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# federal register

Tuesday
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**Briefings on How To Use the Federal Register—**
For information on briefings in Boston, MA, see announcement on the inside cover of this issue.

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

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### BOSTON, MA

**WHEN:** July 15, at 9 a.m.
**WHERE:** Main Auditorium, Federal Building, 10 Causeway Street, Boston, MA.
**RESERVATIONS:** Call the Boston Federal Information Center, 617–565–8129

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# Rules and Regulations

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

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Part 1620

### Thrift Savings Plan; Continuation of Eligibility

**AGENCY:** Federal Retirement Thrift Investment Board.

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

**SUMMARY:** The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. No. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986, (codified principally at 5 U.S.C. 8401–8479), as amended by Pub. L. No. 99–509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. No. 99–556, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for federal employees. Regulations of the Board are contained in Title 5, CFR, Chapter VI, Parts 1600–1699. The Executive Director of the Board is publishing in Part 1620 interim regulations concerning the procedures governing continuation of eligibility of Congressional food service employees to participate in the Thrift Savings Plan.

**DATES:** Interim rules effective February 15, 1987; comments must be received on or before September 15, 1987.

**ADDRESS:** Comments may be sent to: John J. O'Meara, Federal Retirement Thrift Investment Board, Benjamin Franklin Station, Post Office Box 511, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** John J. O'Meara—(202) 653–2573.

**SUPPLEMENTARY INFORMATION:** Public Law 99–591, enacted October 30, 1986, made it possible for food service employees employed by the House of Representatives to continue their federal retirement coverage notwithstanding their anticipated employment by a private contractor. These regulations are issued pursuant to that law for the purpose of specifying the conditions for continued eligibility as well as the requirements for employee deductions and employer contributions under the Federal Employees' Retirement System. The consequence of an employee making an election to continue federal retirement coverage is that they will have the same retirement coverage as they would have had if they had remained Congressional employees.

In order for a food service employee to be eligible to participate in the Thrift Savings Plan under Pub. L. 99–591 and these regulations, he or she must have made this election no later than January 2, 1987, the day before becoming an employee of the private contractor. February 15, 1987, was chosen as the effective date for these regulations because that is the first day of the Thrift Savings Plan's first open season.

### Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. This is because the food service operations of the House of Representatives were transferred to a private contractor on January 3, 1987, and the Thrift Savings Plan's first open season began on February 15, 1987.

### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal government procedures for determining eligibility for participation in the Thrift Savings Plan by a small number of former Congressional employees.

### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

### List of Subjects in 5 CFR Part 1620

Employees benefit plans, Government employees, Retirement, Pensions.

Federal Retirement Thrift Investment Board
**Francis X. Cavanaugh,**
*Executive Director.*

Title 5 of the Code of Federal Regulations is amended to add Part 1620 to read as follows:

## PART 1620—CONTINUATION OF ELIGIBILITY

**§ 1620.1 Continuation of eligibility to participate in the Thrift Savings Plan.**

(a) *Scope.* When the food service operations of the House of Representatives were transferred to a private contractor, Congressional food service employees were provided the opportunity by Pub. L. 99–591 to elect to continue their retirement coverage under subchapter III of Chapter 83 and Chapter 84 of Title 5, United States Code. These regulations govern participation by these employees in the Thrift Savings Plan. They apply to employees who made that election pursuant to paragraph (b) of this section prior to becoming employed by the private contractor. They apply to the incumbent contractor and to any successor contractors that hold the contract to provide food service to the U.S. House of Representatives.

(b) *Eligibility requirements.* In order to be eligible to participate in the Thrift Savings Plan, an individual must:

(1) Have been a Congressional employee (as defined in section 2107 of Title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing food service operations for the House of Representatives under the administrative control of the Architect of the Capitol;

(2) Have been subject to subchapter III of Chapter 83 of Title 5, United States Code, or Chapter 84 of such title;

(3) Have elected to remain covered under Federal service retirement provisions no later than January 2, 1987;

(4) Have made the transition from Congressional employee to private contractor employee without a break in service; and

(5) Continue to be employed to provide food services to the U.S. House of Representatives without a break in service. A "break in service" means a separation from employment of at least three calendar days.

(c) *Employee deductions.* An employee who elects to continue

coverage under Title 5 retirement provisions and who desires to participate in the Thrift Savings Plan shall be governed by the Federal Retirement Thrift Investment Board regulations located in Title 5, Code of Federal Regulations, Part 1600. Employee participation will be through deductions from his or her basic pay and the employer will, in accordance with procedures established by the Board, pay into the Thrift Savings Fund the amounts deducted from the employee's pay.

(d) *Employer contributions.* For employees covered by the Federal Employees' Retirement System, the employer providing food services under the contract shall, in accordance with procedures established by the Board, pay into the Thrift Savings Fund amounts equal to the agency contributions which would be required if the employee were a Congressional employee covered by the Federal Employees Retirement System.

[FR Doc. 87-15956 Filed 7-13-87; 8:45 am]

BILLING CODE 6760-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 795

### Payment Limitation; Provisions Common to More Than One Program

**AGENCY:** Commodity Credit Corporation (CCC) and Agricultural Stabilization and Conservation Service (ASCS), USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts as final the proposed rule which was published in the **Federal Register** on March 24, 1987 (52 FR 9302). The proposed rule provided that, for the purpose of applying statutory payment limitations, an individual shall not be denied status as a separate person solely on the basis that a family member: (1) Cosigns for or makes a loan to the individual, and (2) leases, loans or gives the individual equipment, land or labor, if the individual and the family member were organized as separate units prior to December 31, 1985. The proposed rule also provided that a cooperative association of producers that markets commodities for producers would not be considered to be a "person" with respect to the commodities so marketed.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Raymond K. Aldrich, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013, (202) 447-6688.

**SUPPLEMENTARY INFORMATION:** This final rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major". It has been determined that this rule 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, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this interim rule applies are: Commodity Loan and Purchases—10.051; Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065; Emergency Feed Program—10.066; Conservation Reserve Program—10.069; Agricultural Conservation Program—10.063; Forestry Incentives Program—10.064; Emergency Conservation Program—10.054 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Number 0560-0096 has been assigned.

