the Northwest Power Planning Council's current cost-effectiveness limit of 40 mills per kilowatt-hour.

The Pacific Northwest Electric Power Planning and Conservation Act requires the Administrator to examine the environmental costs and benefits of an action as well as its monetary costs when determining the cost-effectiveness. In the case of the preferred alternative, the Administrator determines that no environmental costs will result from program expansion. Therefore, there are no environmental costs to be incorporated into the cost-effectiveness calculations.

This determination evolves from the following considerations:

(1) The employment effects of expansion cannot be counted as an environmental benefit because these are already counted as program expenses for the labor to install conservation measures.

(2) The land and water resources effects are indirect effects of program expansion and would only become an environmental cost when generating plants, which directly affect these resources, are acquired. Such environmental costs would be estimated and applied to generating facilities when making a cost-effective determination for their acquisition.

(3) There is no way of quantifying, and therefore of pricing other effects attributable to the expanded program such as increased home comfort from weatherization.

(4) The increment in risk of ill-health, from house tightening, is the only environmental effect directly attributable to program expansion which is eligible for inclusion in cost-effectiveness calculations.

In reviewing the features of the expanded program and the economic procedures for pricing health risks, the Administrator makes the policy judgment that the environmental cost of the incremental risk of ill-health from the program will be taken into account by participants in the expanded program, and therefore has a value of zero. A central theme of the expanded program (see sections 4 and 5) consists of informing program participants about incremental health risks from house-tightening, and offering them options for mitigation if they volunteer to proceed with house-tightening. Residents will have the opportunity to weigh the health risks from house-tightening against the value of the energy savings to be derived therefrom, inmaking their own voluntary decisions about the extent of their participation in the expanded program. Since quality of indoor air is largely affected by individual residence characteristics and by the habits and actions of residents, informed program participants are in the best position to judge the value of house-tightening to them, given their own health and indoor air quality situation. In this way program health risks become an internal part of the decisions to be made by program participants. When program participants decide to accept the health risks from house tightening, they must also accept the health costs. Therefore, these costs are not environmental costs to be included in cost-effectiveness determinations.

Although the foregoing determination, that the environmental costs of the preferred alternative are zero, may be disputed, it is clear that the wide uncertainty range of the health risk estimates would, if converted to dollars, produce cost values which are much less meaningful than a straightforward social policy consideration based on the number of human lives at risk from house tightening. The Administrator has fully considered these risks in the context of BPA's responsibility for public health and energy efficiency, and therefore has complied with section 4(e)(2) of the Pacific Northwest Electric Power Planning and Conservation Act. This section requires consideration of environmental costs when determining the cost-effectiveness of actions to save or acquire energy.

By choosing to expand the program the agency will, in the long run, keep down the costs of providing an economic and reliable power supply. If energy savings are not acquired through program expansion, the savings would have to be acquired through other forms of conservation, or through acquisition of additional power generation several years sooner than otherwise. Other forms of conservation and power generation are more costly than acquiring energy savings through expansion of the program.

The increased risks to public health from program expansion are not found to be of a sufficiently substantial nature to dissuade the Administrator from acquiring the energy savings that expansion is expected to yield. Several factors entered into this policy judgment. First, the increment of risk is relatively low when compared to risks which people are normally willing to accept. The incremental risk of cancer from the expanded program is similar to the risk of one person contracting cancer out of 100,000 who smoke 10 to 30 cigarettes over a lifetime, or the risk of one person having a fatal accident out of 100,000 who travel in a motor vehicle for 600 miles. Second, risk estimates for all the alternatives considered are highly uncertain because data are lacking on the distribution of indoor air pollutant concentrations in the region's homes. To compensate for this lack of data, the assumptions about indoor air pollution, on which the risk estimates are based, were systematically varied to yield a range of health risk for each alternative. These risk ranges describe the uncertainty of the risk estimate. As a result of these uncertainties, the high end of the risk range for the no action alternative overlaps with the low end of the risk range for the preferred alternative. Third, the potential incremental health risks of the expanded program will be borne by participants who will benefit from the energy savings which house tightening yields. Fourth, means are available for reducing the risks to health which are expected to result from program expansion.

If the Administrator chose not to expand the program, the foregone conservation would probably have to be made up through construction of a generating facility several years sooner than otherwise, which would have its own environmental effects, including the certain loss of some land and water resources. In view of the uncertainties surrounding the increment of health risk from program expansion and program opportunities for mitigating that risk, the Administrator has decided to expand the program rather than incur the certain losses of natural resources because of the earlier need for more generation.

Public comments on the Draft EIS also influenced the decision to expand the program. Commentors indicated a strong preference for conserving energy through program expansion over delaying or not taking any action, and urged that program participants be allowed to choose whether to accept the increases in risk of ill health therefrom.

2. *The decision to include all categories of homes in the expanded program.*—This decision will allow all categories of electrically heated homes otherwise eligible for the program to receive house-tightening measures. This is not the case in the current program, where only certain types of homes (e.g., homes with fully ventilated crawlspaces) are eligible for these measures.

This decision is being made, among other reasons, because the increment of

risks to health from house-tighening cannot be readily attributed to any particular house characteristic. Any or all of the following factors, which vary across dwellings, affect the concentrations of indoor air pollutants: geological characteristics of locale and the house lot, local climate, and very specific residence characteristics such as construction practices and materials, and dwelling volume. Factors such as these affect pollutant source strengths and daily pollutant emission rates which, in turn, affect indoor air quality. These factors, whose variability across homes is not known, may account more for the level of indoor air pollutant concentrations in any particular home than do gross indicators of the possible presence of pollutants based on house type (e.g., homes with well-ventilated crawlspaces are presumed to have less radon than homes with basements).

In addition, there is virtually no empirical evidence to support a risk management strategy of not allowing certain types of homes to receive tightening measures. For example, to date, BPA's ongoing studies of randon in individual homes do not indicate a correspondence between house type and levels of radon concentration.

A risk management strategy of excluding certain types of homes from an expanded program also does not take into account the fact that behavioral variability, such as smoking, the operation of woodstoves, the use of household chemicals, and the purchase of products containing formaldehyde, can greatly affect indoor air quality and related health risks.

The decision to drop the present restrictions for indoor air quality is also premised on the following considerations. (1) More energy savings can be acquired by removing the restrictions, monitoring to identify high-risk homes, and then mitigating those with ventilation devices instead of mitigating by automatically excluding certain types of homes. (2) The program will be more practical to administer without having to evaluate each house for consistency with the restrictions. (3) The program will be less confusing and more equitable and fair to occupants of electrically heated homes if no otherwise eligible house type is excluded. (4) Public comments received on the Draft EIS gave strong support to including all categories of homes; there was virtually no support for continuing to exclude certain categories of homes. (5) Removal of present restrictions will make the expanded programs more consistent with programs offered by other entities, thereby reducing conflict with Federal, State, and local agencies.

3. *The decision to include all cost-effective tightening measures.*—This decision entailed choosing those tightening measures with potentials for energy savings that are commensurate with the costs of purchasing and installing them. The current menu of technically proven tightening measures includes storm windows and doors, thermal pane replacement glass for windows and sliding doors, insulated entrance doors, caulking, weatherstripping, batt insulation, blown-in/loose-fill wall insulation, and outlet box and switchplate gaskets.

Of the measures on this list, blown-in wall insulation will be added to the expanded program. This measure was not offered under the current program because of possible problems from moisture becoming trapped in the insulation, and the difficulties of inspecting the measure after it is installed to assure that it is yielding the expected energy savings. The agency's research on the moisture problem indicates that it is of negligible concern. To solve the inspection problem, the agency has developed specifications for appropriate installation, and has adjusted downward the energy savings expected to result from wall insulation. Even so, wall insulation remains cost effective.

Two measures on the above list are not cost effective, and therefore will be excluded from the expanded program. Because storm doors malfunction easily, they do not yield enough savings to compensate for their high capital costs. Switchplate and outlet box gasket yield too little savings to be cost effective if paid labor is used to install them.

All the other measures listed above are being offered in the current program, and will be retained for the expanded program. The reasons which enter into this decision are; (1) By including all these measures, the energy savings from the expanded program can be maximized. (2) The measures are cost effective. (3) Inclusion of all cost-effective measures will make it easier to administer the program by increasing its acceptance; past experience indicates there is a reluctance to participate in programs which do not offer the full range of standard conservation measures including house tightening. (4) Inclusion of all the cost-effective measures will make the expanded program more consistent with the Northwest Conservation and Electric Power Plan, and programs offered by others, including Federal, State, and local agencies, and Pacific Northwest electric utilities. (5) Public comments received on the Draft EIS were supportive of these measures.

4. *The decision to allow residents to make an informed choice about the extent of their participation in the expanded program.*—The preferred alternative gives options to program participants which allow for individual circumstances and willingness to accept an incremental risk of ill-health. The exercise of these options is based on informed consent.

First, program participants will receive information on how to recognize the presence of indoor air pollutants, especially formaldehyde and combustion by-products, and the steps that can be taken to upgrade indoor air quality. Second, after being informed about indoor air quality, residents have several options for proceeding, based on their assessment of the risk. These include: declining the house-tightening measures; accepting house-tightening without radon monitoring; and accepting tightening with radon monitoring. Residents can choose to have their homes monitored for radon, a naturally occurring gas, either before or after the installation of house-tightening and other conservation measures. If the monitoring shows that a dwelling exceeds the action level of 5 picoCuries/liter (discussed in section 7), the residents thereof can choose to have an air-to-air heat exchanger installed, for which BPA will pay 85 percent of its cost, up to a maximum BPA contribution of $850. If the heat exchangers are installed and used according to BPA specifications, in most instances the devices will compensate for house tightening by increasing air changes to what they were estimated to be prior to installation of tightening measures.

The decision to let citizens exercise informed choice about their program participation is based on the following factors: (1) Program participants are in a better position to assess their own risks from indoor air pollutants, after receiving information, than are program implementors; (2) individual variability in creating, evaluating, and accepting risk; (3) the continuing uncertainty as to the extent of risk; and (4) BPA's ability to correct for indoor air quality if future studies show greater reason for concern.

The quality of indoor air in any given home is affected by dwelling characteristics and individual activities, as well as pollutant source strengths and emission rates. After being informed about indoor air pollutants and "self-help" measures for controlling them, program participants can assess their own risks of having their health affected

by house-tightening, based on their own ways of life and awareness of the characteristics of their homes. This assessment may lead some people to decline tightening measures while others accept them.

The incremental risk may be seen as very serious by some people and negligible by others. The expanded program does not pre-judge the incremental risk by offering tightening measures without informed consent or by restricting the measures to the lower risk homes. The elimination of pre-judgment is appropriate in this instance, because the increment of risk from house tightening is much smaller than the baseline risk of cancer from residential indoor air pollutants. The decision to allow informed choice means that, as a matter of policy, the Administrator defers the judgment of risk to those who potentially face the increased risk. This decision also best meets the needs of both program participants who are willing to accept the risk increment and those who are unwilling.

Other factors which contributed to the decision to allow informed choice included the following: (1) People commenting on the Draft EIS strongly urged that the agency supply information and allow choices, because individual households are in the best position to choose the level of program participation which is most appropriate to their situations. (2) The availability of informed choice will optimize the amount of energy savings from the expanded program. Some of the region's residents chose not to participate at all in the current program because their homes were ineligible for tightening measures, thus precluding energy savings from non-tightening conservation measures such as ceiling insulation. With informed choice, energy savings can be obtained from those homes where occupants are willing to accept the incremental risk of ill-health. (3) In a society based on democratic principles and individual freedom, people prefer assuming control and responsibility for their own actions, including control of factors affecting their own health. (4) Likewise, BPA has only limited authority to regulate people's actions in their own dwellings.

5. *The decision to supply mitigation in the form of information.*—This decision, which is a central theme of the expanded weatherization program, requires the communication of information from BPA to those making weatherization decisions and those exposed to the risks resulting from these decisions. For this purpose, information packets will be prepared and distributed to all potential program participants. The packet will describe indoor air pollutants, the effects of house tightening measures on pollutant levels, how residents can recognize the presence of pollutants which can be sensed, the health risks associated with each pollutant, and the "self-help" steps which people can choose to take to control pollutants. The packet will also describe the expanded weatherization program, the availability of radon monitoring at no expense to program participants and the availability of mitigation in the form of air-to-air heat exchangers, on a cost-sharing basis, if monitoring shows that a dwelling exceeds the chosen action level of 5 picoCuries per liter (discussed in section 7).

The decision to supply information is a direct outgrowth of the decision to use informed consent as part of the risk management strategy, instead of conditioning the availability of house tightening measures on BPA's evaluation of health risk increases from tightening.

The following factors entered into the decision to treat information as a form of mitigation. (1) With the exception of radon, information on standard household air pollutants is generally applicable to all situations, but reducing or controlling these pollutants requires specific actions which residents can choose to take (e.g., increasing ventilation when wood stoves are being operated). (2) The agency can neither regulate voluntary actions which increase indoor air pollution, nor require residents to take mitigation steps, however easy, to reduce health risks from these pollutants. (3) Providing information is a simple, inexpensive, and administratively easy means to incorporate risk management into the program. (4) Public comments on the Draft EIS indicated broad support for providing information.

6. *The decision to offer monitoring and mitigation for radon.*—Under this decision, program participants can choose from a number of options after having had an opportunity to read the information packet described above. The options are: (1) Decline house tightening measures. (2) Accept house tightening measures without radon monitoring. (3) Accept radon monitoring prior to installation of tightening measures; after monitoring results are available, program participants can either decline or accept house tightening measures. If monitoring shows that radon concentrations in a dwelling exceed the action level of 5 picoCuries per liter, residents accepting the house tightening measures will also have the option of having an air-to-air heat exchanger installed as mitigation, for which BPA will pay a large share of the cost. (4) Accept radon monitoring after installation of house tightening and other conservation measures; if monitoring indicates a dwelling exceeds the action level, its occupants can choose to install a partially subsidized air-to-air heat exchanger.

The means chosen for radon monitoring are relatively easy, inobtrusive, and inexpensive. The monitoring device, similar in size to a wrist watch, is attached for 3 to 12 months to a wall or placed on a shelf. Afterward, the device, which is sensitive to radioactive alpha particles, is sent to a laboratory for analysis; the results are then sent to BPA and the program sponsors for distribution to residents who had their homes monitored, along with an interpretation. Monitoring costs of $36.30 per house will be borne by BPA.

The decision to incorporate radon monitoring and mitigation into the risk management strategy for the expanded weatherization program was based on the following considerations.

(1) Radon exposure, in contrast to other pollutants, is neither detectable through the senses nor affected by human choices, except for the length of time one chooses to be inside a dwelling. The only accurate way to identify homes where health risks from radon exposure exceed acceptable levels is through monitoring.

(2) The monitoring results will enhance residents' abilities to make informed choices about program participation.

(3) The monitoring results, in contrast to other strategies, will allow for a fairly precise matching of homes at high risk from radon with appropriate mitigation. Since radon concentrations vary across homes, mitigation strategies not based on monitoring tend to "over-correct" or "under-correct" for radon exposure. For example, excluding homes without ventilated crawlspaces from tightening may eliminate homes with low radon levels, which really shouldn't be eliminated, from the program. At the same time, allowing homes with well-ventilated crawlspaces to receive tightening measures may lead to the tightening of homes which, unbeknownst to anyone, have high radon levels.

(4) The incremental risk of ill health from house tightening will be fully mitigated in those homes where air-to-air heat exchangers are installed and used according to BPA specifications.

The devices will compensate for house tightening by increasing air changes to what they were estimated to be prior to the installation of conservation measures.

(5) Although the decision to offer radon monitoring and mitigation will increase program costs by somewhere between $76.6 million and $130 million, the expanded weatherization program still remains cost effective in comparison to the cost of other resources for satisfying electric energy demand (Pacific Northwest Electric Power Planning and Conservation Act, section 4(e)(1)). Moreover, this approach to risk management, in contrast to other approaches such as excluding certain types of homes, insures that money spent for mitigation will in fact serve the purpose of helping those program participants who are at high risk from radon exposure.

(6) The energy savings of 1.2 average annual megawatts which will be foregone because of air-to-air heat exchanger electric consumption is less than the savings which would be foregone with other approaches to risk managment.

(7) Commentors on the Draft EIS who discussed mitigation expressed a preference for monitoring and air-to-air heat exchangers.

7. The decision to adopt an action level of 5 picoCuries per liter for radon mitigation.

BPA is establishing a radon "action level" of 5 picoCuries per liter. Homes which are monitored for radon and found to have concentrations that will exceed this level when tightened will be eligible for financial assistance to help in the purchase of an air-to-air heat exchanger or comparable proven mitigation. In most cases, this will prevent increases in radon concentrations due to house tightening, provided the device is installed and used according to BPA specifications.

Selection of 5 picoCuries per liter (pCi/1) as the action level is based on: (1) A review of proposed standards, guidelines, or recommendations suggested by various agencies or organizations for controlling health hazards associated with airborne radon in residences; (2) an analysis of the regional health effects from radon, the uncertainty surrounding the level of health effects, and the relative accuracy of the proposed monitoring and mitigation strategy; and (3) a review of program economics, including cost of mitigation and estimates of the number of residences which exceed the action level.

By examining these three items, BPA can establish an action level which both provides for the public welfare and allows the agency to pursue its energy conservation goals. This action level balances the estimated health effects against the costs and benefits of weatherization and mitigation.

Several organizations in the U.S.A., and two countries outside the U.S.A., have proposed various guidelines or standards for indoor airborne radon exposure. Several of these guidelines were suggested for the general population and its assumed exposure; some were suggested for specific exposure situations such as occupational or high risk settings. Each was established to provide some measure of acceptable health risk for the exposed population. The various guidelines are outlined in Table 1.

TABLE 1.—VARIOUS GUIDELINES RECOMMENDED FOR EXPOSURE TO RADON

Organization	Level	Type of level
American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE).	2 pCi/l	Recommended (for ventilation).
Environmental Protection Agency (EPA).	4 pCi/l	Regulation for U.S. sites contaminated by uranium processing wastes.
Do	4 pCi/l	Recommendation to Governor of Florida for phosphate-reclaimed land-radon in homes.
Canadian Atomic Energy Control Board (AECB).	4 pCi/l [1]	Regulation non-occupational connected to the operation of a nuclear facility.
Canadian Task Force on Radioactivity.	3 pCi/l [1] (investigate). 7 pCi/l [2] (primary action). 50 pCi/l [2] (prompt action).	Guideline—non-occupational.
Sweden	3.8 pCi/l (new residence). 10.8 pCi/l (refurbished residences). 21.6 pCi/l (existing residences).	Regulation for residential situations.
National Council on Radiation Protection and Measurement (NCRP).	8 pCi/l [3]	Recommended action level for general population exposure.
Mine Safety and Health Administration (MSHA).	16 pCi/l [3]	Regulation for miners.

[1] Equilibrium factor=0.5.
[2] Equilibrium factor=0.3 (Canadian recommended equilibrium factor for residences).
[3] Assumed radon gas concentration with equilibrium factor of 0.5 and continuous yearlong exposure.

The BPA action level of 5 pCi/1 is roughly in the middle of the various non-occupational guidelines established by these organizations. The range of levels is from a low of 2 pCi/1 to a high of 50 pCi/1. However, the two highest levels (i.e., 50 pCi/1, and 21.6 pCi/1) are parts of standards which have multiple levels. If the next lowest level (which represents a primary action level for refurbished residences) is used, the range of levels is 2 pCi/1 to 10.8 pCi/1. The majority of general population guidelines fall between 4 to 8 pCi/1. BPA, by choosing an action level of 5 pCi/1, is selecting a level which is slightly toward the conservative end of this range. When considering the degree of uncertainty for the estimated health effects predicted in the Final EIS, and the potential inaccuracies of a large-scale monitoring program, the selection of a 5 pCi/1 action level over levels of 2 to 4 pCi/1 is appropriate. Likewise, a selection of an action level above 5 pCi/1 (e.g., 7 to 8 pCi/1) may ignore some potentially significant effects over the long term for occupants of tightened residences.

Estimates in the Final EIS, based on average, "worst-case" assumptions, indicate that if the program were expanded to include tightening for all electrically heated homes which are now ineligible for tightening, the impact from increased radon concentration on the regional lung cancer rate would add 0.31 cancers per 100,000 persons per year to a baseline of 2.5 per 100,000 per year. The range in the increased lung cancer rate would extend from 0.03 to 3.7 per 100,000 persons per year above a baseline range of 1.3 to 9.4 per 100,000 persons per year. These wide ranges indicate the relative uncertainty associated with the regional baseline and health effects estimates.

The regional health estimates were calculated by assuming average radon concentrations in all homes. In contrast, data collected on a limited number of residences in the region under actual conditions indicate that radon concentrations vary greatly, with the majority of residences having low concentrations (e.g., 1 pCi/1) and a few residences having higher than average concentrations (e.g., 5 pCi/1 or more). The BPA action level was established at a point which clearly differentiates between the "high radon" residence and the normal residence. Although these few "high radon" residences have a disproportionate share of residential radon concentrations in the region, this is not reflected in the average radon concentrations used to estimate health impacts in the EIS.

Because the risk analysis in the Final EIS is based on average radon concentrations, the increased health risks from house tightening are also

spread evenly over all residences. Likewise, the risk reduction from mitigation in a few homes is averaged over all residences expected to participate in the program. Consequently, the risk estimates in the Final EIS convey the impression that mitigation has very little effect on the incremental risk of ill-health from house tightening.

In reality, the few residences with higher radon concentrations have a disproportionate share of the regional risk. Therefore, the purpose of radon monitoring is to identify these few "high radon" residences. Then, by mitigating these residences, a substantial reduction in overall regional risk is possible, which is not captured by the risk modeling procedures used for estimating health risks in the Final EIS.

The accuracy of the radon monitoring technique also was considered in setting the action level at 5 pCi/1. The accuracy of the radon detector to be used varies according to the length of time it is exposed and the concentration to which it is exposed. If the monitoring time is held constant, the statistical uncertainty of the detector result drops as the concentration increases. For example, a detector exposed for 3 months which measured a concentration of 1.3 pCi/1 will have an uncertainty of ± 50 percent (i.e., the actual concentration is somewhere between 0.65 to 1.95 pCi/1). However, a detector exposed for 3 months which measured 13 pCi/1 will have an uncertainty of ± 20 percent (i.e., the concentration is somewhere between 10.4 and 15.6 pCi/1). For a measured radon concentration of 5 pCi/1 (the BPA action level), the uncertainty factor is approximately 30 percent. Thus the actual concentration might be as low as 3.5 pCi/1 or as high as 6.5 pCi/1. The low end of this range falls in the middle of the cut off (3–4 pCi/1) between "high randon" residences and normal residences found in a BPA radon study of 270 homes. Therefore, an action level of 5 pCi/1 will insure that all "high radon" residences will be identified.

The accuracy of radon monitoring may also be affected because measurements will occur under a variety of conditions. Less accuracy may occur because of errors in detector deployment, distrubances by the residents, or detector handling. It is impossible to predict the effects of these actions on detector results. Since the only goal of the monitoring program is to identify the "high radon" residences, an action level is acceptable which is slightly above the observed break-point of 3–4 pCi/1 between the many homes which have low radon levels and the few that have high levels.

The costs of the radon monitoring and mitigation strategy also influenced selection of the action level. The purpose of monitoring is to match "high radon" homes with mitigation, rather than offering air-to-air heat exchangers to any or all residences. With the action level set at 5 pCi/1, above 4 to 6 percent of the region's 1.209 million electrically heated homes are expected to exceed it and to be eligible for radon mitigation.

This means that the value of the energy savings to be obtained from all participating residences will offset both the cost of monitoring many of these homes and giving mitigation to a few. Currently available mitigation devices (e.g., air-to-air heat exchangers) are estimated to cost between $550 and $1350. Program information and monitoring for each home will cost $36.30. Assuming the higher cost value for mitigation, the cost of monitoring radon in 1.209 million homes and supplying mitigation devices to 4 to 6 percent of these homes will increase the total cost of the preferred alternative by about $85 to $120 per dwelling, or 0.6 to 1.3 mills per kilowatt-hour. Since the cost of mitigating comparatively few homes is spread over all homes in the program, the program remains cost effective.

The choice of the action level was also based on the energy savings that would be affected. An air-to-air heat exchanger, the current mitigation device, consumes about 10 percent of the energy savings to be realized from house tightening. (This estimate includes both infiltration and thermal effects of measures such as wall insulation and storm windows.) With the action level set at 5 pCi/1, about 1.2 average annual megawatts of energy savings will be foregone for operation of the mitigation devices.

In balancing the various aspects of a risk management strategy that includes radon monitoring and mitigation, the Administrator takes the position that 5 pCi/1 is an appropriate action level. A lower action level would increase program costs and reduce energy savings without necessarily obtaining a proportionate reduction in health risks. This is because of the uncertainties associated with monitoring accuracy at lower radon concentration levels and the wide uncertainty range surrounding the health risk estimates.

8. *The decision to adopt an 85 percent cost-sharing plan up to a ceiling of $850 for radon mitigation.*—BPA will subsidize the cost of radon mitigation devices by adopting a cost-sharing plan. Under this plan, BPA will pay 85 percent of the cost of purchasing and installing an air-to-air heat exchanger, up to $850. Only those program participants will be eligible for this subsidy whose homes exceed the action level for radon and who are willing to have house tightening measures installed, either before or after radon monitoring.

The decision to incorporate a cost-sharing plan into the expanded program is premised on the following considerations.

(1) By following radon monitoring with an offer of mitigation where it is warranted, BPA will help residents to reduce a newly identified risk to their health. The Administrator takes the position that since BPA's expanded program will lead to identification of health risks, the agency should also offer risk mitigation.

(2) By partially rather than fully subsidizing mitigation, BPA gives a program participant an incentive to make a conscious decision about having an air-to-air heat exchanger. The effectiveness of this ventilation device to reduce the health risks from house tightening depends on a resident's willingness to operate the equipment according to standard instructions. If a resident chooses to turn it off, there is no mitigation. PBA takes the position that by requiring payment of a small portion of the mitigation cost, program participants who choose mitigation will be more likely to have a commitment to operating it according to instructions, thereby avoiding health risks from house tightening. Program participants who qualify for the low-income residential weatherization program will receive a 100 percent subsidy, up to $1000, for mitigation devices.

(3) The cost-sharing plan for mitigation is being set at 85 percent to make it similar to the cost-sharing plan for conservation measures. This will avoid confusion among program participants and make the program easier to administer.

(4) The ceiling of $850 in the cost-sharing plan was selected on the assumption that for most installations the retail price of the mitigation equipment will not exceed $1000. The price of the equipment is partly dependent on its size. Larger devices are needed for larger homes. By placing a ceiling on its subsidy, BPA encourages program participants to exert pressure on dealers to maintain competitive prices for mitigation devices.

9. *The decision to exclude monitoring and mitigation devices for other pollutants.*—BPA will rely only on its information packet to assist program

participants in reducing health risks from indoor air pollutants other than radon. The packet describes the steps residents can take to reduce or avoid the health effects from formaldehyde, combustion by-products, and various gases. Neither monitoring nor mitigation will be offered for these pollutants by BPA other than the provision of information for voluntary self-help.

This decision takes into account the capacity of the human senses for detecting different types of pollutants, the ability of program participants to control or avoid exposure to different pollutants, the availability of proven technologies for monitoring and mitigating various pollutants, and the costs of monitoring and mitigation. Because formaldehyde and combustion by-products differ from radon on these matters, BPA has adopted a different approach to the health risks from these pollutants.

Of the various combustion by-products, benzo-a-pyrene is of greatest concern because the health risks of exposure to this carcinogen are comparable to those of exposure to radon. BPA has chosen not to offer monitoring and mitigation, other than information, for benzo-a-pyrene because:

(1) People may sense the presence of combustion by-products without aid of monitoring.

(2) The amount of benzo-a-pyrene present in a home depends almost exclusively on the amount of tobacco smoking and wood stove operation which are voluntary activities.

(3) The results of monitoring for this pollutant will only be valid for a certain level of combustion activity. As soon as a house-hold changes its smoking or wood stove burning habits, the monitoring results would no longer be valid.

(4) The monitoring technology for benzo-a-pyrene is not adequately developed to permit inexpensive, easily administered monitoring on a large scale.

(5) In its present state of development, monitoring would have to be conducted in homes by trained staff using complex equipment, and so constitutes a household intrusion.

In view of these considerations, BPA made the policy judgment that informed choice is the best available means for reducing health risks from increases in benzo-a-pyrene concentrations.

Formaldehyde is also a pollutant of great concern because even at low levels of exposure it can lead to severe allergic reactions in about 10 to 20 percent of the general population. The reactions involve skin, eyes, mucous membranes and the respiratory tract. Nonsensitive individuals can experience eye, noise and throat irritation when exposed to low levels of the chemical. In addition, formaldehyde may be carcinogenic (nasal cancer). Nonetheless, BPA is also relying on informed consent for reducing the health risks from formaldehyde because of the following considerations.

Formaldehyde off-gassing is a transient phenomenon which is influenced by a wide array of interacting variables, including temperature, humidity and the recency of purchases containing formaldehyde. As a result, formaldehyde monitoring is only accurate for the time period in which it occurs, and may not be indicative of the true, long-term situation. Because of the pollutant's transiency, dwellings previously insulated with urea-formaldehyde (UF) foam, a major source of high formaldehyde concentrations, will not present problems. UF foam insulation has virtually disappeared from the market; the unavailability of this product during the past 2 years means that any UF foam insulation existing today will have had sufficient time to off-gas and ventilate thereby reducing formaldehyde concentrations prior to the time of house-tightening. Furthermore, this type of insulation is unlikely to be used in the future because of its effects on health.

In addition, homes built in recent years, which tend to have high formaldehyde concentrations at the outset from newly installed particle board, plywood, furniture, and carpets, will have had time to off-gas before being tightened. Only those dwellings constructed prior to April 15, 1983, are eligible for inclusion in the expanded weatherization program. By the time house-tightening occurs, these homes are expected to have low formaldehyde concentrations.

Other factors contributing to the decision not to monitor and mitigate for formaldehyde are: (1) Excessive concentrations of this gas can be detected through the human senses; (2) residents can take steps on their own to reduce formaldehyde concentrations; and (3) the effectiveness of mitigation devices such as air-to-air heat exchangers in reducing formaldehyde concentration is uncertain; the increased ventilation from these devices may increase the rate of off-gassing in the short run so that reductions in formaldehyde concentrations might not occur.

In balancing the additional cost of $20 to $25 million dollars for formaldehyde monitoring and mitigation against such factors as the great individual variability in sensitivity to formaldehyde, the ability of people to help themselves in regard to this pollutant, the difficulty of obtaining valid measurements of a transient phenomenon, and the uncertain efficacy of mitigation, the Administrator concludes that the beneficial results of formaldehyde monitoring and mitigation would be too few and uncertain to merit the costs thereof.

Other indoor air pollutants, which include gases such as carbon monoxide, carbon dioxide and oxides of nitrogen, and respirable suspended particles dissipate quickly and are thought to cause mainly chronic health effects such as nose and throat irritation. Since there is no simple monitoring technology yet available for these pollutants, monitoring would be expensive and difficult to administer, and would require trained staff to perform monitoring in people's homes. In weighing these various factors, the Administrator concludes that monitoring and mitigation are also not warranted for these pollutants.

10. *The decision not to adopt the environmentally preferred alternative.*—The environmentally preferred alternative would allow for provision of air-to-air heat exchangers to all homes in which tightening measures are installed, thereby virtually eliminating the increment of risk of ill-health from house-tightening.

The Administrator determines that the almost complete avoidance of health effects from the environmentally preferred alternative is not a sufficient reason for choosing this course of action in light of the following considerations.

(1) If many larger-sized air-to-air heat exchangers need to be installed, this alternative would increase costs to the point where the expanded program would no longer be cost effective.

(2) This alternative would mitigate health effects from the program in homes that are at low risk as well as in those at high risk since there is no provision for identifying high risk homes; to supply mitigation where it is not needed is not an appropriate use of agency funds.

(3) Approximately 18.3 average annual megawatts of energy savings would be foregone under this alternative; if a generating plant were built sooner to compensate for the energy savings not obtained, there would be adverse effects on land and water resources.

(4) This alternative would limit freedom of choice and intrude on privacy by requiring all program participants to take an air-to-air heat exchanger along with tightening

measures. Since program participants would not be given an opportunity to choose mitigation and make a commitment to it, the likelihood is increased that some participants may choose not to operate the device, including those who may be at high risk from radon without knowing it.

(5) The public comments received on the draft EIS gave virtually no support to mitigation for all homes participating in the program.

FOR FURTHER INFORMATION CONTACT: For information and for additional copies of the Record of Decision or the Final Environmental Impact Statement, contact Anthony Morrell, Environmental Manager, BPA, P.O. Box 3621–SJ, Portland, Oregon 97208; (503) 230–5136.

Issued in Portland, Oregon, September 25, 1984.

James J. Jura,

Acting Administrator.

[FR Doc. 84-27518 Filed 10-17-84; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Privacy Act of 1974; Revisions to Existing Systems of Records

AGENCY: Federal Emergency Management Agency.

ACTION: The purposes of this notice are to clarify portions of the existing Privacy Act system of records entitled, "FEMA/SLPS–12, Real Property Acquisition and Relocation File" to clarify that this system contains both temporary and permanent personal and real property acquisition and relocation records; to clarify the system locations; and to further clarify the categories of records for both the temporary and permanent personal and real preperty acquisition and relocation files. These revisions are consistent with the purpose for which the system of records was established and are made to further clarify to the public the types of records being maintained. These revisions do not constitute substantive changes and do not require filing a "Report on New Systems."

EFFECTIVE DATE: The revisions will become effective on October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 287–0313.

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, as amended by the Congressional Reports Elimination Act of 1982 (Pub. L. 97–375), agencies are required to publish a notice of systems of records they maintain that are subject to the Act only when the agency is establishing a new system or when it substantively alters an existing system. A substantive change to an existing system is one which would also require a "Report on New Systems" and is described in the Office of Management and Budget's Circular A–108, Transmittal Memorandum No. 1 and No. 3. Thus, a change to the system notice that does not require such a report need only be described in a **Federal Register** notice, without the necessity of publishing the complete text of the notice. The new information is being printed in italics for convenience of the readers. The full text of the system notice appeared in the **Federal Register** on Tuesday, April 12, 1983 (48 FR 15710) and Tuesday, October 25, 1983 (48 FR 49376).

Dated: October 16, 1984.

James L. Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/SLPS–12

Delete the current name and revise to read:

SYSTEM NAME:

Temporary and Permanent Personal and Real Property Acquisition and Relocation Files.

SYSTEM LOCATION:

At the end of the current entry, add the following:

** * * Information on temporary relocation assistance will be collected by FEMA employees and maintained at a site office, at a Regional office, or at Headquarters, Washington, D.C., depending upon who administers the program.*

CATEGORIES OF RECORDS:

Delete the current entry and revise to read:

The file may contain the following: (1) Appraisals, appraisal contracts and reviews, and approval documents; (2) Amounts paid for purchase of property including records of negotiations and offers; (3) Title search documentation, including property titles, title company correspondence, closing papers, tax records, and contracts; (4) Loan interest payment information including mortgage payment papers, loan documentation claims, and FEMA approvals; (5) Information for determining benefit amounts for real property acquisition including tax records, mortgage information and divorce decrees; (6) Information concerning replacement housing determinations including tax information, affidavits, and determinations; (7) Relocation claims payment information including documents which verify that funds have been spent, deeds, contracts, building estimates, construction bills, loan papers, leases, cancelled checks, claim forms, and Decent, Safe and Sanitary Inspection Forms; (8) Deeds, contractual sale documents, notations of follow-up actions, appraiser qualifications, rent supplement information, insurance verifications, moving cost information, permanent relocation questionnaires including background information on displaced persons, and information supplied by displaced persons to support claims for real property acquisition and relocation assistance. The temporary relocation assistance file may contain the following: (1) Applicant contact sheets; (2) Application for assistance; (3) Leases and/or reimbursement agreements and corresponding housing inspection reports; (4) Requests for payment with supporting bills, receipts, etc., for relocation expenses and payments records to individuals and businesses; and (5) Move-out records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

There are no changes to this section, however, the last notice in the **Federal Register** (48 FR 15711, April 12, 1983) printed this section as a run-on to the Categories of records in the system and it is being republished again in the event that it is inadvertently deleted with the above changes. The Authority for maintenance of the system should read:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Comprehensive Environmental Response Compensation Liability Act of 1980, Executive Order 12316, Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.), section 1362 of the National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), as amended, 42 U.S.C. 4001–4128, Reorganization Plan No. 3 of 1978, and Executive Order 12127.

SAFEGUARDS:

Revise to read:

Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or locked room. Records are maintained in areas that are secured by building guards during non-business hours. *Records which are maintained at a site office might not be secured by building guards during non-business hours but are retained in a locked*

container and/or locked room. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

[FR Doc. 84-27736 Filed 10-17-84; 10:47 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) purusant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 221-002715-001.
Title: Baltimore Marine Terminal Agreement.
Parties:
Maryland Port Administration (Port)
Ramsay, Scarlett & Company (Ramsay)

Synopsis: This agreement provides for the granting by the Port to Ramsay of an amendment to an existing lease in order to provide for the consolidation of several short-term storage and office leases into a longer term pier lease at the North Locust Point Marine Terminal. The premises will continue to be used as a marine terminal. The term of the agreement will be for eight years. The parties have requested a shortened review period for the agreement.

Agreement No.: 202-005600-051.
Title: Philippines North America Conference.
Parties:
American President Lines, Ltd.
Hapag-Lloyd AG.
Lykes Bros. Steamship Co., Inc.
A.P. Moller (Maersk Line)
Sea-Land Services, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would clarify the procedure whereby a member line's designated senior executive could exercise independent action via telex supported by a confirming letter prior to the effective date of the action.

Agreement No.: 202-010636-001.
Title: U.S. Atlantic North Europe Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would allow the parties to put rates, charges, rules, service contracts and other tariff matters into effect prior to December 12, 1984. The parties have requested a shortered review period.

Agreement No.: 202-010637-001.
Title: North Europe-U.S. Atlantic Conference.
Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hagag-Lloyd AG
Sea-Land Service, Inc.
Trans Freight Lines, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would allow the parties to put rates, charges, rules, service contracts and other tariff matters into effect prior to December 12, 1984. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 12, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84-27514 Filed 10-17-84; 8:45 am]
BILLING CODE 6730-01-M

[Docket No. 84-36]

Seattle Crescent Container Service, Inc. v. Port of Seattle; Filing of Complaint and Assignment

Notice is given that a complaint filed by Seattle Crescent Container Service, Inc. against the Port of Seattle was served October 12, 1984. Complainant alleges that respondent has violated section 17 of the Shipping Act, 1916, in connection with establishment of rules concerning indemnity and insurance provisions and the responsibility for loss and damage to persons and property.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by October 15, 1985, and the final decision of the Commission shall be issued by February 17, 1986.