#### I. Proposed Rule

A proposed rule was published in the **Federal Register** on March 24, 1987 to amend the regulations found at 7 CFR Part 795 to conform the regulations with provisions of: (1) Section 636 of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Pub. L. 99-500 and Pub. L. 99-591 (Section 636), and (2) Section 108(a)(2) of Pub. L. 99-500 and 99-591.

Section 636 provides that: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to such person and leases, loans or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985."

Section 108(a)(2) amended section 1001 of The Food Security Act of 1985 to provide that in defining the term "person" in the regulations for applying the maximum payment limitation: "Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."

#### II. Summary of Comments and Substantive Changes

Comments were received from one individual and four producer organizations. The written comments discussed below are on file and available for public inspection in Room 3630, South Building, 14th and Independence Avenue, SW., Washington, DC 20013.

The individual was in general agreement with the provisions of the proposed rule. The only point of disagreement was with the date, December 31, 1985, by which family members must have been organized as separate units. This date will not be changed as the date is specifically prescribed by section 636.

One organization, although against the payment limitation provisions in general, agreed wholly with the proposed rule.

Two organizations requested that brothers and sisters, aunts and uncles, and niece and nephews be included in the definition of a "family member." Historically, such relatives have been excluded in making "person" determinations. Therefore, it was determined that they should be excluded when making future determinations and the definition of

"family member" in the proposed rule will remain unchanged.

One organization expressed the opinion that county Agricultural Stabilization and Conservation (ASC) committees should be provided the authority for the initial "person" determination based on their knowledge of the operations involved. It was stated further that county ASC committees should require input from local ASC community committeepersons. As county ASC committees have always had the responsibility for making initial "person" determinations and have the option of using any source of information they might find helpful, no change will be made in this regard.

One organization disagreed with the definition of the term "separate unit" in the proposed rule on the basis that an individual did not have to have been determined a separate "person" prior to December 31, 1985 under 7 CFR Part 795, but merely needed to have been organized as a separate farming operation prior to that date. In order to clarify this provision with respect to farming operations for which such a determination had not been made prior to such date, the final rule provides that, in making a separate unit determination, there should be taken into consideration the fact that a "person" determination may not have been made by December 31, 1985. Accordingly, 7 CFR 795.3(d) is amended to reflect this change.

One organization recommended that living on the farm and relying on the farm for one's livelihood should be considered "prima facie" evidence of separate farming units for individuals. Thus, passive investors, i.e. individuals living off the farm or not dependent on the farm for their livelihood, would not be considered to be separate farming units unless the persons presented evidence to the contrary. Under current regulations, all persons must submit accurate documentation with respect to their entire farming operations in order for a "person" determination to be made. Accordingly, whether or not a person lives on a farm would not be the only factor considered in making such a determination. Therefore, no change will be made with respect to the type of documentation and evidence which must be submitted to the county ASC committee concerning "person" determinations.

**List of Subjects in 7 CFR Part 795**

Payment limitation, Price support programs, Reporting and recordkeeping requirements.

**Final Rule**

**PART 795—[AMENDED]**

Accordingly, the regulations found at Part 795 of Chapter VII of Title 7 of the Code of Federal Regulations are amended as follows:

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

**Authority:** Sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444, as amended, 7 U.S.C 1308; Pub. L. 99-500 and Pub. L. 99-591.

2. Section 795.3 is revised to read as follows:

**§ 795.3 Definitions.**

(a) The terms defined in Part 719 of this chapter, governing reconstitutions of farms, shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b)(1) Subject to the provisions of this part, the term "person" shall mean an individual, joint stock company, corporation, association, trust, estate, or other legal entity. In order to be considered to be a separate person for the purposes of this part with respect to any crop, in addition to any other provision of this part, an individual or other legal; entity must:

(i) Have a separate and distinct interest in the crop or the land on which the crop is produced;

(ii) Exercise separate responsibility for such interest; and

(iii) be responsible for payment of the cost of farming related to such interest from a fund or account separate from that of any other individual or entity

(2) The term "person" shall not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

(c) The term "family member" shall mean the individual, the great-grandparent, grand-parent, child, grandchild, and great-grandchild of such individual and the spouses of all such individuals.

(d) The term "separate unit" shall mean an individual who, prior to December 31, 1985: (1) Had been engaged in a separate farming operation and (2) in accordance with the provisions of this part, had been determined to be a separate person or could have so determined under the circumstances existing at such time.

3. Section 795.4 is revised to read as follows:

**§ 795.4 Family members.**

Effective for the 1987 through 1990 crops, an individual shall not be denied a determination that such individual was a "person" solely on the basis that:

(a) A family member cosigns for, or makes a loan to, such individual and leases, loans or gives equipment, land or labor to such an individual; and

(b) Such family members were organized as separate units prior to December 31, 1985.

4. The following undesignated headings in Part 795 are removed: "General"; "Definitions"; "Determination Whether Multiple Individuals or Other Entities Constitute One or Separate Persons"; "Farming Operations"; "Scheme or Device"; "Scheme or Device"; and "Miscellaneous."

Signed at Washington, DC, on July 7, 1987.

**Milton Hertz.**

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

[FR Doc. 87-15829 Filed 7-13-87; 8:45 am]

BILLING CODE 3410-05-M

## FEDERAL HOME LOAN BANK BOARD

**12 CFR Part 571**

**[Docket No. 87-780]**

### Transfers of Assets of Insured Institutions; Final Rule; Technical Correction

Date: July 9, 1987.

**AGENCY:** Federal Home Loan Bank Board.

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

**SUMMARY:** On June 22, 1987, The Federal Home Loan Bank Board ("Board") adopted a final rule regarding transfers of assets of insured institutions (52 FR 23937 (June 26, 1987)). As published in the **Federal Register** ("*Register*") on June 26, 1987, this final rule was to become effective on July 27, 1987. This date was computed by the staff of the *Register* as the 30th day after the date of publication in the *Register* pursuant to their regulation which states that when an effective date falls on a weekend or holiday, the rule becomes effective on the next Federal business day. (1 CFR 18.17(b) (1987)). The Board had intended for this rule to become effective 30 calendar days after the date of publication in the *Register* as required under the Administrative Procedures Act, 5 U.S.C. 553(d) (1982), rather than 30 days after publication as computed pursuant to the *Register*'s regulations. The date 30 calendar days after the date of publication in the *Register* is July 26, 1987. By its action today, the Board

hereby corrects in the **Federal Register** of Friday, June 26, 1987, on page 23937, in the third column, the reference to the effective date of "July 27, 1987" to read "July 26, 1987".

**EFFECTIVE DATE:** The effective date of the final rule is July 26, 1987.

**FOR FURTHER INFORMATION CONTACT:** John A. Buchman, Assistant Deputy Director, (202) 377–6963; V. Gerard Comizio, Director, Corporate and Securities Division; or Julie L. Williams, Deputy General Counsel for Securities and Corporate Structure, (202) 377–6459; Office of General Counsel, Federal Home Loan Bank Board, 1700 G. Street NW., Washington, DC 20552.

By The Federal Home Loan Bank Board.

**John F. Ghizzoni,**

*Assistant Secretary*

[FR Doc. 87–15955 Filed 7–13–87; 8:45 am]

BILLING CODE 6720–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 87–NM–17–AD; Amdt. 39–5673]**

### Airworthiness Directives; British Aerospace (BAe) Model BAC 1–11 200 and 400 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to British Aerospace (BAe) Model BAC 1–11 200 and 400 series airplanes, which currently requires repetitive inspections and repairs, if necessary, of the tailplane center section top skin assembly for cracks in the reinforcing plate. Significant cracks have been reported in the reinforcing plate prior to the time an inspection is required by the existing AD. This amendment reduces the initial compliance time from 40,000 to 30,000 landings.

**EFFECTIVE DATE:** August 20, 1987.

**ADDRESSES:** The applicable service information may be obtained from British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Golder, Standardization Branch, ANM–113; telephone (206) 431–1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 85–12–05, Amendment 39–5075 (50 FR 21585; May 28, 1985), to reduce the initial compliance time for certain inspections of the horizontal stablilizer center section upper skin reinforcing plate on BAC 1–11 200 and 400 series airplanes, was published in the **Federal Register** on March 31, 1987 (52 FR 10237).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received; the commenter concurred with the proposed rule.

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

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,000.

For the reason discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substanital number of small entities, because of the minimal cost of compliance per airplane ($100). A final evaluation has been prepared for this regulation and has been placed in the docket.

**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, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

**PART 39—[AMENDED]**

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

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

2. By superseding AD 85–12–05, Amendment 39–5075 (50 FR 21585; May 28, 1985), with the following new airworthiness directive:

**British Aerospace (BAe):** Applies to Model BAC 1–11 200 and 400 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent loss of the integrity of the tailplane center section top skin assembly due to cracks in reinforcing plates, accomplish the following prior to the accumulation of 30,000 landings or within the next 2,000 landings after the effective date of this AD, whichever occurs later:

A. Visually inspect the tailplane center section top skin assembly for cracks in the reinforcing plate in accordance with the accomplishment instructions of British Aerospace BAC 1–11 Service Bulletin 55–A–PM5873, Issue 3, dated July 1, 1986.

1. If no cracks are found, repeat the visual inspection specified above at intervals not to exceed 7,500 landings;

2. If cracks are found, prior to further flight, repair in accordance with the accomplishment instructions of the service bulletin. Reinspect in accordance with paragraph 2.2 of the service bulletin.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment supersedes AD 85–12–05, Amendment 39–5075.

This amendment becomes effective August 20, 1987.

Issued in Seattle, Washington, on July 7, 1987.

**Wayne J. Barlow,**

*Director, Northwest Mountain Region.*

[FR Doc. 87–15852 Filed 7–13–87; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 24**

**[T.D. 87-44]**

## Harbor Maintenance Fee

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

**ACTION:** Clarifying amendment of interim regulations.

**SUMMARY:** This notice clarifies interim amendments of the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 (the Act) which authorizes the Customs Service to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port within the definition of the Act. The Harbor maintenance fee applies to port uses by commercial vessels which load or unload merchandise or passengers unless specifically exempted from the fee. The proceeds of the fee collected by Customs, together with certain other fees, are deposited in the Harbor Maintenance Trust Fund which is made available, subject to appropriations, to the U.S. Army Corps of Engineers for the improvement and maintenance of U.S. ports and harbors.

The amendments were made on an interim basis by the publication of T.D. 87-44 in the **Federal Register** of March 30, 1987 (52 FR 10198), due to the limited period of time available to initiate the changes before the law became effective on April 1, 1987. However, written comments were invited for consideration before a final rule is issued. Comments were to have been received on or before May 29, 1987. In response to several requests to extend the comment period, by notice published in the **Federal Register** on June 2, 1987 (52 FR 20593), the comment period was extended to August 28, 1987.

Both Customs and the Army Corps of Engineers have received numerous inquiries concerning the ports, channels, and harbors subject to the fee. To assist users, the list of ports has been reformatted. No new ports have been added to the use of Customs port codes to help describe ports has not changed.

**DATES:** The amendment to the regulation is effective on July 14, 1987. Comments are requested on or before August 28, 1987.

**ADDRESS:** Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2324, 1301 Constitution Avenue NW., Washington, DC 20229.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the address above.

**FOR FURTHER INFORMATION CONTACT:** Jean F. Maguire, Director, User Fee Task Force (202-566-5868).

Accordingly, Title 19 of the Code of Federal Regulations, Chapter I, is amended as follows:

## PART 24—[AMENDED]

1. The Authority for Part 24 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1202, 1624, 31 U.S.C. 9701; Pub. L. 99-272, Pub. L. 99-509, Pub. L. 99-662.