Francis C. Hurney,
Secretary.

[FR Doc. 84-27558 Filed 10-17-84; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Citizens Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 9, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First Citizens Bancshares, Inc.*, Morgan City, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in St. Mary Parish, Morgan City, Louisiana.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Bancorp of Mascoutah, Ltd.*, Mascoutah, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank in Mascoutah, Mascoutah, Illinois.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares of Intrawest Bank of Colorado Springs, N.A., Colorado Springs, Colorado.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Terrell Bancshares, Inc.*, Terrell, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The Terrell State Bank, Terrell, Texas.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27517 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

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 office 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 produced benefits to the public, such as greater convenience, increased competion, or gains in efficency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, 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 question 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 6, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 69690:

1. *Manufacturers National Corporation*, Detroit, Michigan; to engage *de novo* through its subsidiary, Manufacturers Bank-Delaware, Wilimington, Delaware, in the business of providing consumer credit through credit cards, accessed lines of credit and through unsecured revolving credit plans of various kinds; and to borrow money and accept deposits of money providing such deposits bear a maturity date of no less than thirty days beyond the date of such deposit and are in a amount not less than $100,000. In addition, to engage *de novo* through Manufacturers Service Corporation, Detroit, Michigan, in providing service functions for Company, such as customer services including collections, resolution of billing disputes and the expediting of lost cards or stolen card reports.

2. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to engage *de novo* through its subsidiary, Marshall & Ilsley Trust Company of Florida, N.A., Naples, Florida, in performing functions of activities that are ordinarily conducted by a trust company. These services are to be conducted in the State of Florida.

Board of Govenors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27515 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp., et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (49 FR 794) 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, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are 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 or the offices of the Board of Governors not later than November 9, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.*, Pittsburgh, Pennsylvania; to merge with Northeastern Bancrop, Inc., Scranton, Pennsylvania, thereby indirectly acquiring Northeastern Bank of Pennsylvania, Wilkes-Barre, Pennsylvania and Coment National Bank, Northhampton, Pennsylvania. Applicant also proposes to engage *de novo* through its subsidiaries, Northeastern Trust Company of Florida, N.A., Vero Beach, Florida in performing functions or activities that may be performed by a trust company, in the

manner authorized by federal or state law; Norbanc Lease, Inc., Scranton, Pennsylvania in leasing personal property or acting as agent, broker, or adviser in leasing such property on a nonoperating basis; Regency consumer Discount Company, Scranton, Pennsylvania in making loans or other extensions of credit for the company's account on an installment basis to individuals; and Norbanc Life Insurance Company, Phoenix, Arizona, in underwriting as reinsurer credit life insurance and credit accident and health insurance that is directly related to extensions of credit by affiliates.

B. **Fedral Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Franklin Capital Corporation*, Wilmette, Illinois; to merge with Western Capital Corporation, Wilmette, Illinois, thereby indirectly acquiring Western National Bank of Cicero, Cicero, Illinois; North Shore Capital Corporation, Wilmette, Illinois North Shore National Bank, Chicago, Illinois; NSCC Leasing Corp., Chicago, Illinois; and Morton Grove Bank, Morton Grove, Illinois. Applicant also proposes to engage *de novo* through its subsidiary, NSCC Leasing Corp., Chicago, Illinois, in acting as agent, broker or advisor in the leasing of real and personal property and equipment, and in acquiring, for the account of others only loans and other extensions of credit, primarily to finance the acquisition of personal property and equipment.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27516 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

First National State Bancorp.; Application To Engage de Novo in Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) 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 engage *de novo* through a state-chartered bank subsidiary in deposit-taking, including the taking of demand deposits, and other activities specified below. The proposed subsidiary will not engage in commercial lending transactions as defined in Regulation Y. The Board has determined by order that such activities are closely related to banking. *U.S. Trust Company* (70 Federal Reserve Bulletin 371 (1984)). Although the Board is publishing notice of this application, under established Board policy the record of the application will not be regarded as complete and the Board will not act on the application unless and until a preliminary charter for the proposed state-chartered bank subsidiary has been submitted to the Board.

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 Federal Reserve Bank or the offices of the Board of Governors not later than October 26, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First National State Bancorporation*, Newark, New Jersey; to engage through a state-chartered bank subsidiary, FNS Bank of New York, New York, New York, in consumer and mortgage lending, trust services and deposit-taking, including demand deposits; serving the New York City area.

Board of Governors of the Federal Reserve System, October 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-27583 Filed 10-17-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators—Oral Nitroglycerin; Drug Efficacy Study Implementation; Revocation of Exemption; Announcement of Marketing Conditions; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is correcting a document on certain coronary vasodilator drugs that was published in the **Federal Register** of Friday, September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In FR Doc. 84-23655, appearing at page 35428 in the **Federal Register** of Friday, September 7, 1984, the following corrections are made in page 35429:

1. In the second column, in the item numbered "23," "6.4" is changed to read "6.5;"

2. In the third column on the same page:

a. In the item numbered "27," "6.5" is changed to read "2.5;"

b. In the item numbered "29," the firm name "Ascot Hospital Pharmaceuticals" is deleted and "Inwood Laboratories" is inserted in its place.

Dated: October 9, 1984.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 84-27505 Filed 10-17-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0168 (DESI No. 7832); Formerly Docket No. 79N-0001]

Cyclandelate: Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on the proposal to withdraw approval of the new drug application for Cyclospasmol Capsules and Tablets containing cyclandelate. Cyclospasmol is presently indicated for adjunctive therapy in intermittent claudication; arteriosclerosis obliterans; thrombophlebitis (to control associated

vasospasm and muscluar ischemia); nocturnal leg cramps; Raynaud's phenomenon; and for selective cases of ischemic cerbral vascular disease. The hearing will consider issues of drug effectiveness, but not revocation of the "paragraph XIV" exemption of the drugs.

DATES: Notices of participation shall be filed with the Dockets Management Branch no later than November 19, 1984. Disclosure of data and information and submission of narrative statements by December 17, 1984. Prehearing conference on January 15, 1985, at 10:00 a.m.

ADDRESSES: Written notices of participation, disclosures, and statements to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions should be identified with docket number 84N–0168 and clearly labeled "Cyclospasmol Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION:

Background of this Proceeding

In a notice (DESI 7832) published in the **Federal Register** of July 20, 1971 (36 FR 13347), the Food and Drug Administration (FDA) evaluated the effectiveness of certain peripheral vasodilators for oral use. These products included Cyclospasmol Capsules and Tablets both containing cyclandelate. Cyclospasmol is approved under a new drug application (NDA 11–544) held by Ives Laboratories, Inc., 685 Third Ave., New York, NY 10017.

The 1971 notice, part of the Drug Efficacy Study Implementation (DESI) program, stated that FDA had evaluated reports received from the National Academy of Sciences/National Research Council, Drug Efficacy Study Group, together with other available evidence, and had concluded that certain peripheral vasodilators, including Cyclospasmol Capsules and Tablets, were possibly effective for their labeled indication except for those claims specifically found in the notice to lack substantial evidence of effectiveness. That notice requested the holder of any previously approved new drug application to submit as a supplement to its application, revised labeling deleting those claims which had been classified as lacking substantial evidence of effectiveness.

On September 15, 1971, Ives submitted revised labeling deleting the ineffective claims. The remaining possibly effective claims were for adjunctive therapy in intermittent claudication; arteriosclerosis obliterans; thrambophlebitis (to control associated vasospasm in muscular ischemia); nocturnal leg cramps; Raynaud's phenomenon; and for selective cases of ischemic cerebral vascular disease. Ives was provided six months to submit adequate and well-controlled studies to demonstrate the effectiveness of Cyclospasmol for those indications. See 35 FR 11273.

Subsequently, in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), FDA announced that certain peripheral vasodilators, including Cyclospasmol Capsules and Tablets, would be permitted to remain on the market beyond the time limits prescribed for implementation of the DESI program. In a followup notice published in the **Federal Register** of July 11, 1973 (38 FR 189477), FDA required that by September 10, 1973, persons interested in conducting clinical studies to determine the effectiveness of peripheral vasodilators submit protocols and notify the agency with the date when such studies were expected to begin.

Following publication of these notices, Ives conducted and submitted the results of clinical studies for use in peripheral and cerebral vascular disease. On June 20, 1978, Ives submitted a status report of five completed studies for peripheral vascular disease and five completed studies for cerebral vascular disease. Upon review of these data and other available information, the Director of the Bureau of Drugs (now the Center for Drugs and Biologics) concluded that there was a lack of substantial evidence that Cyclospasmol is effective for its labeled indications (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)). Accordingly, by notices in the **Federal Register** of May 25, 1979 (44 FR 30436, 30443), FDA announced its conclusions concerning the effectiveness data for Cyclospasmol, revoked the temporary exemption for continued marketing of the drug, reclassified the drug as lacking substantial evidence of effectiveness, proposed to withdraw the NDA for the product, and offered an opportunity for a hearing on the proposed withdrawal. Ives was also provided until May 26, 1980, to complete any studies that has not yet been completed but which were underway.

Request of a Hearing

On June 25, 1979, American Home Products Corporation and Ives, its wholly-owned subsidiary, requested a hearing. Thereafter, Ives submitted data and other information in support of its hearing request. Ives primarily relies upon two studies to support an indication for peripheral vascular disease, primarily in patients with arterioscleriosis obliterans (MDS 96 and MDS 176), and three studies to support an indication for cerebral vascular disease (MDS 368, MDS 197, and MDS 196).

In addition to Ives, the following drug manufacturers and organization filed hearing requests:

1. Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020;

2. Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ (now Lemmon Co., Sellersville, PA 18960);

3. National Association of Pharmaceutical Manufacturers, 747 Third Ave., New York, NY 10017.

Only Cord submitted information in support of its hearing request, which consisted primarily of references to published articles on peripheral and cerebral vascular disease. Cord also incorporated by reference the materials submitted by Ives.

On August 21, 1984, Lemmon withdrew its hearing request.

Review of the Hearing Requests by the Director of the Center for Drugs and Biologics

The Director of the Center for Drugs and Biologics evaluated the requests for a hearing on the issue of whether there is substantial evidence (21 U.S.C. 355(d)) of the effectiveness of Cyclospasmol, and recommended that a hearing be granted on this issue. The Director also considered the request for a hearing on the temporary exemption for continued marketing, known as the "Paragraph XIV" exemption, of Cyclospasmol, which was revoked on May 25, 1979 (44 FR 30436). Paragraph XIV of the court order in *American Public Health Ass'n* v. *Veneman*, 349 F.Supp. 1311 (D.D.C. 1972), allowed FDA administrative enforcement discretion, pending completion of scientific studies, with respect to continued marketing of less-than-effective drugs that were part of the DESI program. See 37 FR 26623. The Director concluded that Ives is not entitled to a hearing on the Paragraph XIV revocation issue and recommended the hearing request on this issue be denied. The basis of the Director's

denial recommendation is set forth below.

The Director's Recommendation Concerning a Hearing on FDA's Revocation of the Paragraph XIV Exemption for Cyclospasmol

For reasons discussed below, the Director concluded that Ives' request for a hearing on the Paragraph XIV exemption for Cyclospasmol was meritless and, accordingly, recommended that a hearing be denied as to this issue.

Ives was notified in 1971 that FDA considered Cyclospasmol to be less-than-effective for its indications. But unlike most drugs found to be less-than-effective under the DESI program, in 1972, under Paragraph XIV of the *Veneman* court order, Cyclospasmol was permitted to remain on the market pending completion of scientific studies to determine its effectiveness.

Over the next ten years, Ives conducted numerous studies to demonstrate the effectiveness of Cyclospasmol for these indications. As of June 20, 1978, Ives reported ten completed studies and six ongoing studies. (All of these studies now have been completed. Ives primarily relies upon only four of these sixteen studies to demonstrate Cyclospasmol's effectiveness.)

After evaluating these data, as well as data relating to other peripheral vasidilators, FDA concluded that no further time was needed to study these drugs. Accordingly, on May 25, 1979, FDA revoked the temporary exemption for continued marketing of all peripheral vasodilators, including Cyclospasmol. See 44 FR 30436.

Ives now contends that there was no rational basis for FDA to revoke the Paragraph XIV exemption, and that the revocation violated due process and the Administrative Procedure Act ("APA"). Ives is mistaken.

First, the revocation of the Paragraph XIV exemption was based upon the fact that a reasonable amount of time had been allowed for manufacturers of these drugs to conduct clinical investigations with acceptable designs. Ives does not allege that it was unable to conduct well-designed clinical studies. In fact, as discussed earlier, Ives conducted sixteen studies, all of which now have been completed. Rather, Ives claims that "FDA failed to make any inquiry of (Ives) to explain the reasons why their tests were not yet complete or to check on the problems that the companies were encountering in carrying out the protocols." The problems encountered by these companies, however, were not that they could not complete adequate studies but rather that they were unable to demonstrate the drugs' effectiveness. It is for this reason that FDA implemented procedures to remove these drugs from the marketplace. Ives' subsequent action in submitting to FDA only one study in support of its effectiveness claim during the five years that followed the 1979 revocation notice is further evidenced of the rationality of FDA's decision to revoke the Paragraph XIV exemption.

Nor is there any merit to Ives' assertion that the revocation of the Paragraph XIV exemption is procedurally defective under the due process clause of the Fifth Amendment of the Constitution and under the APA.

Ives contends that Paragraph XIV status is a valuable asset entitling Ives to continue marketing Cyclospasmol, and that it cannot be taken away by the government without affording Ives procedural due process, i.e., notice and comment. The Paragraph XIV exemption, however, is not permission to market a drug product. Its revocation does not remove a drug product from the market. New drugs are marketed only on the basis of an approved new drug application. That approval cannot be withdrawn until procedures that fully satisfy all statutory and constitutional due process concerns, and which go far beyond notice and comment, are met. See *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). FDA's revocation of the Paragraph XIV exemption is merely a preliminary evaluation of the drug, an action that has never been conditioned upon prior notice to holders of the new drug applications.

In addition, Ives contends that FDA's revocation of the Paragraph XIV exemption violated the APA, specifically section 9(b) of the Act (5 U.S.C. 558(c)). That section concerns licenses, which Ives contends applies to the Paragraph XIV exemption. A "license" is defined under the APA as a "form of permission." See 5 U.S.C. 551(8). As discussed above, the Paragraph XIV exemption is not a form of permission to market a drug. Its revocation has no impact on the marketability of the drug. Therefore, it is not a license and not subject to the licensing requirements of the APA.

The legal issues presented by revocations of Paragraph XIV exemptions are discussed in further detail in other notices granting hearings on DESI drugs. *See, e.g.*, 49 FR 36440, September 17, 1984; 49 FR 38365, September 28, 1984.

The Commissioner's Ruling on the Hearing Requests

Subject to the limitation discussed below, the Commissioner is now granting the hearing request of Ives on the proposal to withdraw approval of the NDA for Cyclospasmol. Approval of this NDA will be withdrawn unless there exists substantial evidence that the products have the clinical effect that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling (21 U.S.C. 355(d), 21 CFR 314.111(a)(5)).

Under 21 CFR 314.200(f), the Commissioner shall not evaluate or rule upon a Director's recommendation that a hearing be denied as to some (but not all) issues. Further, the regulation provides that those issues as to which the Director has recommended a denial should not be included in the notice of hearing. Accordingly, the issue on FDA's revocation of the Paragraph XIV exemption for Cyclospasmol is not included in this notice.

Issues in this Proceeding

In light of the Director's recommendation and the requirements of 21 CFR 314.200, two questions will be addressed in this proceeding with respect to these products:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drugs; and

2. Whether, on the basis of any such adequate and well-controlled investigations that exist, it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug products in question will have the effect that they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof (21 U.S.C. 355(d)).

Parties to the Hearing

The parties to the hearing will be FDA's Center for Drugs and Biologics, Ives Laboratories, Inc., and Cord Laboratories, Inc. The presiding officer will be Administrative Law Judge Daniel J. Davidson. In addition, the National Association of Pharmaceutical Manufacturers and any other interested person shall be permitted to participate in the hearing as nonparty participants (see 21 CFR 12.89), provided that they file a notice of participation pursuant to 21 CFR 12.45(a).

Disclosure of Information by the Center and Hearing Participants

In accordance with 21 CFR 12.85(a)(4), the Center for Drugs and Biologics has filed with the Dockets Management Branch a narrative statement setting forth its position on the issues of the hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data contained in the Center's files that relate to the issues raised herein. Interested persons may obtain a copy of the Center's narrative statement from the Dockets Management Branch (address above). Participants other than the Center for Drugs and Biologics shall disclose data and information and submit their narrative statements pursuant to 21 CFR 12.85 on or before December 17, 1984. Pursuant to 21 CFR 10.20(j)(2)(ii), confidential material submitted must be segregated and clearly marked. Interested persons may also examine the data on the drugs subject to this hearing notice (with the exception of any data identified as confidential pursuant to the provisions of 21 CFR 10.20(j)) at the Dockets Management Branch from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Prehearing Conference

The prehearing conference will be held on January 15, 1985, at 10:00 a.m.,in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation shall be filed with the Dockets Management Branch no later than November 19, 1984. All participants are required both to attend the prehearing conference and to be prepared to comply with the provisions of 21 CFR 12.92.

Media Coverage of the Hearing

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration.

Because this is a public hearing, it is subject to FDA's guideline concerning the policy and procedures for electronic media coverage of public agency administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA public proceedings, including formal evidentiary hearings conducted pursuant to Part 12 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the testimony of witnesses in the proceeding. Accordingly, the parties and nonparty participants to this hearing, and all other interested persons, are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on this hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (section 505, 52 Stat. 1052 as amended (21 U.S.C. 355)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing by held on the issues set out in this notice.

Dated: October 10, 1984.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 84–27504 Filed 10–17–84; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Application Announcement for Grants for Programs for Physician Assistants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1985, Grants for Programs for Physician Assistants are being accepted under the authority of section 783(a) of the Public Health Service Act.

Section 783(a) authorizes the award of grants to accredited schools of medicine or osteopathy and other public or nonprofit private entities, whose principal functions include health and/or education, to assist in meeting the cost of planning, developing and operating or maintaining programs for the training of physician assistants as defined under section 701(8) of the Public Health Service Act.

To receive support, programs must meet the requirements of sections 701(8) and 783(a) of the Act and the regulations implementing these sections published in Title 42 of the Code of Federal Regulations, Part 57, Subpart H.

Funding preference will be accorded approved applications with projects in which:

1. A program is conducted for training physician assistants to provide primary care patient services under the supervision of a doctor of medicine or osteopathy; and/or

2. Substantial training experience is provided in a health manpower shortage area(s), as defined in section 332 of the PHS Act, or in an area health education center funded, at least in part, under section 781 of the Act; and/or

3. A program is established in a State which does not have such a program; and/or

4. A program is conducted in conjunction with primary care physician education in a manner which shares educational resources and encourages the utilization of physician assistants by physicians.

Application materials are being made available without final action on the Fiscal Year 1985 budget and the enactment of health professions renewal legislation. Therefore, financial adjustments and programmatic changes may be necessary at a later date. Should such changes be necessary all applicants will be notified.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–21), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rm. 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Questions regarding programmatic information should be directed to: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5700 Fishers Lane, Rm. 4C–25, Rockville, Maryland 20857, Telephone: (301) 443–6817.