2. In § 24.24(b)(1), the list of ports is revised to read as follows:

**§ 24.24 Harbor maintenance fee.**

* * * * *

(b) * * *

(1) * * *

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS: SUBJECT TO SECTION 1402 OF PUB. L. 99-662 HARBOR MAINTENANCE FEE

| Port code, port name, and state | Port descriptions and notations |
|---|---|
| **Alaska** | |
| 3126—Anchorage | |
| 3106—Dalton Cache | |
| 3102—Ketchikan | |
| 3127—Kodiak | |
| 3112—Petersburg | |
| 3125—Sand Point | |
| 3115—Sitka | |
| **Alabama** | |
| 1901—Mobile | |
| **California** | |
| 2802—Eureka | Includes Crescent City. |
| Los Angeles/Long Beach Port. | Includes Dana Point; movements between these locations are intraport. |
| 2709—Long Beach Harbor | |
| 2704—Los Angeles | |
| 2713—Port Hueneme | Includes Channel Island Hbr. |
| 2501—San Diego | Includes Oceanside Hbr. |
| 2707—San Luis | |
| San Francisco Bay Area Ports*. | Includes all points inshore of the Golden Gate Bridge on the bays and the straits on the Napa, Sacramento and San Joaquin Rivers, and on the deep water channels to Sacramento and Stockton. Movements between points above Suisun Bay (Longitude 122 degrees West at Port Chicago), are intraport. Movements between points below Longitude 122 degrees West are intraport. All other movements are interport. |
| 2813—Alameda | |
| 2830—Carquinez Strait | |
| 2815—Crockett | |
| 2820—Martinez | |
| 2811—Oakland | |
| 2821—Redwood City | |
| 2812—Richmond | |
| 2816—Sacramento | |
| 2809—San Francisco | |
| 2828—San Joaquin | |
| 2829—San Pablo Bay | |
| 2827—Shelby | |
| 2810—Stockton | |
| 2831—Suisun Bay | |

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS: SUBJECT TO SECTION 1402 OF PUB. L. 99-662 HARBOR MAINTENANCE FEE—Continued

| Port code, port name, and state | Port descriptions and notations |
|---|---|
| **Connecticut** | |
| 0410—Bridgeport | Includes Housatonic River, and Stamford Harbor. |
| 0411—Hartford | Includes all points on the Connecticut River between Hartford and Long Island Sound. |
| 0412—New Haven | |
| 0413—New London | |
| **District of Columbia** | |
| Potomac River Ports, DC, MD, & VA*. | Includes all points on the Potomac River (see Chesapeake Bay Ports: MD and VA map) from a line between Point Lockout and the Little Wicomico River at Chesapeake Bay to and including Washington and Alexandria. Movements between these points are intraport. |
| 5402—Alexandria, VA line 5401—Washington DC | |
| **Delaware** | |
| Delaware River Ports, DE, NJ, PA*. | Includes all points on the Delaware River from Trenton to the sea at a line between Cape Henlopen and Cape May, all points on the lower four miles of the Christina River, Delaware, and all points on the lower six miles of the Schuylkill River, Pennsylvania. Includes movements on the Chesapeake & Delaware Canel east of Delaware State Highway 13. Movements between these points are intraport. |
| 1102—Chester, PA | |
| 1107—Camden, NJ | |
| 1113—Gloucester, NJ | |
| 1118—Marcus Hook, PA | |
| 1105—Paulsboro, NJ | |
| 1101—Philadelphia, PA | |
| 1103—Wilmington, DE | |
| **Florida** | |
| 1807—Boca Grande | |
| 1806—Carabelle | |
| 1805—Fernandina Beach | |
| 5205—Fort Pierce | |
| 1803—Jacksonville | |
| 5202—Key West | |
| 5201—Miami | |
| 1818—Panama City | |
| 1819—Pensacola | |
| 5203—Port Everglades | |
| 1820—Port St. Joe | |
| Tampa Bay Ports* | Includes Alafia River, Port Manatee, Port Sutton, Port Tampa, Weedon Island and all other points on or approached using the Tampa Harbor Channel inshore of the Sunshine Skyway Bridge. Movements between these points are intraport. |
| 1814—St. Petersburg | |
| 1801—Tampa | |
| 5204—West Palm Beach | |
| **Georgia** | |
| 1701—Brunswick | Includes St. Marys River. |
| 1703—Savannah | |
| **Hawaii** | |
| 3202—Hilo | |
| 3201—Honolulu | |
| 3203—Kahului | Includes Kaunakakai Harbor. |
| 3204—Nawiliwili-Port Allen | |
| **Illinois** | |
| Chicago Area Ports* | Includes Indiana Harbor; does not include Buffington Hbr. |
| 3901—Chicago | |
| 3904—East Chicago, IN | |
| **Indiana** | |
| 3905—Gary | Includes only Michigan City and Burns Waterway Harbor. Fee does not apply at Gary. |
| 3905—East Chicago* | See Chicago Area Ports, Illinois. |

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS: SUBJECT TO SECTION 1402 OF PUB. L. 99-662 HARBOR MAINTENANCE FEE—Continued

| Port code, port name, and state | Port descriptions and notations |
|---|---|
| **Louisiana** | |
| 2017—Lake Charles | |
| Mississippi River Ports: | |
| Baton Rouge and Vicinity* | Includes all river points from River Mile 115 Above Head of Passes (AHP) at the St. Charles Parish-Jefferson Parish line, to River Mile 233.9 AHP at Baton Rouge. Movements between these points are intraport. |
| 2004—Baton Rouge | |
| 2009—Destrehan | |
| 2010—Gramercy | |
| 2014—Good Hope | |
| 2013—St. Rose | |
| Mississippi River Ports: | |
| New Orleans and Vicinity* | Includes all river points from River Mile 115 AHP to Mile 21.6 BPH (Below Head of Passes) via Southwest Pass and to Mile 14.7 BHP via South Pass. Also includes all points on the Inner Harbor Navigation Canal and the Mississippi River Gulf Outlet. Movements between these points are intraport. |
| 2012—Avondale | |
| 2002—New Orleans | |
| 2005—Port Sulphur | |
| 2001—Morgan City* | Includes Houma and points on the Gulf Intracoastal Waterway between Mile 49.8 West and Mile 107.0 West. Movements between these points are intraport. |
| **Maine** | |
| 0102—Bangor | |
| 0111—Bath | |
| 0132—Belfast | Includes Penobscot River points (Bucksport and Winterport); fee does not apply at Belfast, Sandy Point, or Castine Harbor. |
| 0101—Portland | |
| **Maryland** | |
| Chesapeake Bay Ports: Maryland*. | Includes all Maryland points on Chesapeake Bay and its tributary waters except for the Potomac River. Also includes the Waterway from Delaware River to Chesapeake Bay west of U.S. 13 highway bridge. Movements between these points are intraport. (Also see Chesapeake Bay Ports: VA.) |
| 1303—Baltimore | |
| 1302—Cambridge | |
| **Massachusetts** | |
| 0401—Boston* | Includes all of the Port of Boston inshore of Castle Island on the Inner Harbor and Chelsea and Mystic Rivers, and all points on the Weymouth Fore, and Town Rivers. Movements between points on the Saugus River in the north to Scituate in the south are intraport. |
| 0404—Gloucester | |
| 0407—Fall River | |
| **Michigan** | |
| 3843—Alpena | Fee does not apply at Stoneport. |
| 3801—Detroit | |
| 3844—Ferrysburg | |
| 3816—Grand Haven | |
| 3809—Marquette | |
| 3815—Muskegon | Includes Pentwater Harbor and South Haven Harbor. |
| 3802—Port Huron | Includes Port Huron and all points on the St. Clair and Black Rivers in St. Clair County. Also includes Harbor Beach, Michigan. |
| 3842—Presque Isle | |
| 3804—Saginaw-Flint-Bay City | Does not include Alabaster. |
| 3803—Sault Ste Marie | Does not inlcude Port Dolomite or Port Inland, Michigan; does include Manistique, Michigan, and Grand Marais Harbor, Michigan. |
| **Minnesota** | |
| Duluth/Superior | Includes Duluth, MN. and Superior, WS; movements between these ports is intraport. |
| 3601—Duluth, MN | |
| 3606—Superior, WS | |
| 3614—Silver Bay | Fee applies only at Grand Marais. |
| **Mississippi** | |
| 1902—Gulfport | |
| 1903—Pascagoula | |
| **New Hampshire** | |
| 0131—Portsmouth | |
| **New Jersey** | |
| 1107—Camden | (see Delaware River Ports). |
| 1113—Gloucester | (see Delaware River Ports). |
| 1105—Paulsboro | (see Delaware River Ports). |
| 1003—Newark | (see New York Harbor). |
| 1004—Perth Amboy | (see New York Harbor). |
| **New York** | |
| New York Harbor, NY, NJ* | Includes all points in New York and New Jersey within the Port of New York on the waters inshore of a line between Sandy Hook and Rockaway Point and south of Tappan Zee Bridge on the Hudson and west of Throgs Neck Bridge on the East River. Movements between all points within the New York Port District boundaries described in New York Code (Chapter 154, Laws of New York, 1921), are intraport. |
| 1001—New York, NY | |
| 1003—Newark, NJ | |
| 1004—Perth Amboy, NJ | |
| 1002—Albany* | Includes all points on the Hudson River between Tappan Zee Bridge and the Troy Lock and Dam. |
| 0901—Buffalo-Niagara Falls | Includes Cattaraugus Creek. |
| 0706—Cape Vincent | |
| 0701—Ogdensburg | |
| 0904—Oswego | |
| 0903—Rochester | |
| 0905—Sodus Point | Includes Little Sodus Bay Harbor. |
| **North Carolina** | |
| 1511—Beaufort-Morehead City | |
| 1501—Wilmington | Includes all points on the Cape Fear and Northeast Cape Fear Rivers inshore of the Atlantic Ocean entrance. Movements between these points are intraport. |
| **Ohio** | |
| 4108—Ashtabula | (or Port Code 4122). |
| 4101—Cleveland | |
| 4109—Conneaut | (or Port Code 4122). |
| 4111—Fairport | |
| 4117—Huron | |
| 4121—Lorain | |
| 4105—Toledo-Sandusky | |
| **Oregon** | |
| Columbia River Ports, OR, WA. | Includes all points on the Columbia River downstream of Bonneville Dam, and all points on the Willamette River downstream of River Mile 21. Movements between these points are intraport. |
| 2901—Astoria, OR | |
| 2904—Portland, OR | |
| 2909—Kalama, WA | |
| 2905—Longview, WA | |
| 2908—Vancouver, WA | |
| 2903—Coos Bay | Includes Port Orford. |
| 2902—Newport | Includes Tillamook Bay. |
| **Pennsylvania** | |
| 1102—Chester | (see Delaware River Ports). |
| 4106—Erie | |
| 1118—Marcus Hook | (see Delaware River Ports). |
| 1101—Philadelphia | (see Delaware River Ports). |
| **Puerto Rico** | |
| 4907—Mayaguez | |
| 4908—Ponce | |
| 4909—San Juan | |
| **Rhode Island** | |
| 0502—Providence | |
| **South Carolina** | |
| 1601—Charleston | |
| 1602—Georgetown | |
| **Texas** | |
| 2301—Brownsville | |
| 5312—Corpus Christi | |
| 5311—Freeport | |
| Galveston Bay Ports* | Includes Port Bolivar and all points on Galveston Bay in Galveston County. Movements between these points are intraport. |
| 5310—Galveston | |
| 5306—Texas City | |
| 5301—Houston* | Includes Bayport, Baytown, and all other points on or accessed via the Houston Ship Channel north of the Galveston County line. Movements between these points are intraport. |
| 5313—Port Lavaca | |
| Sabine Ports* | Includes Port Neches, Sabine Pass and all other points on the Sabine-Neches Waterway. Movements between these points are intraport. |
| 2104—Beaumont | |
| 2103—Orange | |
| 2101—Port Arthur | |
| 2102—Sabine | |
| **Virginia** | |
| 5402—Alexandria* | (see District of Columbia, Potomac River Ports). |
| Chesapeake Bay Ports: Virginia*. | Includes all Virginia points on Chesapeake Bay inshore of a line from Cape Henry to Cape Charles, and tributary waters including the ports of Hampton Roads. Does not include the Potomac River or the James River above the James River Bridge at Newport News. Movements between these points are intraport. (Also see Chesapeake Bay Ports: MD.) |
| 1406—Cape Charles | |
| 1402—Newport News | |
| 1401—Norfolk | |
| James River Ports, VA* | Includes all points on the James River above the James River Bridge at Newport News. Movements between these points are intraport. |
| 1408—Hopewell | |
| 1404—Richmond-Petersburg | |