The application deadline date is November 23, 1984. Applications shall be considered as meeting the deadline if they are either (1) *received* on or before the deadline date, or (2) *postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.886 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: October 14, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84–27553 Filed 10–17–84; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending December 31, 1984 and Rate of Insurance Premium

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending December 31, 1984, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11⅞ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (10.78 percent), and rounding the result (14.28 percent) upward to the nearest ⅛ percent (14⅜ percent). Thus, the variable rate for this 3-month period would normally be at the annual rate of 14⅜ percent (7⅜ percent plus 7 percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. For the previous 3 quarters the variable interest at the annual rate was as follows: 11¾ percent for the quarter ending March 31, 1984; 12 percent for the quarter ending June 30, 1984; and 12⅜ percent for the quarter ending September 30, 1984. Therefore, in order to maintain an average annual rate of 12 percent for the 12-month period ending December 31, 1984, the variable interest rate for the quarter ending December 31, 1984, would be at an annual rate of 11⅞ percent.

2. For fixed rate loans executed during the period of October 1, 1984 through December 31, 1984, and for variable rate loans executed after January 27, 1981, the interest rate is 14⅜ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (10.78 percent); adding 3.50 percent (14.28 percent); and rounding that figure to the next higher one-eighth of 1 percent (14⅜ percent).

B. Section 60.14(b) of the regulations provides that the rate of the insurance premium shall not exceed 2 percent per year of the loan principal and that the Secretary will announce the rate of the insurance premium on a quarterly basis through a notice published in the **Federal Register.**

The Secretary announces that for the period ending December 31, 1984, the rate of the insurance premium continues to be 2 percent per year of the loan principal for loans executed through the HEAL program.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: October 14, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-27554 Filed 10-17-84; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-50537]

Realty Action; Exchange of Public Lands in Beaver County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: It is proposed to exchange public lands described as T. 29 S., R. 7 W., SLBM, sec. 18, lot 1, NW¼NE¼ and NE¼NW¼, totaling 120.10 acres, for non-federal land owned by Gilbert T. Yardley described as T. 31 S., R. 8 W., SLBM, sec. 18, SE¼SW¼, SW¼SE¼, and sec. 22, SW¼NW¼, totaling 120 acres, pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

SUMMARY: The purpose of this exchange is to eliminate small private inholdings in large blocks of public land and acquire private lands with resources valuable for public purposes.

DATES: Comments must be submitted on or before December 3, 1984.

ADDRESS: Detailed information concerning this exchange is available for review at the Bureau of Land Management Beaver River Resource Area Office, 444 South Main, Cedar City, Utah 84720, (801) 586-2458. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the exchange are:

1. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The exchange will be for surface estate only. Minerals will remain with the United States Government.

3. Title will be subject to all existing valid rights.

The publication of this notice in the **Federal Register** segregates the public lands described above from appropriation under the public land laws, including the mining laws.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action notice will be the final determination of the Department of the Interior.

Dated: October 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-27527 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

Cedar City District Advisory Council; meeting

Notice is hereby given in accordance with Pub. L. 92-463, that a meeting of the Cedar City District Advisory Council will be held November 13, 1984.

The meeting will begin at 9:30 a.m. at the BLM's Red Cliffs Campground near Leeds, Utah. The agenda will include discussion of recreation and R&PP grants in conjunction with and around Quail Creek Reservior, update on a regional interagency recreation plan, discussion or right-of-way requests for utilities in Washington County, and a review of realty cases in Washington County.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 9:30 a.m. at Red Cliffs or may submit written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by November 9, 1984. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager or Council Chairman.

Dated: October 10, 1984.

J. Kent Giles,

Acting District Manager.

[FR Doc. 84-27526 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-DQ-M

[M 59125]

Montana; Conveyance and Order Providing for Opening of Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance of Public Land in Garfield and Dawson Counties and Order Providing for Opening of Public Land in Custer County, Montana.

SUMMARY: This order will open the lands reconveyed in an exchange under the Act of October 21, 1976, 43 U.S.C. 1701, et seq., to the operation of the public land laws. All minerals in the offered lands were reserved to the private parties, their successors or assigns, or to their predecessors. The United States reserved all mineral deposits on all of the public lands transferred.

DATE: At 9 a.m. on December 5, 1984, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The segregation of the public land that was subsequently transferred to the private parties, which was created by the Notice of Realty Action published in the Federal Register on May 22, 1984 (49 FR 21568–21569), terminated on issuance of the patents on September 6, 1984.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication, BLM, Montana State Office, P.O. Box 36800, Billings, MT 59107, Phone: (406) 657–6082.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the following described surface estate was transferred by patent to the parties shown:

1. August and/or Mary Sobotka, with rights of survivorship:

Principal Meridian, Montana

T. 18 N., R. 57 E.,
Sec. 20, lots 7, 8, 9 and 10; and
Sec. 21, lot 6.

Containing 202.81 acres, and all accretions thereto—Dawson County.

2. LR Ranch Co.:

Principal Meridian, Montana

T. 19 N., R. 36 E.,
Sec. 2, NE¼†SE¼.

T. 19 N., R. 37 E.,
Sec. 9, SW¼NE¼;
Sec. 10, S½NW¼;
Sec. 15, SW¼NW¼;
Sec. 29, SE¼SW¼; and
Sec. 35, W½NW¼.

Aggregating 320 acres—Garfield County

3. J. Barnard Murnion and Loriene Murnion, with right of survivorship:

Principal Meridian, Montana

T. 19 N., R. 36 E.,
Sec. 12, NE¼.

T. 19 N., R. 37 E.,
Sec. 7, lot 1, N½NE¼, NE¼NW¼.

Agregating 314.17 acres—Garfield County.
Total acreage patented: 836.98

In exchange for the above selected land, the United States acquired the surface estate of the following described land in Custer County, Montana:

Principal Meridian, Montana

T. 9 N., R. 48 E.,
Sec. 30 lots 5 and 6, and that portion of the W½SE¼ lying westerly of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way. The said right-of-way is described on the deed dated June 25, 1906, recorded August 23, 1906 in Book R of Deeds, Page 193, in the records of Custer County, Montana.

Containing 74.38 acres, more or less.

At 9 a.m. on December 5, 1984, the above described land that was conveyed to the United States will be open to the operation of the public land laws.

Dated: October 10, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84-27522 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-84-M

[AA-6703-C; AA-6703-E]

Alaska Native Claims Selections

In accordance with Departmental regulation 43 CFR 3650.7(d) notice is hereby given that a decision to issue conveyance (DIC) under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611 (1976), will be issued to The Tatitlek Corporation, for approximately 35, 570 acres. The lands involved are within the Copper River Meridian, Alaska:

T. 9 S., R. 1 E.
T. 10 S., R. 1 E.
T. 10 S., R. 2 E.
T. 9 S., R. 3 E.
T. 10 S., R. 3 E.
T. 11 S., R. 4 E.

Upon issuance, the DIC will be published once a week for four (4) consecutive weeks, in the Cordova Times. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until November 19, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-27551 Filed 10-16-84; 8:45 am]

BILLING CODE 4310-JA-M

[OR 37654]

Oregon; Proposed Recreation and Public Purpose Act Lease; Meeting

In accordance with section 212(a) of the Federal Land Policy and Management Act of 1976, notice is hereby given that a meeting will be held on November 15, 1984, in the conference room of the Vale District Office, 100 Oregon Street, Vale, Oregon. The meeting will begin at 7:00 P.M.

The purpose of the meeting is to accept public comments and discuss possible alterntives on a regional shooting center proposed by the Snake River Sportsmen, Inc., a non-profit group incorporated under the laws of the State of Oregon.

The proponents have requested to lease approximately 480 acres of public land in Malheur County, Oregon, under the authority of the Recreation and Public Purposes Act of 1926, as amended:

T. 19 S., R. 45 E., Willamette Meridian,
Sec. 4, SW ¼ NW ¼, SE ¼ NW ¼ west of Lytle Blvd., N ½ SW ¼, SW ¼ SW ¼;
Sec. 5, SE ¼ NE ¼, SE ¼;
Sec. 8, NE ¼ NE ¼;
Sec. 9, NW ¼ NW ¼.

The meeting will be open to the public and time will be provided for public comment.

For further information contact: Barry Rose, Public Affiars Officer, (503) 473–3144.

Dated: October 9, 1984.

David Lodzinski,

Acting District Manager.

[FR Doc. 84-27529 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-33-M

[W-87650]

Wyoming; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Lease of Public Lands in Sweetwater County, Wyoming.

SUMMARY: The BLM is proposing to enter into a lease with Mr. Cleve Martin and Mr. Tom McGuire to authorize the continued operation of a total containment sewage lagoon for a 15 year period. The lagoon is located ½ mile north of Rock Springs in:.

T. 19N., R. 105 W., 6th P.M.,
Sec. 8: S½N½SE¼SE¼, S½SE¼SE¼.
Comprising 30 acres.

The applicants will be responsible for the cost of processing the lease and for payment of an annual rent to be determined by BLM appraisal.

The lease is to be authorized under the provisions of Section 302 of the Federal Land Policy and Management Act of 1976 and 43 CFR Part 2920.

DATE: The public is invited for a period of 30 days from the date of publication of this notice to submit written comments.

CONTACT ADDRESS: Clinton Hanson, Big Sandy Resource Area Manager, BLM, Box 1170, Rock Springs, Wyoming 82902; (307) 362-6422.

Dated: October 5, 1984.

Donald H. Sweep,

District Manager.

[FR Doc. 84-27530 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-22-M

[F-14908-A]

Alaska Native Claims Selection

On July 17, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection application F-14908-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611, (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

On April 6, 1962, Public Land Order (PLO) 2642 withdrew certain lands in the Nome area for use by the Federal Aviation Administration (FAA) as an air navigation facility. The lands are described as:

U.S. Survey No. 5270, Alaska, lot 2 situated in the vicinity of Nome, Alaska.
Containing 32.94 acres.

The lands described above have been serialized as F-70624, and are subject to a determination pursuant to section 3(e) of ANCSA which states:

"Public lands" means all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation . . . .

On June 11, 1984, the Bureau of Land Management (BLM) made a section 3(e) determination, that the following described lands are the smallest practicable tract enclosing lands actually used in connection with the administration of this FAA facility at Nome:

A tract of land located within lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, more particularly described as follows:

Beginning at corner No. 1, of lot 2 of U.S. Survey No 5270, proceed approximately N. 83° W., for a distance of approximately 1345 ft., to the center of the building within this RCAG site, thence approximately N. 48°40'W., 100 ft., to corner No. 1, the point of beginning,
From corner No. 1, by metes and bounds.
N. 41°20' E., 150 ft., to corner No. 2;
S. 48°40' E., 200 ft., to corner No. 3;
S. 41°20' W., 300 ft., to corner No. 4;
N. 48°40' W., 200 ft., to corner No. 5;
N. 41°20' E., 150 ft., to corner No. 1, the point of beginning.
The tract as described contains approximately 1 acre.

Accordingly, selection application F-14908-A, as amended, must be and is hereby rejected as to the above-described lands.

As to the lands described below, selection application F-14908-A, as amended, submitted by Sitnasuak Native Corporation, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, containing approximately 32 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance:

That portion of land located within lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, *excluding* Mineral Survey No. 2300 and the lands described as follows:

Beginning at corner No. 1, of U.S. Survey No. 5270, proceed approximately N. 83°W. for a distance of approximately 1345 ft., to center of the building within the RCAG site, thence approximately N. 48°40'W., 100 ft., to corner No. 1, the point of beginning,
From corner No. 1, by metes and bounds,
N. 41°20' E., 150 ft., to corner No. 2;
S. 48°40' E., 200 ft., to corner No. 3;
S. 41°20' W., 300 ft., to corner No. 4;
N. 48°40' W., 200 ft., to corner No. 5;
N. 41°20' E., 150 ft., to corner No. 1, the point of beginning.
Containing approximately 32 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F-14908-EE, are reserved to the United States. All easements are subject to applicable Federal, State or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Utility Easement—The uses allowed for a power line are those uses associated with the construction, operation and maintenance of a power line.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles (ATV's), track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 133b C4, I) An easement twenty-five (25) feet in width for an existing powerline from powerline easement EIN 133a C4, I (which terminated at the western boundary of lot 2, U.S. Survey No. 5270, Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian), southeasterly to the RCAG site in lot 2, U.S. Survey No. 5270. The uses allowed are those activities associated with the construction operation and maintenance of a powerline facility.

b. (EIN 200 I) An easement restricting use of the lands within lot 2 U.S. Survey No. 5270 within a 1,000 foot radius of the center of the RCAG building located in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed include the uses associated with the construction, reconstruction, operation, and maintenance of the RCAG and NDB sites, the right to clear and keep the lands clear from

any obstruction infringing upon or penetrating the airspace, and the right to prohibit use on and remove from the lands beneath the airspace any source which would create interference for users of the RCAG and NDB electronic signals.

c. (EIN 201 I) An easement sixty (60) feet in width for a existing access road from Beam Road, a Federal Aid Highway, in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, easterly to the RCAG site in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The use of this easement is restricted to government use only.

d. (EIN 202 I) An easement prohibiting use of the lands within lot 2, U.S. Survey No. 5270 within a 400 foot radius of the center of the NDB site located approximately N. 84° E., for a distance of approximately 525 feet from the center of the building within the RCAG site. The uses allowed are those activities associated with the construction, operation, and maintenance of the NDB facility.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 141 (Beam Road) from FAS Route No. 130 in Nome, north to FAS Route No. 1451 at Coffee Creek transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86-70, 73 Stat. 141, as to T. 11 S., R. 33 W., Kateel River Meridian;

3. A right-of-way, F-12414, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317;

4. A right-of-way, F-12415, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Highway. Act of August 27, 1958, as amended, 23 U.S.C. 317;

5. A right-of-way, F-12544, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Material Site and Haul Road. Act of August 27, 1958, as amended, 23 U.S.C. 317;

6. A right-of-way, F-12545, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, for a Federal Aid Material Site. Act of August 27, 1958, as amended, 23 U.S.C. 317;

7. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2), (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

8. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved for conveyance, the total acreage conveyed or approved for conveyance is approximately 152,447 acres. The remaining entitlement of approximately 8,833 acres will be conveyed at a later date.

Pursuant to section 14(f) of ANCSA and Departmental regulations in Title 43 CODE OF FEDERAL REGULATIONS (CFR) 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under section 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Nome shall be subject to the consent of Sitnasuak Native Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the NOME NUGGET.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in 43 CFR Part 4, Subpart E, as revised. However, pursuant to the Alaska National Interest Lands Conservation Act of December 2, 1980, 43 U.S.C. 1631, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until November 19, 1984, to file an appeal.

Any party, known or unknown, who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Mangement.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is filed, the parties to be served with a copy of the notice of appeal are:

Federal Aviation Administration, Alaska Region, 701 C Street Box 14, Anchorage, Alaska 99513
Sitnasuak Native Corporation, P.O. Box 172, Nome, Alaska 99762
Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-27552 Filed 10-17-84; 8:45 am]
BILLING CODE 4310-JA-M

Bureau of Reclamation

Parker Division Channel Modification Project, Colorado River Front Work and Levee System, AZ—CA; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an Environmental Impact Statement for river stabilization in a 28-mile reach of the Colorado River known as the Parker Division. This reach of river extends from the Agness Wilson Bridge south of Parker, Arizona,

to the Palo Verde Diversion Dam near Blythe, California.

Lateral movement in this reach of the Colorado River has caused extensive bank cutting and channel shifting. As a result of this, increased sediment loading has occurred, a substantial amount of property has been lost, and the increased sediment has caused major operating problems with the Palo Verde Diversion Dam and adversely impacts the stability of the lower river system.

The Bureau of Reclamation has the responsibility for maintaining the Colorado River by the authority of the Colorado River Front Work and Levee System Act of 1927, as amended. To alleviate the problems caused by the unstabilized river, a plan has been developed to improve this reach of river for hydraulic efficiency and reduction of sediment loading.

The proposed plan would include:

1. The elimination of two sharp meanders by means of cuts throught the land portions.

2. The placement of riprap, training structures, and jetties on the existing banks, where required.

3. Dredging the river channel in selected locations to preserve channels around islands and deepen other shallow areas in the river channel to maintain a river channel base width of 450 feet.

4. Development of the open water areas created by the elimination of the meanders for fish-and-wildlife, recreation, and other purposes.

Several alternatives to the basic plan will also be considered in the environmental impact statement. These alternatives will range from channelization of the complete reach of the river to stabilzing the bankline in selected sections.

Public meetings will be scheduled in the near future to introduce the public to the project study. The meetings will also serve as scoping sessions to identify significant environmental impacts and issues that should be studied and addressed in the environmental impact statement. The times and locations of these public meetings will be announced later in local newspapers, as well as in mailed notices to those individuals, groups, and agencies that have expressed an interest in the proposed action.

To insure that the full range of issues related to the proposed action are identified and addressed, comments and suggestions are invited from all interested parties. For further information on the environmental impact statement contact Del Kidd, Bureau of Reclamation, Yuma Projects Office, P.O. Bin 12487, Yuma, Arizona 85365, Telephone (602) 726–2679.

Dated: October 12, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84–27576 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202–395–7313

Title: Certification of Hunting and Fishing License Holders Abstract: Part I (Form 3–154a) is used to collect numbers of paid hunting and fishing license holders from State fish and wildlife agencies. The information is used by the service to apportion grant funds to each State under the Federal aid in sport fish and wildlife restoration acts, as amended. Part II (Form 3–154b) is used to collect information on hunting and fishing license sales and is made available to the public.

Service Form Number: 3–154b
Frequency: Annually
Description of Respondents: State and local governments
Annual Responses: 50
Annual Burden Hours: 50
Service Clearance Officer: Arthur J. Ferguson, 202–653–7499

Dated: October 9, 1984.

Robert E. Gilmore,

Associate Director—Federal Assistance.

[FR Doc. 84–27536 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–55–M

Endangered Species Permit; Receipt of Applications; Mesker Park Zoo, and Audubon Park & Zooligical Gardens

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Mesker Park Zoo Evansville, IN; PRT—683602.

The applicant requests a permit to import two captive-born female hog deer [*Axis (=Cervus) porcinus annamiticus]* from Howletts and Port Lympne Estates, Kent, England for enhancement of propagation.

Applicant: Audubon Park & Zoological Gardens, New Orleans, LA; APP# 5905BM.

The applicant requests a permit to import two capitive-born female hog deer [*Axis (=Cervus) porcinus annamiticus]* from Howletts and Port Bympne Estates Ltd., Kent, England for public display and enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 North Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on any of these applications with 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT 2#, APP# or PRT# when submitting comments.

Dated: September 28, 1984.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84–27733 Filed 10–17–84; 10:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Development Operations Coordination Document; Shell Offshore Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0478, Block 116, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27537 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Walter Oil and Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil and Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4259, Block 389, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The subject DOCD was deemed submitted on October 10, 1984.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and produres under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27538 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0797, Block 105, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–27532 Filed 10–17–84; 8:45 am]

BILLING CODE 4310–MR–M

Development Operations Coordination Document; Chevron USA Inc.

AGENCY: Mineral Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3410, Block 352, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 9, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendment of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executive of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-27533 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Union Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted A DOCD describing the activities it proposes to conduct on Lease OCS–G 3530, Block 58, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 10, 1984.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region: Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 10, 1984

John L. Rankin,

Regional Director, Gulf of Mexico OCSA Region.