PORT CODES, NAMES, AND DESCRIPTIONS OF PORTS: SUBJECT TO SECTION 1402 OF PUB. L. 99-662 HARBOR MAINTENANCE FEE—Continued

| Port code, port name, and state | Port descriptions and notations |
|---|---|
| **Washington** | |
| 3003—Aberdeen | |
| Puget Sound Ports, WA* | Includes *only* the ports listed. Movements between these ports or any other U.S. points on Puget Sound or the Strait of Juan de Fuca east of Cape Flattery are intraport. |
| 3005—Bellingham | |
| 3006—Everett | |
| 3026—Olympia | |
| 3007—Port Angeles | |
| 3001—Seattle | |
| 3002—Tacoma | |
| 2909—Kalama | (see Columbia River Ports, OR). |
| 2905—Longview | (see Columbia River Ports, OR). |
| 2908—Vancouver | (see Columbia River Ports, OR). |
| **Wisconsin** | |
| 3602—Ashland | Includes Port Wing. |
| 3706—Manitowoc | Includes Two Rivers and Kewaunee. |
| 3702—Marinette | Includes Oconto. |
| 3701—Milwaukee | |
| 3708—Racine | |
| 3707—Sheboygan | |
| 3608—Superior | (see Duluth/Superior, Minnesota). |

Note: The port codes shown in the above listing are those of the U.S. Customs Service.
*Indicates that a map of this port area is available from the U.S. Customs Service.

* * * * *

Dated: July 7, 1987.

Harvey B. Fox,

*Director, Office of Regulations & Rulings.*

[FR Doc. 87-15777 Filed 7-13-87; 8:45 am]

BILLING CODE 4820-02-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 558

### New Animal Drugs for Use in Animal Feeds; Lasalocid

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Moorman Manufacturing Co. providing for use of a free-choice vitamin-mineral Type C lasalocid feed for pasture cattle for increased rate of weight gain.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Jack C. Taylor, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

**SUPPLEMENTARY INFORMATION:** Moorman Manufacturing Co., 1000 North 30th St., Quincy, IL 62301-3496, is sponsor of NADA 138-993 which provides for use of a 68-gram-per-pound Bovatec (15 percent lasalocid) Type A article to make Moorman's Cattle Minerals BT Medicated, a Type C feed containing 1.06 percent lasalocid for use in pasture cattle (slaughter, stocker, and feeder cattle, and dairy and beef replacement heifers) for increased rate of weight gain. The drug is consumed at a rate of 60 to 200 milligrams per head daily in a free-choice, self-limiting supplemental feed.

Based on the data and information submitted, the application is approved and 21 CFR 558.311 is amended by adding paragraph (b)(5) and revising paragraph (e)(1)(xi) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

**List of Subjects in 21 CFR Part 558**

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

**Authority:** Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.311 is amended by adding new paragraph (b)(5), and in paragraph (e)(1)(xi) by revising the "Sponsor" column to read "000004, 021930," to read as follows:

**§ 558.311 Lasalocid.**

* * * * *

(b) * * *

(5) 15 percent activity to 021930 (Type A article provided by 000004) for use in free-choice vitamin-mineral Type C cattle feeds as in paragraph (e)(1)(xi).

* * * * *

Dated: June 30, 1987.

Gerald B. Guest,

*Director, Center for Veterinary Medicine.*

[FR Doc. 87-15896 Filed 7-13-87; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 917

### Kentucky Abandoned Mine Land Reclamation Program Amendment

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

**ACTION:** Final rule.

**SUMMARY:** On March 25, 1985, the State of Kentucky submitted to OSMRE a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan. After opportunity for public comment and review of the amendment, the Deputy Director, Operations and Technical Services of OSMRE has determined that the Kentucky amendment meets the requirements of the Surface Mining Control and Reclamation Act (SMCRA) and the Secretary's regulations at 30 CFR Part 884. Accordingly, the Deputy Director has approved the Kentucky amendment.

**EFFECTIVE DATE:** The rule is effective August 13, 1987.

**ADDRESSES:** Copies of the full text of the amendment are available for review during regular business hours at the following locations:

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Kentucky 40601

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Office of Surface Mining Reclamation and Enforcement, Administrative Records Office, 1100 L St. NW., Room 5205, Washington, DC 20240

**FOR FURTHER INFORMATION CONTACT:** W. Hord Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

**SUPPLEMENTARY INFORMATION:** Title IV of the Surface Mining Control and

Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and waters eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement the abandoned mine land reclamation program.

The Kentucky AMLR Plan was approved on May 18, 1982. On March 25, 1985 Kentucky submitted a proposed amendment to the Plan. An approved State AMLR Plan can be amended under the provisions of 30 CFR 884.15. Under these provisions, if the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Deputy Director, Operations and Technical Services of the Office of Surface Mining Reclamation and Enforcement must follow the procedures set out in 30 CFR 884.14 in approving the amendment or revision of a State reclamation plan. The Deputy Director has followed these procedures and effective August 13, 1987, has approved the Kentucky amendment.

OSMRE published a notice of proposed rulemaking on the Kentucky amendment and requested public comment on February 20, 1986 (51 FR 6134–6136). No public comments were received. Since no public hearing was requested by the public, none was held.

The Kentucky AMLR plan amendment approved today modifies the project selection process the State uses in implementing 30 CFR 874.13, which addresses the priorities to be followed for reclamation projects (please see Federal Register Volume 51, No. 34, of February 20, 1986, pages 6134–6136, for detailed description of the amendment). The amendment replaces the site-matrix selection procedure with a more programmatic decision-making process. The subjects of ranking and selection are covered in Chapter 4 of Kentucky's approved plan.

Under SMCRA, OSMRE codifies the approved requirements of individual States, including decisions on State reclamation plans and amendments, under Parts 900 to 950 of 30 CFR Subchapter T. Provisions relating to Kentucky are found in 30 CFR Part 917.

### Deputy Director's Findings

In accordance with section 405 of SMCRA, the Deputy Director finds that Kentucky has submitted an amendment to its Abandoned Mine Land Reclamation Plan and has determined, pursuant to 30 CFR 884.15 that:

1. The State provided adequate notice and opportunity for public comment in the development of the plan and that the record does not reflect major unresolved controversies. No comments were received nor was there any request for a public hearing.
2. Views of other Federal agencies having an interest in the plan have been solicited and considered.
3. The State has the legal authority, policies and administrative structure necessary to implement the amendment.
4. The proposed plan amendment meets all requirements of the OSMRE, AMLR Program provisions.
5. The State has an approved Surface Mining Regulatory Program.
6. The proposed plan amendment is in compliance with all applicable State and Federal laws and regulations.

### Additional Findings

The Office of Surface Mining Reclamation and Enforcement has examined this proposed rulemaking under Executive Order No. 12291 and has determined that, on October 4, 1985, the Office of Management and Budget granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order No. 12291 for actions directly related to approval or disapproval of State reclamation plans or amendments. Therefore, the action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and the Department of the Interior has determined that the rule will not have significant economic effect on a substantial number of small entities. No burden will be imposed upon entities operating in compliance with the Act.

Furthermore, the Office of Surface Mining Reclamation and Enforcement has determined that the approval of State AMLR plans and amendments are categorically excluded from compliance with the National Environmental Policy Act by the Department of the Interior's Manual, 516 DM 2, p. B–1.

### List of Subjects in 30 CFR Part 917

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

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

Dated: July 7, 1987.

**James W. Workman,**

*Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.*

## PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

**Authority:** Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

2. Therefore, § 917.21 is amended by designating existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

**§ 917.21 Amendments to approved Kentucky Abandoned Mine Land Reclamation Plan.**

* * * * *

(b) The Kentucky Abandoned Mine Reclamation Amendment, as submitted on March 25, 1985, is approved. Copies of the approved plan are available at the following locations:

Kentucky Department of Natural Resources and Environmental Protection, Frankfort, Kentucky 40601

Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Office of Surface Mining Reclamation and Enforcement, Administrative Records Office, 1100 L St. NW., Room 5205, Washington, DC 20240

[FR Doc. 87–15867 Filed 7–13–87; 8:45 am]

BILLING CODE 4310–05–M

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## 30 CFR Part 938

## Approval of Amendments to the Pennsylvania Permanent Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSMRE).

**ACTION:** Final rule.

**SUMMARY:** OSMRE is approving program provisions submitted by Pennsylvania as amendments to the Commonwealth's regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to (1) information needs concerning access to properties for purpose of coal refuse disposal, coal preparation plants and underground mining activities and (2) establishment of a fund to provide loans to anthracite deep mine operators unable to obtain surety bond.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Biggi, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, 101 South 2nd Street, Suite L–4, Harrisburg, Pennsylvania 17101; Telephone (717) 782–4036.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Pennsylvania program was conditionally approved by the Secretary of the Interior on July 31, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register** (47 FR 33050–33083). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 938.11, 938.15 and 938.16.

## II. Discussion of Proposed Amendment

On January 22, 1987 Pennsylvania submitted for OSMRE's approval an amendment to the State program which revises the Pennsylvania Surface Mining Conservation and Reclamation Act. The amendment consists of two specific legislative modifications as follows:

(1) Section 4.2(F)(II) of the State Act has been modified to clarify information needs concerning access to properties for purposes of coal refuse disposal, coal preparation plants and for underground mining activities. The amended language provides that in the case of permit applications for coal refuse disposal areas, coal preparation facilities not situated on a permit area and the surface activities of underground mines, the applicant shall submit a description of the documents upon which the applicant bases the right to enter upon the surface land and conduct mining activities. It further provides that the State regulatory authority shall have access to permitted areas for a period of five years after completion or abandonment of mining and reclamation activities.

(2) A new section 4.7 has been created to establish an Anthracite Deep Mine Operators' Bond Fund to provide loans to anthracite deep mine operators unable to obtain surety bond. Operators who use the fund to meet their bond obligations will be required to repay the loan through a fee of twenty-five cents for each ton of coal extracted from mining operations for which the required bond is covered by the loan. In addition, each operator must file with the regulatory authority one thousand dollars toward the bond obligation. The fees paid by an operator will continue until the operator's loan is paid off, at which time the money will be converted to a collateral bond.

The April 27, 1987 **Federal Register** announced receipt of the proposed amendments and invited public comment on their adequacy. The public comment period ended May 21, 1987. The public hearing scheduled for May 18, 1987, was not held since no one requested an opportunity to testify.

## III. Director's Findings

In accordance with SMCRA and 30 CFR 732.15 and 732.17, the Director finds that the program amendments submitted on January 22, 1987, meet the requirements of SMCRA and 30 CFR Chapter VII, with the exception that the amendments to establish a bond loan fund do not constitute a program amendment, as discussed below. Only those provisions of particular interest are discussed below. Any revisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal regulations.

1. Pennsylvania has amended section 4.2(F)(II) of the Pennsylvania Surface Mining Conservation and Reclamation Act to add language to provide that, rather than submitting signed landowner consent forms as previously required, a permit applicant shall submit a description of documents upon which the applicant bases the right to enter upon surface land and conduct mining activities, in the following cases: for coal refuse disposal areas; for coal preparation facilities which are not situated in a surface mining permit area; and for the surface activities of underground mines. The amendment language also provides that, during mining activities and for 5 years after completion of reclamation activities or abandonment of the mine, the Department of Environmental Resources (DER) shall have access to permit areas for purposes of complying with the Act. If the landowner fails to comply with an order issued under this provision he will be liable for legal expenses incurred by DER in enforcing the order.