[FR Doc. 84-27534 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Exploration Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Environmental Assessments ((EAs) and Findings of No Significant Impact (FONSIs), prepared by the MMS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which FONSIs were prepared by the Gulf of Mexico OCS in the three month period preceding this Notice.

Activity/operator	Location	Date
Exxon Co., U.S.A., eight exploratory wells, OCS–G 6428.	Destin Dome Block 284; 72 miles southwest of Panama City, FL.	Sept. 13, 1984.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor (LE), Leasing and Environment, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Telephone (504) 838–2755.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relates to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: October 10, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-27531 Filed 10-17-84; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Clean Water Act Enforcement Action; Maine Electronics, Inc.

In accordance with Departmental Policy, 28 C.F.R. 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Maine Electronics, Inc.*, Civil Action No. 84–0317–P (D.Me.) has been lodged with the United States District Court for the District of Maine. The consent decree cites the proposed consolidation of the case with *Sierra Club* v. *Maine Electronics, Inc.*, Civ. No. 84–0141P (D.Me.) and notes a related case of *State of Maine* v. *Maine Electronics* filed in the Superior Court of the State of Maine, Docket No. CV–84–282. The consent decree requires the defendant to install pollution control equipment and comply with a National Pollutant Discharge Elimination System permit and to pay penalties for any future violations of the terms and conditions of the decree. The consent decree further includes a provision for reopening in the event that Maine Electronics does not pay a penalty of $78,500 to the State of Maine for past violations.

The consent decree may be examined at (1) the office of the United States Attorney, District of Maine, 156 Federal Street, Portland, Maine 04104; (2) the Office of Regional Counsel, U.S. Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and (3) the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515 Main Justice Building, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail at the Environmental Enforcement Section at a cost of $1.90 per copy ($0.10 per page reproduction charge). In requesting a copy, please refer to *United States* v. *Maine Electronics, Inc.* D.J. #90–5–1–1–2175.

The Department of Justice will receive comments concerning the decree for thirty (30) days from publication of this Notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should reference *United States* v. *Maine Electronics, Inc.* DOJ #90–5–1–1–2175.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–27539 Filed 10–17–84; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[84–79]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee, Space Station Task Force.

DATE AND TIME: November 13–14, 1984, 8:30 a.m. to 5 p.m., and November 15, 1984, 8:30 a.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Goddard Space Flight Center, Building 8, Room 200, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth J. Frost, Code 684.0, NASA/Goddard Space Flight Center, Greenbelt, MD 20771 (301/344–8167).

SUPPLEMENTARY INFORMATION: The Space Station Task Force was established under the NAC Space and Earth Science Advisory Committee to counsel NASA on plans for and work in progress on the scientific utilization of the new capabilities which will be afforded by the Space Station, including the relationship of these plans to the existing space science program. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants). Topics under discussion at this meeting will include status reports on the Space Station Task Force and the Earth System Sciences Committee (ESSC); the Space Science Board Long Range Planning; and the activities of the Office of Science and Technology Policy in regard to the Space and Earth Science Program.

Type of meeting: Open.

Agenda

November 13, 1984

8:30 a.m.—Welcome and Update on Task Force Activities.
9:30 a.m.—Support Needs of Office of Space Science & Applications.
10:30 a.m.—Support Needs of Office of Space Station (OSS).
1:15 p.m.—Report on NASA Advisory Council Meeting at Woods Hole.
2 p.m.—Team Meetings.
3:45 p.m.—Report by team leaders.
5 p.m.—Adjourn.

November 14, 1984

8:30 a.m.—Office of Space Science and Applications Budget Trends.
9:30 a.m.—Space Station Implied Costs.
12:45 p.m.—Space Station/User Interaction.
3:15 p.m.—Discussion of 1985 Tasks.
5 p.m.—Adjourn.

November 15, 1984

8:30 a.m.—Space Station Performance Envelope.
10:15 a.m.—Office of Technology Assessment Report.
11 a.m.—Final Report Comments.
12:45 p.m.—End-to-End Data Systems
3:30 p.m.—Adjourn.

Dated: October 11, 1984.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 84–27508 Filed 10–17–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 2–4, 1984, from 9:00 a.m.–5:30 p.m. in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 2, from 9:00 a.m.–4:00 p.m. and on November 3, from 9:00 a.m.–5:30 p.m. The topics for discussion will include Program Review and Guidelines for: Design Arts, Media Arts, Dance Touring Initiative, Locals Test Pilot, Music Presenters and Festivals, Visual Arts Organizations and Dance; Policy Questions regarding Service Organizations, Publications, Arts Education and Criticism.

The remaining sessions of this meeting on November 2, from 4:00–5:30 p.m. and on November 4, from 9:00–5:30 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion of internal practices. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (2), (4), (6) and (9) (B) of section 552b, Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: October 15, 1984.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–27578 Filed 10–17–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Application Received Under Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 9, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the 30 July 1984 **Federal Register**, page 30377.

The application received is as follows:

1. *Applicant:* Phillip R. Kyle, New Mexico Institute of Mining and Technology, Socorro, New Mexico 87801.

Activity for Which Permit Requested: Enter Site of Special Scientific Interest.

The applicant proposes to enter Site of Special Scientific Interest No. 4—Cape Crozier to collect rock samples, particularly ultra-basic inclusions from the Ross Island volcanic complex. These rocks are not readily accessible anywhere else.

Location: Cape Crozier, Ross Island, Antarctica.

Dates: November 10, 1984 through January 31, 1985.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Peter E. Wilkniss,

Division Director, Division of Polar Programs.

[FR Doc. 84–27523 Filed 10–17–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2; Meeting

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island Unit 2 (TMI–2) will be meeting on November 8, 1984, from 7:00 p.m. to 10:00 p.m. at the Lancaster Council Chambers, Public Safety Building, 201 N. Duke Street, Lancaster, Pennsylvania 17603. The meeting will be open to the public.

At the meeting the Panel will receive reports from the licensee and U.S. Environmental Protection Agency on the results of onsite and offsite Krypton 85 monitoring during the reactor pressure vessel head lift operation. The Department of Health, Commonwealth of Pennsylvania, will present a summary of health related studies conducted in the vicinity of the TMI site since the accident. The licensee will also brief the Panel on their investigation into a recently discovered instance of apparent noncompliance with administrative procedures that occurred during the refurbishment of the polar crane.

Further information on the meeting may be obtained from Dr. Michael T. Masnick, Three Mile Island Program Office, U.S. Nulcear Regulatory Commission. Washington, DC 20555, telephone 301/492–7466.

Dated: October 15, 1984.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 84–27582 Filed 10–17–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co.; Issuance of Amendment to Operating License and Negative Declaration

Pursuant to the Atomic Safety and Licensing Board's (ASLB), "Initial Decision," dated August 29, 1984 and "Supplemental Initial Decision," dated September 25, 1984, the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR–6 to Consumers Power Company (the licensee), which revised the license and the Technical Specifications for operation of the Big Rock Point Plant. The Big Rock Point Plant is located in Charlevoix County, Michigan. The amendment is effective as of the date of issuance.

The amendment authorizes an increase in the spent fuel pool storage capacity from 193 assemblies to 441 assemblies. The amendment also adds seven conditions to the license as a result of the ASLB's "Initial Decision," dated August 29, 1984. Also, the amendment adds Technical Specifications which:

(1) Limit the fuel loading of assemblies placed in the pool to a maximum of 28.3 grams of uranium-235 per axial centimeter.

(2) Require the spent fuel pool remote makeup system to be operable during power operation.

(3) Limit the maximum spent fuel pool heat load during operation such that a maximum pool temperature of 150°F will not be exceeded if normal pool cooling is lost.

(4) Require functional testing of the trip mechanism on the spent fuel transfer cask safety sling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. This amendment completes the proposed action encompassed within the scope of the Notice of Proposed Issuance of Amendment to Facility Operating License which was published in the **Federal Register** on July 23, 1979 (44 FR 43126). In a Board order dated January 17, 1980, the ASLB granted the petitions of Ms. Christa-Maria, Ms. Joanne Bier and Mr. Jim Mills (as a single party intervenor), and Mr. John O'Neill to intervene. The ASLB's "Supplemental Initial Decision," dated September 25, 1984, completes this portion of the adjudicatory process.

The Commission has issued an Environmental Impact Appraisal dated May 15, 1981 and revised May 10, 1982, for this action and has concluded that an Environmental Impact Statement for this action is not warranted because the action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) the application for

amendment dated June 26, 1979; also see licensee letters dated April 23, 1979, July 6, 1979, October 1, 1979, October 19, 1979, October 25, 1979, December 28, 1979, January 7, 1980, January 16, 1980, February 1, 1980, June 20, 1980, August 11, 1980, August 14, 1980, December 5, 1980, May 8, 1981, May 8, 1982, October 29, 1982, January 10, 1983, April 14, 1983, June 8, 1983, June 10, 1983, July 12, 1983, August 3, 1983, August 9, 1983, September 9, 1983, September 14, 1983, September 28, 1983, October 7, 1983, October 25, 1983, October 27, 1983, December 16, 1983, February 20, 1984, and April 6, 1984; (2) Amendment No. 70 to License No. DPR–6; (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal, dated May 15, 1981 with revisions and supplements dated May 10, 1982, September 30, 1983, and November 17, 1983; and (4) the ASLB's Initial Decisions dated August 6, 1982, September 14, 1982, September 15, 1982, August 1, 1983, August 29, 1984, and September 25, 1984. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 11 day of October 1984.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 84–27584 Filed 10–17–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, November 1, 1984
Thursday, November 8, 1984
Thursday, November 29, 1984.

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D. C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415, (202) 632–9710).

Dated: October 10, 1984.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 84–27499 Filed 10–17–84; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Order No. 583; Docket No. A85–1]

Ames, Nebraska 68621 (Veronica Flamme, James L. Poulas, Petitioners); Order Accepting Appeal and Establishing Procedural Schedule

Issued: October 12, 1984.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; Simeon M. Bright, John W. Crutcher; James H. Duffy.

Docket No.: A85–1.

Name of Affected Post Office: Ames, Nebraska.

Name(s) of Petitioner(s): Veronica Flamme, James L. Poulas.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: October 1, 1984.

Categories of Issues Apparently Raised:

1. Whether the petition was timely filed, so as to give the Commission jurisdiction to hear the appeal.

2. Effect on employees [39 U.S.C. 404(b)(2)(B)].

3. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioners. The record in this case was filed on October 5, 1984. On October 5, 1984, the Service filed a motion to dismiss Veronica Flamme's appeal. As the proceeding is established by this Order, the Postal Service motion of October 5, 1984, to dismiss the proceeding is accepted. We also note that we received an appeal letter from James L. Poulas on September 28, 1984. Petitioners have 20 days from the date of this Order to file a response.

The Commission orders:

(A) Petitioner's response to the Postal Service Motion to Dismiss shall be filed within 20 days from the date of this Order.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

October 1, 1984, Filing of Petition
October 12, 1984, Notice and Order of Filing of Appeal
October 26, 1984, Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
November 5, 1984, Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)]
November 26, 1984, Postal Service Answering Brief [*see* 39 CFR 3001.115(c)]
December 11, 1984, (1) Petitioner's Reply Brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)]
December 18, 1984, (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument [*see* 39 CFR 3001.116]
January 29, 1985, Expiration of 120-day decisional schedule [*see* 39 U.S.C. section 404(b)(5)].

[FR Doc. 84-27535 Filed 10-16-84; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, DC 20549.

Form N-30A-2 [17 CFR 274.102]
Form N-30A-3 [17 CFR 274.103]
File No. 270-52

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Forms N-30A-2 and N-30A-3. Form N-30A-2 is the annual report form for unit investment trusts which are currently issuing securities and Form N-30A-3 is the annual report for unincorporated management investment companies currently issuing periodic payment plan certificates. Such reports permit the Commission, shareholders and the investing public to monitor the operations of registered investment companies.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503.

Dated: October 1, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27596 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

Approval

Proposed Rule 26a-3 [17 CFR 270.26a-3]
File No. 270-293

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed Rule 26a-3, which would exempt insurance company separate accounts that offer variable annuity contracts from provisions of the Investment Company Act of 1940 to permit the deduction of certain risk charges from account assets. Adoption of this rule would obviate the need for the filing of exemptive orders with the Commission to permit such deductions.

Comments should be submitted to OMB Desk Officer: Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: October 12, 1984.

Shirley E. Hollis,

Acting Secretary

[FR Doc. 84-27597 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, DC 20549.

Extension

Form N-8b-3 [17 CFR 274.13]
File No. 270.179
Form N-8b-4 [17 CFR 274.14]
File No. 270.180

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Form N-8b-3, the registration statement used by unincorporated management investment companies currently issuing periodic payment plan certificates to register as investment companies under the Investment Company Act of 1940, and Form N-8b-4, the registration statement designated for use by face-amount certificate companies.

Comments should be submitted to OMB Desk Officer: Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: October 11, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 27596 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21391; File No. SR-PHLX 84-21]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating to Listing of Foreign Currency Options Series of Twelve Month Duration

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 21, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange 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 Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") proposes to amend Rule 1012 entitled "Series of Options Open for Trading" in order to permit the listing of foreign currency options which expire in twelve months.

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 Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to permit up to four expiration months for foreign currency options, with the longest having an expiration period of twelve months.

The PHLX perceives that the current lack of an option exceeding nine months on a best case basis and six months on a worst case basis has acted and will continue to act as a disincentive to corporate treasurers who may desire to replace or supplement their interbank forward marking hedging of their foreign currency risk with PHLX foreign currency options. In the PHLX's discussions with various individuals employed by multinational corporations to hedge such risk, the lack of twelve month foreign currency options series has been cited as an advantage of foreign currency forward hedging when compared with foreign currency options hedging. In addition, the competitive over-the-counter foreign currency options market offers twelve month contracts. The PHLX thus believes that its inability to offer a twelve month foreign currency options contract has acted and will continue to act as a disincentive to the use of foreign currency options by multinational corporations.

The statutory basis for the proposed rule change is found in section 6(b)(5) of the Securities Exchange Act of 1934 ("Act") which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer 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 such 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, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27599 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21392; File No. SR-PHLX 84-19]

Self-Regulatory Organizations; Proposed Rule Change by Philadelphia Stock Exchange, Inc.; Relating to Options on the Value Line Stock Average Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1984, Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange 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 Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") hereby proposes to trade options on the Value Line Average Stock Index. These options will be traded pursuant to current PHLX rules governing the trading of index options. (See particularly PHLX Rules 1000A through 1103A and generally PHLX Rules 1000 through 1070).

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 Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to accommodate options trading on the Value Line Average Stock Index. The specifications of the Value Line Average Stock Index option contract are as follows:

Ticker Symbol: XVL.

Underlying Index: The Value Line Average Stock Index is an unweighted broad-based index currently composed

of 1,693 stocks of which 1,502 are industrial, 177 are utility, and 14 are rail stocks. Collectively these stocks account for approximately 96 percent of all dollar trading volume in U.S. equity markets and are regularly reviewed in the "Value Line Investment Survey." The majority, or approximately 80 percent of the stocks composing this index, are listed on the New York Stock Exchange, and the remainder are listed on the American Stock Exchange. The Value Line Average Stock Index measures the average percent of change of the market price of these issues. Futures on the Value Line Index have been traded on the Kansas City Board of Trade since February 24, 1984. The specifications of the Value Line Average Stock Index are as follows:

Unit of Trading: Each contract will represent $100, the index multiplier, times the index value. For example, an index value of 180 will result in a dollar contract value of $18,000 ($100 × 180).

Exercise Prices: Exercise prices will be set at five point intervals in terms of the current value of index. Additional exercise prices will be added whenever the index value touches the highest or lowest existing exercise price. For example, assume exercise prices of 165, 170, and 175 are outstanding. When the index reaches 175, the PHLX would normally add an exercise price of 180.

Aggregate Exercise Price: This aggregate exercise price is found by multiplying the index multiplier ($100) by the exercise price.

Expiration Cycle: The PHLX will trade consecutive and cycle month series pursuant to PHLX Rule 1101A.

Premium Quotions: Premiums will be expressed in terms of dollars and fractions of dollars pursuant to PHLX Rule 1033A. For example, a bid or offer of 1-¼ will represent a premium per contract of $125 (1-¼ × $100).

Position and Exercise Limits: The PHLX will employ position and exercise limitations pursuant to PHLX Rules 1001A and 1002A which shall not be larger than the equivalent of $300 million on the same side of the market.

The most current price of each of the separate issues comprising the index is divided by the price of the issue at the time of the preceding value computation, with the preceding price being index at 100. The resulting indices of change in price are geometrically averaged [1] for 1693 issues in the index. The geometric average of change in price is then multiplied by the value of the index at the preceding computation to arrive at the latest value.

When stock splits or dividends occur, the preceding day's price is adjusted accordingly and the index of change computed thereafter. Also, as stocks are added to or deleted from the Value Line Investment Survey the average is adjusted accordingly.

The Value Line Stock Average Index will be updated dynamically every minute during the trading day. PHLX will retain Bridge Data, Inc, to compute the Value Line Stock Average Index. Pursuant to PHLX Rule 1100A, updated index values will be disseminated and displayed by means of the Consolidated Last Sale Reporting System and the facilities of the Options Price Reporting Authority. The index value will also be available on broker-dealer interrogation devices to subscribers of the information. In addition, the closing index value will be published in "The Wall Street Journal" and other financial publications.

B. Self-Regulatory Organizations Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor 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 longer 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 Commissioin will:

(A) By order approve such 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, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 8, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-27595 Filed 10-17-84; 8:45 am]

BILLING CODE 8010-01-M

[1] A geometric average is defined as the nth root of the product of items. A geometric average of N items is: the product of all N items. Thus, the geometric average of three items is the cube root of the product of the three items. *I.e.*, the geometric average of 3, and 4, and 5 (3 times) is: $3 \times 4 \times 5 = 60 = 3.91$.

In the case of the Value Line Composite Average Stock Index the geometric average is the 1693rd root of the product of 1693 ratios.

SMALL BUSINESS ADMINISTRATION

[Designation of Disaster Loan Area No. 6221]

Georgia; Designation of Disaster Loan Area

Chatham, Bryan, Liberty, McIntosh, Glynn, and Camden Counties in the State of Georgia constitute a disaster area because of the severe freeze which occurred in December 1983, which impacted adversely on spawning of shrimp and is now resulting in extraordinarily low landing of shrimp. Eligible small businesses without credit elsewhere and small agricultural cooperatives without credit elsewhere may file applications for economic injury assistance until the close of business on July 11, 1985, at the address listed below: Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., S.W., Suite 822, Atlanta, Georgia 30303, or other locally announced locations. The interest rate for eligible small business applicants without credit elsewhere is 4% and 10.5% for eligible small agricultural cooperatives without credit elsewhere.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 11, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-27591 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

Florida; Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council located in the geographical area of Miami, Florida, will hold a public meeting at 9:00 a.m., on Wednesday, October 24, 1984, at the Miami Airport Inn-Best Western, 1550 N.W. LeJeune Road, Miami, Florida, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others.

For further information, write or call John L. Carey, District Director, U.S. Small Business Administration, 2222 Ponce de Leon Blvd., 5th Floor, Coral Gables, Florida 33134. Telepone (305) 350-5533.

Dated: October 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-27589 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

Kentucky; Region IV Advisory Council Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, Kentucky will hold a public meeting at 10:00 a.m., on Friday, November 16, 1984, at the Louisville District Office, 600 Federal Place, Room 188, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, P.O. Box 3517, Louisville, KY 40201—(502) 582-5971.

Dated: October 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-27590 Filed 10-17-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/776]

National Committee on the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 19, 1984 at 10:00 a.m. in Room 1107, Department of State, 2201 C Street, NW., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting on November 19 is to review the results of the VIIIth CCITT Plenary Assembly (October 8-19, 1984, Malaga-Torremolinos, Spain) and to take steps to establish the work program for the 1985-1988 plenary period within the U.S. National Committee.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: October 1, 1984.

Earl S. Barbely, Chairman,

U.S. CCITT National Committee.

[FR Doc. 84-27573 Filed 10-7-84; 8:45 am]

BILLING CODE 4710-07-M

[CM-8/778]

Secretary of State's Advisory Committee on Private International Law; Study Group on Arbitration; Meeting

There will be a meeting of the Study Group on Arbitration, a study group of the subject Advisory Committee, at 10:30 a.m. on Friday, November 30, 1984, at the United States Mission to the United Nations in New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The primary purpose of the meeting is to consider draft United States government comments on the draft model law on international commercial arbitration which has been prepared by a working group of the United Nations Commission on International Trade Law (UNCITRAL). United States comments will then be finalized and forwarded to the Secretary of UNCITRAL. An analytical compilation of the comments received from governments and international organizations will be placed before UNCITRAL at its eighteenth plenary session in June 1985. At that session the draft model law will be reviewed and subsequently submitted, in its final form, to the United Nations General Assembly.

The United States Mission is located at the corner of 45th Street and First Avenue. Participants in the meeting should use the auditorium entrance on 45th Street. As entry is controlled and will be facilitated by advance arrangements, members of the general public planning to attend are requested, no later than November 28, 1984, to notify Mrs. Rochelle Mendoza, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, DC (telephone (202) 632-8134), of their name, affiliation, address, and phone number.

Members of the general public who wish to receive copies of the draft model law and the draft comments prior to the meeting should direct their requests to Mrs. Mendoza.

Dated: September 27, 1984.

George Taft,

Attorney-Adviser.

[FR Doc. 84-27571 Filed 10-17-84; 8:45 am]

BILLING CODE 4710-08-M

[CM-8/779]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting on November 21 at 9:30 AM in Room 8336 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-eighth Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London in April 1985. The working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling

Satellite Emergency Position Indicating Radio Beacon (EPIRBs)
Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications
Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G–TTP–3/63), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–1231.

Dated: October 1, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84–27570 Filed 10–17–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/775]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 19, 1984 at 9:30 a.m., Room 1406 of the Department of State, 2201 C Street, NW., Washington, D.C.

The meeting will be concerned with visual telephony.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting must contact the office of Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632–3405. All attendees must use the C Street entrance to the building.

Dated: October 1, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 27574 Filed 10–17–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/777]

Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 7, 1984, In Conference Room B, 19th Floor, AT&T Building, 1120 20th Street, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group CMTT deals with the specifications to be satisfied by telecommunication systems for transmission of radio and television programs over long distances. The purpose of the meeting will be to prepare the work program for the meeting of international Study Group CMTT in October 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632–2592.

Dated: October 2, 1984.

Richard E. Shrum,

Chairman, U.S. National CCIR Committee.

[FR Doc. 27572 Filed 10–17–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8–774]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 8, 1984 at 9:00 a.m. in Room 1107, Department of Commerce Building, 325 South Broadway, Boulder, Colorado.

This Study Group deals with matters in telecommunication relating to the development of international digital data transmission. The purpose of the meeting is to discuss U.S. objectives for work under new CCITT Question 4/VII "Connectionless Service in Public Networks".

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl S. Barbely, State Department, Washington, D.C. 20520; telephone (202) 632–3405.

Dated: October 2, 1984.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 84–27575 Filed 10–17–84; 8:45 am]

BILLING CODE 4710–07–M

[CM–8/780]

UNESCO Monitoring Panel; Meeting

The UNESCO Monitoring Panel will meet November 9–10 at the University of South Carolina, Campstone Building, Columbia, South Carolina. The morning session of the meeting on November 9 will commence at 9:00 a.m. and will be open to the public. The Friday afternoon and the Saturday morning sessions will be closed to the public as they will involve discussion and drafting of the Panel's final report to the Secretary.

The purpose of this last meeting of the UNESCO Monitoring Panel is to discuss the Panel's monitoring activities, decide on their recommendations to the Secretary and draft their final report. The principal agenda items will include:

(a) Discussion of the results of the 120th Executive Board;

(b) Reports of the informal Task Forces;

(c) Drafting of the Final Report.

The first two agenda items will be discussed in the open session, the morning of November 9. The Panel will reconvene in an afternoon session to draft the final report, and hold a session the morning of November 10, if needed to finish drafting. This segment of the Panel's meeting has been closed pursuant to section 10(d) of the Federal Advisory Committee Act and section 5 U.S.C. b(c)(9)(b).

The public may attend the open portion of the meeting up to the seating capacity of the room. Members of the public may present written statements. Any oral interventions by interested members of the public will be made at the discretion of the Chairman.

For further information, call or write the Executive Secretary of the UNESCO Monitoring Panel, Mr. Lee Sanders, or Assistant Executive Secretary, Ms. Jamie Miller at: IO/CU Room 4808, Department of State, 21st and C Streets, NW., Washington, D.C. 20250, (202) 632–2674.

Dated: September 25, 1984.

Jamie Miller,

Acting Executive Secretary, UNESCO Monitoring Panel.

[FR Doc. 84-27569 Filed 10-17-84; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-84-078]

National Boating Safety Advisory Council; Subcommittee on Boat Pox (osmotic blistering); Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 94-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Boat Pox (osmotic blistering) to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's findings thus far.
3. Formulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R.F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BBS), Washington, DC 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27563 Filed 10-17-84; 8:45 pm]

BILLING CODE 4910-14-M

[CGD-84-080]

National Boating Safety Advisory Council; Subcommittee on Capacity Plate Replacement; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Capacity Plate Replacement to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's findings thus far.
3. Prepare report for full Council.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1060.

Issued in Washington DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 84-27564 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-076]

National Boating Safety Advisory Council; Subcommittee on Consumer Education; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Consumer Education to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the Subcommittee's Task Statement.
2. Review Subcommittee's finding thus far.
3. Formulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R.F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BBS), Washington, DC 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27566 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-079]

National Boating Safety Advisory Council; Subcommittee on Visual Distress Signals; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Visual Distress Signals to be held on Wednesday, November 14, 1984 at the Sheraton New Orleans, 500 Canal Street, New Orleans, Louisiana, beginning at 2:00 p.m. and ending at 5:00 p.m. The agenda for the meeting will be as follows:

1. Review and discuss the safety and useful life of various distress signals.
2. Fomulate plans for further action.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1080.

Issued in Washington, DC, October 15, 1984.

A. D. Breed,

Commodore, U.S. Coast Guard Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-27562 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD-84-077]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S..C App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Thursday and Friday, November 15 & 16, 1984, at the Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, Louisiana, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction of new Council Members.
2. Review of action taken at the 33rd meeting of the Council.
3. Members' items.
4. Executive Director's report.
5. Consumer Education Subcommittee report.
6. Capacity Plate Replacement Subcommittee report.
7. Status report on the hybrid personal flotation device project.
8. Subcommittee on Boat Box (osmotic blistering) report.
9. Visual Distress Signal Life Expectancy Subcommittee report.
10. Discussion on Safe Powering Regulations.
11. Discussion on alcohol as a gasoline additive.
12. Remarks by Chief, Office of Boating, Public, and Consumer Affairs.
13. Reply to members' items.
14. Chairman's session.

Attendance is open to the interested public. With advance notice to the chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-BBS), Washington, DC, 20593, or by calling (202) 426-1080.

Issued in Washington DC., October 15, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard Chief, Office of Boating, Public, and Consumers Affairs.

[FR Doc. 84-27565 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Heliport Design Guide Workshop

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice on Workshop.

SUMMARY: This notice announces a workshop to obtain industry input on revised guidelines for heliport design. The results of a 1-year FAA Technical Study of requirements for VFR and IFR Heliports will be discussed, as well as the contents of the draft AC 150/5390-1C. Helicopter/Heliport users, operators, and designers are invited to attend, as well as those involved with air transportation and heliport system planning.

DATES: The workshop will be held November 27, 28, and 29, 1984, beginning at 9:00 a.m. and adjourning at about 5:00 p.m. each day.

ADDRESS: The meeting will be held at the Cross Keys Inn, 5100 Falls Road, Baltimore, Maryland 21210, Phone: (301) 532-6900.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Nickolaisen (703) 243-3633 or Mr. Richard Adams (305) 968-4200. The workshop is being managed under contract to the FAA by Systems Control Technology, Inc. The FAA Washington Headquarters contact is Mr. Richard Livingston, Rotorcraft Program Office (202) 426-8748.

David W. Ostrowski,

Acting Director, Rotorcraft Program Office, ARO-1.

[FR Doc. 84-27541 Filed 10-17-84; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-84-19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; A.W. Peterson, et al.

AGENCY: Federal Aviation Administration (FAA) DOT.

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

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 7, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filled in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 11, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24250	A.W. Peterson	14 CFR 121.383(c)	To allow petitioner to continue to serve as a pilot in Part 121 operations after reaching his 60th birthday.
18114	Flying Tigers	14 CFR 121.547(c) & 121.583(a)	To extend the termination date of Exemption 2600, as amended to allow petitioner to carry a reporter, photographer, or journalist aboard DC-8 and B-747 aircraft, subject to certain conditions and limitations.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
19647	Eli Lilly Corp.	14 CFR 61.58(c)	To extend the termination date of Exemption 2935, as amended, to allow petitioner's pilots to complete a 24-month pilot-in-command check in an approved simulator.
24252	Dept. of Air Force	14 CFR 101.13(a)(2) & 101.13(a)(4)	To allow the 1st Special Operations Wing to conduct training with the Fulton Recovery System.
24257	Ecuatoriana Airlines	14 CFR 91.303	To allow petitioner to operate four Boeing 707's and two Boeing 720's Stage 1 aircraft in noncompliance with the operating noise limits through December 31, 1987, or until it retrofits them with "hush kits" or obtains noise compliant aircraft, whichever period is shorter.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23825	Harold's Air Service	14 CFR 135.1819(a)(1)	To permit Harold's Air Service to operate Cessna Model 208, single-engine aircraft in instrument flight rule and over-the-top conditions while transporting fare-paying passengers. *Denied 10/3/84.*
24121	Airlift Int'l. Inc.	14 CFR 121.3 & section 610(a)(4) of FA Act of 1958.	To allow petitioner to conduct authorized wet-lease flights for Air Haiti using Haiti's flight numbers and call sign. *Denied 10/4/84.*
24032	Aerolineas Nacionales Del Ecuador	14 CFR 91.303	To allow petitioner to operate one DC-8 aircraft until January 1, 1988 in noncompliance with the operating noise limits. *Denied 9/27/84.*
23977	Air France	14 CFR 91.303	To allow petitioner to operate one Boeing 727-200 until March 31, 1985, in noncompliance with the operating noise limits. *Denied 9/27/84.*
21776	Watcha McCollum Aviation Inc.	14 CFR 61.58(c)(1) & 91.4	To permit petitioner to serve as pilot in command on certain large aircraft without completing the required proficiency checks in each particular type of aircraft. *Partial grant 10/9/84.*
24093	Albuquerque Int'l. Balloon Fiesta, Inc.	14 CFR 61.3, & 91.27	To allow foreign-registered pilots and balloons to fly in the Albuquerque Balloon Fiesta without complying with the pilot certification and airworthiness requirements of these sections. *Partial grant 9/28/84.*
23176	Tenneco, Inc.	14 CFR 91.169(a)	To extend Exemption 3961 to allow petitioner and its affiliated companies to inspect helicopters in accordance with a continuous inspection program. *Granted 1/31/84.*
24056	Aviation Methods, Inc.	14 CFR 61.58(c)	To permit petitioner to complete the entire 24-month pilot-in-command check in an FAA-approved simulator. *Granted 10/9/84.*
12227	Nat'l. Business Aircraft Assn., Inc.	14 CFR 91.169 & 91.181(a)	To extend Exemption 1637, as amended, to allow petitioner's members to use inspection programs required for large turbojet or turboprop-powered airplanes for their small civil airplanes and helicopters. It will also allow their operation of the aircraft under Subpart D of Part 91. *Granted 9/26/84.*

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22767	Eastern Metro Express	14 CFR sections 5(e)(g)(i) & (j) of SFAR #41	To amend Exemption 3548 to permit supplemental type certification of the British Aerospace Model 3101 Jetstream without complying with § 25.815 of the FAR, which was imposed as a limitation in grant of exemption 3548. *Granted 10/1/84.*
24058	Alaska Helicopters, Inc.	14 CFR sections 135.429(a) & 135.435(a)	To permit petitioner to utilize British Airways Helicopters, Ltd (BAH), as an overhaul facility for its Boeing Vertol 234 components. *Granted 10/1/84.*
23261	Atlantic Richfield Co.	14 CFR Portions of Part 21 & 91	To extend Exemption 3614 which expires September 30, 1984 to allow petitioner to operate B-727 aircraft utilizing the provisions of a minimum equipment list. *Granted 9/26/84.*
12738	Union de Transports Aeriens	14 CFR section 61.3 & 63.3	To extend termination date of Exemption 1775, as amended, to allow petitioner to operate three leased, U.S.-registered DC-10 airplanes using an FAA-approved continuous airworthiness maintenance and inspection program and a DC-10 minimum equipment list. *Granted 9/28/84.*
24214	EG & G Special Projects, Inc.	14 CFR section 125.327(a)(8)	To allow petitioner to comply with § 121.571 regarding the use of fire extinguishers. It would allow flight attendants to be thoroughly trained in their location and use rather than briefing all passengers. *Withdrawn 9/26/84.*
23392	Beaver Aviation	14 CFR section 141.91(a)	To Extend Exemption 3682, which expires January 1, 1985, to permit petitioner to conduct flight training and instruction in its approved courses of training at its satellite base located at Ft. Myers, FL. *Granted 9/28/84.*
24160	Caterpillar Tractor Company	14 CFR section 21.181	To allow petitioner to operate three Hawker Siddeley HS 125-700 aircraft, N255CT, N277CT, and N299CT, using a Federal Aviation Administration (FAA)-approved minimum equipment list. *Granted 10/9/84.*

[FR Doc. 84-27544 Filed 10-17-84; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Denial of Petition To Commence Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On January 19, 1984, Steve E. Gobin of San Francisco, California, petitioned for an investigation of possibly safety related defects in his 1983 Ford F-100 pickup truck. The first question concerned the adequacy of the gauge of sheet metal in the pickup bed area, which petitioner complained was thin and dented easily. This condition, while annoying to a vehicle owner, presents no hazard which could be construed as relating to safety.

The second area of complaint was that the vehicle was equipped with 3-ply tires, which petitioner felt were inadequate at highway speeds of 55 mph. NHTSA replied to the petitioner that truck tires are today judged by "load rating" rather than "ply rating," a less meaningful term. Information from Ford Motor Company showed that the

truck was equipped with the standard tires for that truck, load rated at 1,477 pounds. Thus no safety problem exists.

Finally, petitioner alleged that there was an absence of tint in his windshield. Ford informed NHTSA that the production order for Mr. Gobin's truck included tinted glass. However, there is no Federal requirement that windshield glazing be tinted, nor does its absence create a safety problem.

NHTSA concluded that there was no reasonable possibility that an order of the nature requested would be issued at the conclusion of an investigation, and denied the petition on April 10, 1984.

(Secs. 124, 152, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority of 49 CFR 1.50 and 501.8).

Issued on September 27, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84–27577 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–59–M

Federal Highway Administration

Environmental Impact Statement; Jackson to Dyersburg, Madison, Crockett, and Dyer Counties, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project from Jackson to Dyersburg in Madison, Crockett, and Dyer Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway—Suite A–926, Nashville, Tennessee 37203, telephone (615) 251–5394.

SUPPLEMENTAL INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct an improvement to State Route 20 in Madison, Crockett, and Dyer Counties, Tennessee. The proposed improvement would involve the construction of a new four-lane facility from Jackson to Dyersburg. The proposed improvement would begin at Interstate 40 north of Jackson and proceed along or near the existing State Route 20 corridor in a northwesterly direction and end at the west end of the Dyersburg Bypass. The proposed improvement would have a length of approximately 36 miles. Improvements to the corridor are considered necessary in order to relieve the traffic congestion along the existing route.

Alternatives under consideration include: (1) Taking no action; (2) postponement; (3) reduced facility design; and (4) constructing a new four-lane facility on one of the four proposed alternative "build" alignments. One of the proposed "build" alignments would closely follow the existing roadway for most of its entire distance. The remaining alternatives would have a short portion on new location with the remainder of each of these two alternatives closely following the existing roadway.

Letters describing the proposed action and soliciting comments were sent to appropriate Federal, State, and local agencies in 1982 for the proposed alternative entirely on new location and for the proposed alternative closely following the existing roadway. Public meetings were held in Friendship and in Jackson in 1983. Questions and comments from the public at these meetings are providing input into the planning of the facility. As a result of these public meetings, two sections on new location near the existing roadway that were mentioned in the above paragraph have been added for study in the EIS. In addition, a corridor public hearing and a design public hearing will be held. Public notices will be given of the time and place of the public hearings. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program.)

Issued on: October 10, 1984.

Ira D. Degges,

Assistant Administrator, Tennessee Division.

[FR Doc. 84–27519 Filed 10–17–84; 8:45 am]

BILLING CODE 4910–22–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 203
Thursday, October 18, 1984

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).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, October 23, 1984.

PLACE: Clarence Mitchell Jr., Conference Room No. 200–C on the 2nd floor of the Columbia Plaza Office Building, 2401 "E" Street NW, Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes
2. A Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 84–7–FOIA–97–SL, concerning a request for a confidential affidavit from a closed ADEA charge file.
4. Freedom of Information Act Appeal No. 84–03–FOIA–76–PA, concerning a request for documents from a closed Title VII charge file.
5. Freedom of Information Act Appeal No. 84–7–FOIA–087–CT, concerning a request for statements from a charging party.
6. Freedom of Information Act Appeal No. 84–08–FOIA–196–MK, concerning a request for access to an age charge file.
7. Freedom of Information Act Appeal No. 84–7–FOIA–96–SL, concerning a request for access to records in a charge file.
8. Freedom of Information Act Appeal No. 84–08–FOIA–103/104–BA, concerning a request for access to contents of part of two charge files.
9. Freedom of Information Act Appeal No. 84–5–FOIA–69–MM, concerning a request for a partial denial of age charge information.
10. Freedom of Information Act Appeal No. 84–8–FOIA–21–LA, concerning a request for documents from a closed ADEA charge file.
11. Freedom of Information Act Appeal No. 84–8–FOIA–BA–95/96, concerning a request for an investigative file.

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Proposed Contract in connection with a court case
3. Proposed Commission Decisions: ORA Decisions and Guidance Decisions
4. Proposed Subpoenas

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice issued October 16, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84–27659 Filed 10–16–84; 2:21 pm]

BILLING CODE 6750–06–M

2

FEDERAL COMMUNICATIONS COMMISSION

October 15, 1984.

Deletion of Agenda Item From October 17, 1984 Open Meeting.

The following item has been deleted at the request of the Chief, Mass Media Bureau, from the list of agenda items scheduled for consideration at the October 17, 1984, Open Meeting and previously listed in the Commission's Notice of October 10, 1984.

Agenda, Item No. and Subject

Mass Media—3—*Title:* Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting. *Summary:* The Commission adopted a *Notice of Proposed Rule Making* in Gen. Docket 82–797 which proposed to expand seller-creditor protections in a seller-financed sale of a broadcast property to a minority buyer. The Commission will consider whether it should adopt the proposal.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–27608 Filed 10–16–84; 10:11 am]

BILLING CODE 6712–01–M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item from October 17, 1984 closed meeting

October 15, 1984.

The following item has been deleted at the request of the Office of General Counsel from the list of agenda items scheduled for consideration at the October 17, 1984 Closed Meeting and previously listed in the Commission's Notice of October 10, 1984.

Agenda, Item no. and Subject

Hearing—4—Applications for Review in the United Broadcasting Company, Inc., Washington, D.C. FM radio comparative renewal proceeding (BC Docket Nos. 479 to 80–481).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–27609 Filed 10–16–84; 10:11 am]

BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:15 p.m. on Monday, October 15, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider recommendations with respect to administrative enforcement actions against certain insured banks (names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act; (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: October 16, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-27679 filed 10-16-84; 3:33 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

[38444]

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:30 p.m. on Friday, October 17, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Oneida Bank & Trust Company, Oneida, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Friday, October 12, 1984; (2) accept the bid for the transaction submitted by Energy Bank, Oak Ridge, Tennessee (formerly Bank of Oak Ridge), an insured State nonmember bank; (3) adopt an order approving the application of Energy Bank, Oak Ridge, Tennessee, for consent to purchase certain assets of and to assume the liability to pay deposits made in Oneida Bank & Trust Company, Oneida, Tennessee, and for consent to establish the sole office of Oneida Bank & Trust Company as a branch of Energy Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

At the same meeting, the Board of Directors also considered a personnel matter. In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 3:32 p.m., and at 4:32 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors (1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bucklin State Bank of Bucklin, Missouri, Bucklin, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Friday, October 12, 1984; (2) accepted the bid for the transaction submitted by United Missouri Bank of Brookfield, Brookfield, Missouri, an insured State nonmember bank; (3) approved the application of United Missouri Bank of Brookfield, Brookfield, Missouri, for consent to purchase certain assets of and to assume the liability to pay deposits made in Bucklin State Bank of Bucklin, Missouri, Bucklin, Missouri, and for consent to establish the sole office of Bucklin State Bank of Bucklin, Missouri as a branch of United Missouri Bank of Brookfield; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In reconvening the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 15, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-27632 Filed 10-16-84; 12:24 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Monday, October 22, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D. C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Tuesday, October 23, 1984, 10:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

DATE AND TIME: Wednesday, October 24, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Thursday, October 25, 1984, 10:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential primary matching funds
Draft Advisory Opinion #1984-50, Geraldine A. Ferraro, Member of Congress
Draft Advisory Opinion #1984-52, Marty Russo, Member of Congress
Classification Action: Position description for GS-14 nonsupervisory senior attorney
Finance Committee report
Routine Administration Matters

DATE AND TIME: Thursday, October 25, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Friday, October 26, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

DATE AND TIME: Monday, October 29, 1984, 2:00 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Expedited Compliance.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Majorie W. Emmons,

Secretary to the Commission.

[FR Doc. 84–27660 Filed 10–16–84; 2:35 pm]

BILLING CODE 6715–01–M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—October 26, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Docket No. 84–22: Actions to Address Conditions Unduly Impairing Access of U.S. Flag vessels to Ocean Trade Between Foreign Ports—Consideration of comments and proposed final rules.
2. Docket No. 84–23: Filing of Tariffs and Dual Rate Contract Systems in the Foreign Commerce of the United States—Consideration of comments and proposed final rules.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–27592 Filed 10–15–84; 4:19 pm]

BILLING CODE 6730–01–M

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 24, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computer equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–27687 Filed 10–16–84; 8:45 am]

BILLING CODE 6210–01–M

9

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 9:00 a.m., Thursday, October 25, 1984.

PLACE: Hearing Room A, Interstate Commerce Commission, Building, 12th & Constitution Ave., NW., Washington, DC. 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: FY 1985 Budget.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Office of Public Affairs, Telephone: (202) 275–7252.

James H. Bayne,

Secretary.

[FR Doc. 84–27622 Filed 10–16–84; 12:05 pm]

BILLING CODE 7035–01–M

federal register

Thursday
October 18, 1984

Part II

Environmental Protection Agency

40 CFR Part 87

Control of Air Pollution From Aircraft and Aircraft Engines; Exemptions for Low Production Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS-FRL 2662-1]

Control of Air Pollution From Aircraft and Aircraft Engines; Exemptions for Low Production Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action grants a petition submitted by the Aerospace Industries Association (AIA) on August 31, 1983, asking that the maximum annual production limit of 20 engines per year be eliminated from the low production engine provisions of the EPA aircraft engine emission standards (40 CFR Part 87.7(b)). This action would provide greater flexibility to manufacturers for scheduling engine production rates during the final years. Several unrelated minor revisions are also contained in this document to clarify the provisions in § 87.10.

DATE: This action is effective November 19, 1984.

ADDRESS: Material relevant to this action is contained in Public Docket A-83-39, located at the Central Docket Section (LE-131A), West Tower Lobby, 401 M Street SW., Washington, D.C., 20460. The docket is open to the public and may be inspected between 8:00 am and 4:00 pm on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Office of Mobile Sources, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4390.

SUPPLEMENTARY INFORMATION:

I. Background

One provision of the EPA aircraft engine emissions standards, as amended on December 30, 1982, specified that engines produced in very low quantities could be exempted from compliance with the standards (§ 87.7(b)). Two criteria were established to determine whether an engine type qualifies for exemption, as follows:

(1) A maximum annual production rate after January 1, 1984 of 20 units covered by the same type certificate; and

(2) A maximum total production after January 1, 1984 of 200 units covered by the same type certificate.

On August 31, AIA submitted a petition which recommended that the annual production limit be eliminated, because some low production engines are very likely to be ordered and built in quantities above 20 units per year during their last few production years, even though the total produced will not exceed 200. In response to a request from EPA for more complete information to support the petition, letters were submitted by three engine manufacturers, Rolls Royce, General Electric and General Motors. Copies of the AIA petition, the EPA letter requesting more information and the three responses from manufacturers are available in Public Docket A-83-39.

On June 22, 1984, EPA proposed (49 FR 25643) that the AIA petition be granted. The proposal explained that the air quality impact of eliminating the annual production limit would be negligible, while the benefits of greater flexibility for manufacturers to schedule engine production rates during the final years appeared to justify favorable consideration of the AIA petition.

The EPA proposal also contained minor revisions to the fuel venting applicability provisions of § 87.10, to more specifically identify the compliance requirements for various categories of in-use engines and to improve compatibility with the Federal Aviation Administration (FAA) enforcement regulations. In addition, several revisions to the test fuel specifications were proposed in response to reported difficulties in obtaining fuels meeting these specifications in some parts of the U.S. A letter from AIA which describes this problem and recommends appropriate changes is also available for review in Public Docket A-83-39.

II. Discussion of Issues

Five comments were received in response to the proposal and they will be discussed by subject.

A. Low Production Exemption Limit

The date for compliance with the EPA standards which are the subject of the AIA petition was January 1, 1984 and the standards have been enforced by the FAA since that time. Experience to date has indicated a need for more clarification of the intent of the "very low production" provisions of § 87.7(b).

The FAA asked whether it was intended that the 200 engine limit be an automatic upper limit for all engines meeting the low production criteria, no matter how many of any given type were actually scheduled to be built, or whether the award of a low production engine exemption should be for only the exact number of engines (up to 200) which can be identified in reasonably firm plans to manufacture engines for either sales or inventory.

In response to this question, it should be emphasized that the 200 engine "very low production" engine limit was intended to relieve a manufacturer from the costs of developing and installing low emissions technology on engines whose estimated remaining production life is limited. The 200 engine maximum limit was estimated as a sales figure below which the costs of compliance with emissions standards could not be recovered without an exorbitant impact on engine selling price. This limit should not be misconstrued as a mechanism for granting manufacturers the option to build 200 additional non-complying engines of any type after the January 1, 1984 compliance date.

Therefore, EPA intends that the amended criterion for exemption of "very low production" engines be satisfied by the presentation of FAA of convincing documentation that some given number of engines (200 or less) represents an accurate estimate of the lifetime future production of engines covered by that application. The exact process for making such a request to FAA is defined in 14 CFR Parts 11, 21, 43, 45 and 91 (48 FR 56735). EPA expects that any exemption granted under the provisions of § 87.7(b) would apply to the number of engines determined by FAA to represent a reasonable estimate of the future production expectations for engines covered by an application. A manufacturer granted an exemption for some number of engines less that 200 would retain the prerogative to reapply at a later date for additional exemptions up to the 200 total, provided that he support his application with revised production forecasts which continue to show that the prospects for additional sales beyond that number are too poor to justify the costs of compliance with emission standards.

EPA recognizes that the projection of future sales for any product is an uncertain art and that such projections will continually change. FAA has asked for clarification of the situation in which an engine may qualify initially as a "very low production" engine and at a later date be found to have significantly improved prospects for future sales above the 200 limit. EPA believes that this situation would justify the incorporation of emission control technology and any further request for exemption for whatever reason should be based on the provisions of § 87.7(c), "Exemptions for New Engines in Other Categories", since the subject engine would no longer qualify as a "very low production" engine.

Another point needing clarification is whether only engines intended for commercial or general aviation use within the U.S. should apply towards the 200 engine limit or whether the total should include sales for all applications, such as engines sold for military or foreign service which are not subject to the U.S. emissions standards.

While the total number of engines produced for all types of applications may be a more accurate figure for many production planning purposes, the costs of compliance with emissions standards must be recovered in most cases from only those engines intended for the U.S. civil aviation market and which thereby incorporate low emissions technology. Therefore, EPA intends for the 200 engine maximum future production limit after January 1, 1984 to include only those engines manufactured for U.S. civil aviation sales and section 87.7(b) has been reworded to make this clear.

Additional comments were received from General Motors, Rolls Royce and Gulfstream Aerospace, all endorsing the proposal to grant the AIA petition.

B. Applicability of Fuel Venting Standard

No comments were received on the proposal to amend the wording of the fuel venting applicability provisions to improve compatibility with FAA's enforcement standards, which will be finalized as proposed.

C. Test Fuel Specifications

The AIA provided recommendations on this topic which differed from the EPA proposal only in the lower limit for "Naphthalenes". The existing lower limit was 1.0 percent by volume, consistent with the current EPA standard. This was unchanged in the proposal, although AIA recommended 0.3 percent by volume. Since naphthalenes content has some influence on engine smoke behavior, EPA is reluctant to reduce the lower limit to a value as low as 0.3, which is far below the naphthalenes levels of many commercial fuels. An examination was made of the most recent survey of jet fuel properties available to EPA, "Aviation Fuels, 1983", April, 1984, published by the National Institute for Petroleum and Energy Research. Of 53 samples of Jet A Aviation Turbine Fuel, only 7 fell below the 1.0 lower naphthalenes limit, while none exceeded the proposed new 3.0 upper limit. Therefore, EPA has concluded that fuels meeting the proposed new naphthalenes limits are reasonably available and in fact, the proposed 3.0 percent upper limit may have no controlling influence on test fuel availability, since none of the samples approached or exceeded this level.

Comments by Rolls Royce suggested that the fuel specifications in several areas, including naphthalenes, need not be specified as both upper and lower limits when the influence of the particular fuel property on engine emissions is predictable. Rolls Royce suggested that the only limits which need to be specified are those designed to prevent the test fuel from causing engine emissions lower than would be characteristic of typical commercial fuels. It asserted that this can be accomplished by specifying either an upper or a lower limit for some fuel properties, but that both upper and lower limits were unnecessary. Accordingly, the commenter proposed that the upper limits for "Aromatics", "Kinematic viscosity", and "Naphthalenes" and the lower limit for "Smoke point" all be eliminated. This change would permit the use of a wider range of petroleum products as emission test fuels and reduce the need for segregated fuel storage at engine test facilities.

The Rolls Royce comments may well be valid, but their proposal to eliminate the fixed range of allowable values for some fuel properties is a departure from the basic concept that the EPA and International Civil Aviation Organization (ICAO) test fuel specifications should describe a typical, mid-range commerical fuel. EPA believes that this proposal should not be acted on without opportunity for public comment and discussion by other interested parties. Therefore, it will not be responded to as a part of this rulemaking action, but EPA will recommend that it be included as a discussion item at the next meeting of the ICAO Committee on Aircraft Engine Emissions to consider corrections and possible changes to the international standards.

Rolls Royce also recommended that the lower limits for "10% boiling point," "Final boiling point" and "Kinematic viscosity" be reduced below the values proposed. In the first two instances, the proposed Rolls Royce limits fall at or close to the low extremes shown by the distillation data in the report "Aviation Fuels" referenced earlier (the characteristics of commercial fuels available within the United Kingdom were not included in this survey). There is no information available to EPA to indicate that the commenter has been unable to locate fuels falling within the present specification limits and the new limits proposed would improve its flexibility in this respect. Nevertheless, EPA believes that the reduced distillation limits proposed by Rolls Royce should not influence engine emissions significantly and would likely give it access to a wider range of potential test fuels, since it is understood that fuels marketed in the United Kingdom tend to be more volatile than those marketed in the U.S. Accordingly, the final rule will incorporate the lower distillation limits recommended by Rolls Royce.

However, the reduced viscosity suggested by Rolls Royce is of somewhat greater concern, since viscosity has a strong influence on fuel atomization behavior and since advances in fuel atomization have played a large part in the improvements in engine emissions which have been achieved by industry to date. Inasmuch as the other engine manufacturers have agreed on the viscosity limits proposed, EPA believes that this property should be finalized as proposed. In the event that Rolls Royce (or anyone else) has difficulty procuring fuels meeting the revised viscosity limits, a deviation from the test fuel specification can be requested from FAA.

A more detailed discussion of test fuel issues is presented in a supporting document to this rulemaking, which is available in Docket A–83–39.

III. Action

Accordingly, this rulemaking action will grant the AIA petition to eliminate the 20 engine maximum annual limit for engines qualifying for exemption under § 87.7(b) and clarify the intent of the expression "very low production engine". Section 87.10 on fuel venting applicability and § 87.61 covering fuel specifications for emission testing are revised as proposed, except for incorporation of the revised lower distillation limits recommended by Rolls Royce.

IV. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Impact Analysis. This rulemaking is not major because it will not result in adverse effects on the economy greater than $100 million and because there are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons, EPA has not prepared a formal Regulatory Impact Analysis.

This rulemaking has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291. Any comments from OMB

and any EPA responses thereto are in the public docket for this rulemaking.

V. Impacts on Reporting Requirements

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a Regulatory Flexibility Analysis. This regulation should have no significant effect on small entities, since it affects only aircraft engines which are not manufactured by small businesses. Accordingly, I certify that this regulation will not have a significant impact on a substantial number of small entities. Therefore, no Regulatory Flexibility Analysis has been prepared.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft engines.

Dated: October 9, 1984.

William D. Ruckelshaus,

Administrator.

Authority.—Sec. 321, 301(a), Clean Air Act as amended (42 U.S.C. 7571, 7601(a)).

PART 87—[AMENDED]

As set forth in the preamble, Part 87 of Title 40 of the Code of Federal regulations is amended as follows:

1. Section 87.7 is amended by revising introductory text of paragraph (b) to read as follows:

§ 87.7 Exemptions.

* * * * *

(b) *Exemptions for very low production models.* The emissions standards of this part do not apply to engines of very low total production after the date of applicability. For the purpose of this part, "very low production" is limited to a maximum total production for United States civil aviation applications of no more than 200 units covered by the same type certificate after January 1, 1984.

* * * * *

2. Section 87.10 is revised to read as follows:

§ 87.10 Applicability.

(a) The provisions of this subpart are applicable to all new aircraft gas turbines of classes T3, T8, TSS and TF equal to or greater than 36 kilonewton rated output, manufactured on or after January 1, 1974, and to all in-use aircraft gas turbine engines of classes T3, T8, TSS and TF equal to or greater than 36 kilonewton rated output manufactured after February 1, 1974.

(b) The provisions of this subpart are also applicable to all new aircraft gas turbines of class TF less than 36 kilonewton rated output and class TP manufactured on or after January 1, 1975 and to all in-use aircraft gas turbines of class TF less than 36 kilonewton rated output and class TP manufactured after January 1, 1975.

3. Section 87.61 is revised to read as follows:

§ 87.61 Turbine fuel specifications.

For exhaust emission testing, fuel meeting the specifications listed below shall be used. Additives used for the purpose of smoke suppression (such as organometallic compounds) shall not be present.

Property and Allowable Range of Values

Specific gravity at 15 °C: 0.78–0.82.
Distillation temperature, °C: 10% boiling point, 160–201; final boiling point, 240–285.
Net heat of combustion, kJ/kg: 42,860–43,500.
Aromatics, volume %: 15–20.
Naphthalenes, volume %: 1.0–3.0.
Smoke point, mm: 20–28.
Hydrogen, mass %: 13.4–14.0.
Sulfur, mass %: less than 0.3%.
Kinematic viscosity at −20 °C, mm/s: 4.0–6.5.

[FR Doc. 84-27410 Filed 10-17-84; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
October 18, 1984

Part III

Environmental Protection Agency

40 CFR Part 45
Training Assistance; Final Rule

40 CFR Part 46
Fellowship Assistance; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 45

[OA-FRL 2621-2(a)]

Training Assistance; Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the Environmental Protection Agency's (EPA) regulation at 40 CFR Part 45 governing the award and administration of EPA training assistance. The revisions are designed to ensure consistency with EPA's "General Regulation for Assistance Programs" and to reflect current EPA policies on training assistance awards.

DATE: This rule applies to all training assistance which EPA awards on or after October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM–216), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460 (202) 382–5296.

SUPPLEMENTARY INFORMATION: Part 45 establishes the policies and procedures for the award of training assistance by EPA. We have not updated the training assistance rule since October 20, 1977.

This document updates Part 45 and incorporates changes to EPA policies on training assistance awards. Since the revisions to this rule are largely technical in nature, we did not publish a proposed rule for public comment. The changes to the rule include:

Stipend Levels

In the previous rule, we had a dollar limit on the use of awarded funds for stipend amounts in any particular budget period and a dollar limit on the amount of an annual stipend. We deleted those levels from this rule in order to provide program offices the flexibility to make changes in the stipend levels based on program needs and funding levels without seeking a deviation from the rule.

Subpart B—Manpower Forecasting

EPA anticipated funding for manpower forecasting when the Agency was first established, therefore, we reserved Subpart B for the development of policies and procedures for manpower forecasting assistance agreements. Since no funds have been available for such agreements, and none is anticipated, we deleted the reference to manpower forecasting in the title of this part and in the table of contents.

Consistency With 40 CFR Part 30, "General Regulation for Assistance Programs"

EPA published a final revision to 40 CFR Part 30 on September 30, 1983 (48 FR 45056). EPA revised this rule to make it consistent with the revised 40 CFR Part 30, "General Regulation for Assistance Programs," September 30, 1983.

Regulation Development

Under Executive Order 12291, EPA is required to make a judgement whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this rule is not "major" because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increases in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The rule was submitted to the Office of Management and Budget as required by Executive Order 12291.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., the information provisions in this rule have been approved by the Office of Management and Budget (OMB clearance number 2010–0004).

List of Subjects in 40 CFR Part 45

Administrative practice and procedures, Environmental protection, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

Accordingly, title 40, Chapter I is amended by revising Part 45 to read as follows.

PART 45—TRAINING ASSISTANCE

Sec.

45.100 Purpose and scope.
45.105 Authority.
45.110 Objectives.
45.115 Definitions.
45.120 Applicant eligibility.
45.125 Application requirements.
45.130 Evaluation of applications.
45.135 Supplemental conditions.
45.140 Budget and project period.
45.145 Allocability and allowability of costs.
45.150 Reports.
45.155 Continuation assistance.
Appendix A—Environmental Protection Agency Training Programs

Authority: Sec. 103 of the Clean Air Act, as amended (42 U.S.C. 7403), sec. 104(g), 109, and 111 of the Clean Water Act, as amended (33 U.S.C. 1254(g), 1259, and 1261), secs. 7007 and 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6977 and 6981); sec. 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j–1).

§ 45.100 Purpose and scope.

This part establishes the policies and procedures for the award of training assistance by the Environmental Protection Agency (EPA). The provisions of this part supplement EPA's "General Regulation for Assistance Programs," 40 CFR Part 30.

§ 45.105 Authority.

The EPA is authorized to award training assistance under the following statutes:

(a) Section 103 of the Clean Air Act, as amended (42 U.S.C. 7403);

(b) Section 104(g), 109, and 111 of the Clean Water Act, as amended (33 U.S.C. 1254(g), 1259, and 1261);

(c) Sections 7007 and 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6977 and 6981);

(d) Section 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j–1).

§ 45.110 Objectives.

Assistance agreements are awarded under this part to support students through traineeships for occupational and professional training, and to develop career-oriented personnel qualified to work in occupations involving environmental protection and pollution abatement and control. Training assistance is available to:

(a) Assist in developing, expanding, planning, implementing, and improving environmental training;

(b) Increase the number of trained pollution control and abatement personnel;

(c) Upgrade the level of occupational and professional training among State and local environmental control personnel;

(d) Train people to train others in occupations involving pollution abatement and control; and

(e) Bring new people into the environmental control field.

§ 45.115 Definitions.

The following definitions supplement the definitions in 40 CFR 30.200.

Stipend. Supplemental financial assistance, other than tuition and fees, paid directly to the trainee by the recipient organization.

Trainee. A student selected by the recipient organization who receives support to meet the objectives in § 45.110.

§ 45.120 Applicant eligibility.

Institutions, organizations, and individuals are eligible for EPA training awards as follows:

(a) *Clean Air Act.* Section 103(b)—Air pollution control agencies, public and nonprofit private agencies, institutions, organizations, and individuals. No award may be made under this Act to any private, profitmaking organization.

(b) *Clean Water Act.* (1) Section 104(b)(3)—State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals. No award may be made to any private, profitmaking organization.

(2) Section 104(g)(3)(A)—Public or private agencies and institutions, and individuals.

(3) Sections 104(g)(1) and 104(g)(3)(C)—State and interstate agencies, municipalities, educational institutions and other organizations and individuals.

(4) Sections 109, 110, and 111—Institutions of higher education, or combinations of such institutions.

(c) *Solid Waste Disposal Act.* (1) Section 8001(a)—Public or private authorities, agencies, and institutions and individuals. No award may be made to any private, profitmaking organization.

(2) Section 7007(a)—State or interstate agencies, municipalities, educational institutions, and other organizations.

(d) *Safe Drinking Water Act.* Sections 1442(b) and 1442(d)—Public agencies, educational institutions, and other organizations. No awards may be made to profitmaking agencies or institutions.

§ 45.125 Application requirements.

Applicants must submit their requests for assistance on EPA Form 5700–12, "Application for Federal Assistance." Applicants must submit the original and two copies of the application to EPA. If the assistance agreement is to be awarded by EPA Headquarters, the applicant must send the application to the Environmental Protection Agency, Grants Administration Division, Grants Operation Branch (PM–216), 401 M Street SW., Washington, D.C. 20460. If the assistance agreement is to be awarded by an EPA Regional Office, the applicant must send the application to the appropriate Regional Office. (OMB clearance number 2010–0004.)

§ 45.130 Evaluation of applications.

(a) Consistent with 40 CFR 30.301, the appropriate EPA program office staff will review training applications in accordance with the following criteria:

(1) Relevance of proposal to Agency objectives, priorities, achievement of national goals and technical merit;

(2) Competency of the proposed staff in relation to the type of project proposed;

(3) Feasibility of the proposal;

(4) Adequacy of the applicant's resources available for the project;

(5) Amount of funds necessary for the completion of the project;

(b) In addition, awards under section 104(g)(1) of the Clean Water Act, are subject to the following criteria:

(1) Assessment of need for training in a State or municipality based on problems with existing wastewater treatment plants, such as violation of discharge permit conditions, and faulty or improper operation or maintenance.

(2) Need for operating training based on the number of wastewater treatment construction grants in the State.

§ 45.135 Supplemental conditions.

Training awards are subject to the following conditions:

(a) Trainees must be citizens of the United States, its territories, or possessions, or lawfully admitted to the United States for permanent residence.

(b) Recipients shall not require the performance of personal services by individuals receiving training as a condition for assistance.

(c) Trainees are entitled to the normal student holidays observed by an academic institution, or the holiday and vacation schedule applicable to all trainees at a nonacademic institution.

(d) Training awards may include a provision to pay stipends to trainees. Stipends must be paid under section 111 of the Clean Water Act consistent with prevailing practices under comparable federally supported programs.

(e) Training awards under section 111 of the Clean Water Act are subject to the following conditions:

(1) Recipients must obtain the following agreement in writing from persons awarded scholarships for undergraduate study of the operation and maintenance of treatment works:

I agree to enter and remain in an occupation involving the design, operation, or maintenance of wastewater treatment works for a period of two years after the satisfactory completion of my studies under this program. I understand that if I fail to perform this obligation I may be required to repay the amount of my scholarship.

(2) Recipients must take such action as may be reasonably required to enforce the condition in paragraph (e)(1). Recipients shall credit or pay EPA for any repayments.

§ 45.140 Budget and project period.

The budget and project periods for training awards may not exceed three years.

§ 45.145 Allocability and allowability of costs.

(a) Allocability and allowability of costs will be determined in accordance with 40 CFR 30.410.

(b) Costs incurred for the purchase of land or the construction of buildings are not allowable.

§ 45.150 Reports.

(a) Recipients must submit the reports required in 40 CFR 30.505.

(b) A draft of the final project report is required 90 days before the end of the project period. The recipient shall prepare the final projects report in accordance with the project officer's instructions, and submit the final project report within 30 days after the end of the project period.

§ 45.155 Continuation assistance.

To be eligible for continuation assistance, the recipient must:

(a) Demonstrate satisfactory performance during all previous budget periods;

(b) Include in the application a detailed progress report showing the progress achieved and explain special problems or delays, a budget for the new budget period, and a detailed work plan for the new budget period; and

(c) Submit a preliminary financial statement for the current budget period that includes estimates of the amount the recipient expects to spend by the end of the current budget period and the amount of any uncommitted funds which the recipient proposes to carry over beyond the term of the current budget period.

APPENDIX A—ENVIRONMENTAL PROTECTION AGENCY TRAINING PROGRAMS

	Administering office	
	Headquarters	Regional
Office of Air, Noise, and Radiation:		
Air Pollution Control Manpower Training Grants.	X	
Air Pollution Control—Technical Training.	X	
Office of Water:		
Water Pollution Control—Professional Training Grants.	X	X
Safe Drinking Water Professional Training Grants.	X	
Safe Drinking Water—Occupational Training.	X	
Office of Solid Waste and Emergency Response: Hazardous Waste Training.	X	

[FR Doc. 84–27408 Filed 10–17–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 46

[OA-FRL 2621-2(b)]

Fellowships; Final Rule

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule revises the Environmental Protection Agency's (EPA) regulation at 40 CFR Part 46, "Fellowships," governing the award and administration of EPA fellowship assistance. The revisions are designed to ensure consistency with EPA's "General Regulation for Assistance Programs" (40 CFR Part 30) and to reflect current EPA policies on fellowship awards.

DATE: This rule is effective for all fellowships which EPA awards on or after October 18, 1984.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 382-5296.

SUPPLEMENTARY INFORMATION: Part 46 establishes the policies and procedures for the award of fellowships by EPA. We have not substantially updated the fellowship rule since June 30, 1973. This document updates Part 46 and incorporates changes to EPA policies on fellowship awards. Since the revisions to this rule are largely technical in nature, we did not publish a proposed rule for public comment. The changes to the rule include:

Stipend Levels

In the previous rule, we had a dollar level for the maximum annual stipend. We deleted the reference to a maximum level in this rule in order to give the program offices the flexibility to make changes in stipend levels based on program needs and funding levels without seeking a deviation from the rule.

Book Allowance

We increased the book allowance from $250 to $750.

Authority

We updated the Authority section of the existing regulation to include references to two additional fellowship programs. The two additional programs are section 8001 of the Solid Waste Disposal Act and section 1442(d)(2) of the Safe Drinking Water Act, as amended.

Consistency With 40 CFR Part 30, "General Regulation for Assistance Programs"

EPA published a final revision to 40 CFR Part 30 on September 30, 1983 (48 FR 45056). We revised this rule to make it consistent with the revised 40 CFR Part 30, "General Regulation for Assistance Programs," September 30, 1983.

Regulation Development

Under Executive Order 12291, EPA is required to make a judgment whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this rule is not "major" because it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increases in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The rule was submitted to the Office of Management and Budget as required by Executive Order 12291.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., the information provisions in this rule have been approved by the Office of Management and Budget (OMB clearance number 2010-0004).

List of Subjects in 40 CFR Part 46

Administrative practice and procedures, Environmental Protection, Grant programs—environmental protection, Reporting and recordkeeping requirements.

Dated: October 3, 1984.

William D. Ruckelshaus,

Administrator.

Accordingly, title 40, chapter I is amended by revising Part 46 to read as follows:

PART 46—FELLOWSHIPS

Sec.

46.100 Purpose.
46.105 Authority.
46.110 Objectives.
46.115 Types of fellowships.
46.120 Definitions.
46.125 Benefits.
46.130 Eligibility.
46.135 Submission of applications.
46.140 Evaluation of applications.
46.145 Fellowship agreement.
46.150 Fellowship agreement amendment.
46.155 Supplemental conditions.
46.160 Acceptance of fellowship award.
46.165 Duration of fellowship.
46.170 Initiation of studies.
46.175 Completion of studies.
46.180 Payment.
Appendix A—Environmental Protection Agency Fellowship Programs.

Authority: Sec. 103(b)(5) of the Clean Air Act as amended, (42 U.S.C. 7403(b)(5)); secs. 104(b)(5) and 104(g)(3)(B) of the Clean Water Act, as amended, (33 U.S.C. 1254(b)(5) and 1254(g)(3)(B)); sec. 1442(d)(2) of the Safe Drinking Water Act, as amended, (42 U.S.C. 300j-1(d)(2)); and sec. 8001 of the Solid Waste Disposal Act, as amended, (42 U.S.C. 6981).

§ 46.100 Purpose.

This part establishes the policies and procedures for all Environmental Protection Agency (EPA) fellowships and supplements the requirements in 40 CFR Part 30, "General Regulation for Assistance Programs."

§ 46.105 Authority.

The EPA is authorized to award fellowships under the following statutes:

(a) Section 103(b)(5) of the Clean Air Act as amended (42 U.S.C. 7403(b)(5));

(b) Section 104(b)(5) and 104(g)(3)(B) of the Clean Air Act, as amended (33 U.S.C. 1254(b)(5) and 1254(g)(3)(B);

(c) Section 1442(d)(2) of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1(d)(2); and

(d) Section 8001 of the Solid Waste Disposal Act as amended (42 U.S.C. 6981).

§ 46.110 Objectives.

Fellowships awarded under this part are intended to enhance the capability of State or local agencies responsibile for environmental pollution control or other agencies with similar pollution control responsibilities; provide educational renewal opportunities for their career oriented personnel to achieve additional knowledge through academic professional training; and to bring new people into the environmental control field.

§ 46.115 Types of fellowships.

(a) *Local agency fellowships* are awarded to current or prospective employees of a local environmental pollution control or regulatory agency for academic professional training in pollution control science, engineering, and technology and in specialty areas supportive of pollution abatement and control efforts.

(b) *State agency fellowships* are awarded to current or prospective employees of a State environmental pollution control or regulatory agency to provide academic professional training in the areas of pollution abatement and control.

(c) *Special fellowships* are awarded to individuals for education and training in pollution control science, engineering, and technology and in specialty areas

supportive of pollution abatement and control efforts.

§ 46.120 Definitions.

The following definitions supplement the definitions in 40 CFR 30.200.

Full-time fellow. An individual enrolled in an academic educational program directly related to pollution abatement and control, and taking a minumum of 30 credit hours or an academic workload otherwise defined by the institution as a full-time curriculum for a school year. The fellow need not be pursuing a degree.

Part-time fellow. An individual enrolled in an academic educational program directly related to pollution abatement an control and taking at least 6 credit hours but less than 30 credit hours per school year, or an academic workload otherwise defined by the institution as less than a full-time curriculum. The fellow need not be pursuing a degree.

Special fellow. An individual enrolled in an educational program relating to environmental sciences, engineering, professional schools, and allied sciences.

Stipend. Supplemental financial assistance other than tuition, fees, and book allowance, paid directly to the fellow.

§ 46.125 Benefits.

(a) Recipients of assistance under this part shall be entitled to tuition and fees. Recipients may receive an allowance for books and supplies up to a maximum of $750 for the school year for a full-time fellow, and are entitled to the normal student holidays observed by the academic institution.

(b) Recipients of a fellowships may receive a stipend at a level determined by the EPA program office based on EPA's needs and resources, and on the student's course load.

(c) Part-time fellows will not be paid more than the maximum amount paid to an equivalent full-time fellow under the same fellowships program.

§ 46.130 Eligibility.

(a) All applicants for fellowships under this part must be:

(1) Citizens of the United States, its territories, or possessions, or lawfully admitted to the United States for permanent residence; and

(2) Accepted by an accredited educational institutional for full-time or part-time enrollment for academic credit in an educational program directly related to pollution abatement and control.

(b) Applicants for State or local agency fellowships must be current or prospective employees of a State or local agency with responsibilities for environmental pollution control, and must be recommended by the administrator, or designee, of the State or local agency. The administrator, or designee, will recommend applicants based on the State or local need for academic professional training which will enhance the capability of the State or local agency.

§ 46.135 Submission of applications.

(a) Applicants must submit their requests for assistance on EPA Form 5770–2, "Fellowship Application." Applicants must submit the original and two copies of the application and undergraduate or graduate transcripts, as appropriate, to the Grants Administration Division, Grants Operation Branch (PM–216), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460. (OMB clearance number 2010–0004.)

(b) The applicant must submit documentation to show compliance with the eligibility requirements in § 46.130, and any additional information required by the award official. Instructions for filing are contained in the application kit.

§ 46.140 Evaluation of applications.

(a) EPA will evaluate fellowship applications based upon:

(1) Their relevance to EPA's program needs;

(2) The availability of funds; and

(3) EPA's priorities.

(4) Appropriateness of the fellow's proposed course of study:

(5) Evaluation of the applicant in terms of potential for study, as evidenced by academic record, letters of reference, training plans; and any other available information.

§ 46.145 Fellowship agreement.

(a) The fellowship agreement is the written agreement, including amendments, between EPA and a fellow. The agreement, EPA Form 5770–8, "Fellowship Agreement," will state the terms and conditions governing the fellowship. (OMB clearance number 2010–0004.)

(b) EPA will not participate in costs incurred by the fellow before both the award official and the fellow sign the agreement.

(c) The fellow must use the funds for the purposes stated in the fellowship agreement. If the fellow fails to comply with the terms and conditions of the award, the award official may apply the sanctions in 40 CFR Part 30, Subpart I.

§ 46.150 Fellowship agreement amendment.

(a) The fellow must receive a formal amendment before implementing:

(1) Changes in the objective of the agreement;

(2) Changes in the assistance amount;

(3) Substantial changes within the scope of the agreement; or

(4) Changes in the project period.

(b) Fellows must submit a completed EPA Form 5770–6, "Fellowship Amendment" (OMB clearance number 2010–0004) when requesting an amendment to the fellowship agreement.

(c) Minor changes in the agreement that are consistent with the objective of the agreement and within the scope of the agreement do not require a formal amendment before the fellow implements the change. However, such changes do not obligate EPA to provide Federal funds for any costs incurred by the fellow in excess of the assistance amount unless the award official approves the change in advance under § 46.150(a). The fellow must inform the EPA project officer in writing before implementing minor changes.

§ 46.155 Supplemental conditions.

Recipients of a State or local fellowship receiving financial assistance under section 1442(d)(2) of the Safe Drinking Water Act, as amended; sections 104(b)(5) and 104(g)(3)(B) of the Clean Water Act as amended; and section 8001 of the Solid Waste Disposal Act must agree to remain in the employment of the State or local agency that recommended the recipient for an EPA fellowship for twice the period of the fellowship. If the recipient fails to perform this obligation the recipient may be required to repay the amount of the EPA fellowship.

§ 46.160 Acceptance of fellowship award.

The applicant accepts the fellowship by signing and returning the fellowship agreement to the EPA award official within three weeks after receipt, or within any extension of such time that may be permitted by the EPA award official. If the applicant does not sign and return the agreement to the award official or request an extension of the acceptance time within three calendar weeks after receiving the agreement, the offer is null and void.

§ 46.165 Duration of fellowship.

(a) Full-time fellowships will not exceed one year.

(b) Part-time fellowships will not exceed three years.

§ 46.170 Initiation of studies.

(a) The fellow must submit EPA 5770–7 "Fellowship Activation Notice" when they start their course of studies (OMB clearance number 2010–0004).

(b) If the EPA Grants Administration Division has not received the signed Fellowship Activation Notice within six months following the date of the award, EPA may terminate the fellowship.

§ 46.175 Completion of studies.

Fellows must submit EPA Form 5770–9 "EPA Fellowship Termination Notice," when the fellow completes the course of study. (OMB clearance number 2010–0004)

§ 46.180 Payment.

(a) EPA will pay stipends directly to the fellow on a monthly basis or any other basis approved by the Project Officer, only after EPA has received the signed EPA Form 5770–7, "Fellowship Activation Notice." (OMB clearance number 2010–0004).

(b) EPA will pay the book allowance directly to the fellow only after EPA receives the signed EPA Form 5770–7.

(c) EPA will pay tuition and fees in a lump payment directly to the sponsoring institution only after EPA has received the signed EPA Form 5770–7.

APPENDIX A—ENVIRONMENTAL PROTECTION AGENCY FELLOWSHIP PROGRAMS

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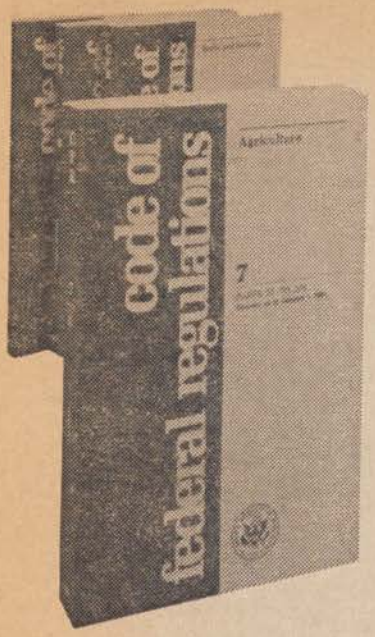

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