The Director finds the amended provisions no less effective than the requirements in 30 CFR 778.15 on right-of-entry information. The Federal rules recognize that legal documents can establish the right-of-entry for mining purposes. The Federal rules require written consent of the landowner only on certain lands where extraction of coal takes place by surface mining methods and where the private mineral estate has been severed from the private surface estate. Since the Pennsylvania amendment is removing the requirements for landowner consent only from the provisions for mining activities which are not related to surface mining methods or where coal is not actually removed from the ground (coal refuse disposal and coal preparation plant areas) the Director finds that the rule is consistent with Federal requirements.

2. The Director finds that the amendment which establishes the Anthracite Deep Mine Operators Emergency Bond Fund does not constitute a program amendment requiring the Director's approval. Although the language of the amendment itself is unclear as to the relationship of the fund to the bonding requirements of the approved Pennsylvania program, a program guidance manual submitted by Pennsylvania clearly establishes that the fund is strictly a loan account. Program Guidance Manual Section II, Part 04, Subpart 05, effective date April 15, 1987, titled "Anthracite Deep Mine Emergency Bond Loan Program" explains that the program is a loan program provided on a first-come, first-served basis, funded by an initial deposit of $50,000 by Act 171 and increased by interest earned on the fund balance. The loan program does not alter the bonding requirements or the bond release and bond forfeiture requirements of the approved Pennsylvania program. It merely provides a no-interest loan, for purposes of bonding, to anthracite deep mine operators who are unable to obtain surety bonds. Therefore, approval of the Director is not required.

## IV. Public Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), comments were solicited from various Federal agencies. The State conservationist for the U.S. Department of Agriculture Soil Conservation Service in Harrisburg, Pennsylvania responded to the request. The commenter said that in reference to the amendment at section 4.2(F)(II), five years may be inadequate time to determine the success of reclamation. While the Director agrees that 5 years may sometimes be inadequate to determine the long-term effects of reclamation efforts, the time period stated in the Pennsylvania rules is consistent with the period for extended responsibility established in SMCRA section 515(b)(20).

One commenter responded to the request for public comments. The Pennsylvania State Grange submitted comments supporting the establishment of a loan fund for anthracite coal operators.

**V. Director's Decision**

Based on the above findings, the Director is approving the proposed amendments submitted by Pennsylvania on January 22, 1987, with the exception of the provisions concerning a bond loan program which do not require action by the Director. The Federal rules at 30 CFR Part 938 are being amended to implement this decision. The final rule is being made effective immediately to expedite the State program amendment process.

**VI. Procedural Matters**

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of Interior has determined that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Dated: July 7, 1987.

**James W. Workman,**

*Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.*

**List of Subjects in 30 CFR Part 938**

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

**PART 938—[AMENDED]**

1. The authority citation for Part 938 continues to read as follows:

**Authority:** Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 938.15 is amended by adding a new paragraph (n) as follows:

**§ 938.15 Approval of regulatory program amendments.**

* * * * *

(n) The following amendment to the Pennsylvania permanent regulatory program, as submitted to OSMRE on January 22, 1987, is approved effective July 14, 1987: Revisions to the Pennsylvania Surface Mining Conservation and Reclamation Act concerning right-of-entry requirements at section 4.2(F)(II).

[FR Doc. 87–15868 Filed 7–14–87; 8:45 am]
BILLING CODE 4310–05–M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### 31 CFR Part 1

### Disclosure of Records: Freedom of Information Act and Privacy Act

**AGENCY:** Department of the Treasury.

**ACTION:** Final Rule.

**SUMMARY:** The Department of the Treasury is amending and updating Part 1—Disclosure of Records. This Part, including its appendices, is being published in its entirety with the exception of § 1.36 which was published as a final rule on April 14, 1987, 52 FR 12003. These regulations incorporate the recent requirements of the Freedom of Information Reform Act of 1986 (Pub. L. 99–570), regarding requests for agency enforcement records. They also incorporate changes relating to the establishment of fees to be charged for search, review, and duplication of records in response to FOIA requests. Provisions for periodic reviews in compliance with OMB Circular A–130 regarding the Privacy Act have also been included.

**DATE:** Effective: August 13, 1987.

**FOR FURTHER INFORMATION CONTACT:** Phyllis De Piazza, Departmental Disclosure Officer, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, Telephone: (202) 566–2789.

**SUPPLEMENTARY INFORMATION:** This part includes provisions for processing FOIA requests involving records of submitters of business information. This is included in § 1.6, Business information. Fees for services, originally in § 1.6, has been renumbered § 1.7 and fee provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 99–570) have also been included in this section. Subpart B, previously entitled *Under other Provisions*, has been renamed *Other Disclosure Provisions* and renumbered. Subpart C, previously entitled *Records Pertaining to Individuals*, has been renamed *Privacy Act*. Section 1.23, has been revised to include subsection (d) which spells out the requirement that Treasury components perform periodic reviews of their compliance with the Privacy Act and be prepared to report to the Departmental Disclosure Branch upon request the results of these reviews. These include reviews of routine uses, exempt Privacy Act systems, ongoing matching programs, training practices, and system of records notices, all within the time frames stipulated.

This document includes numerous editorial changes, for example: Portions have been rewritten for clarity; organizational updates have been made to include address changes, changes in names of offices, and titles as a result of reorganizations; procedures for processing requests have been more specifically spelled out; and § 1.33 which referenced the Privacy Protection Study Commission has been omitted. The subsequent §§ 1.34, 1.35, and 1.36 have not been renumbered.

The Department of the Treasury published proposed amendments to Departmental Disclosure regulations on April 14, 1987, 52 FR 12003, which are intended to facilitate and simplify public requests for information, and to assure accurate and consistent application of policies and procedures throughout the Department. Also included in the proposed amendments were changes consistent with Office of Management and Budget (OMB) final guidance on fee schedules implementing certain provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 99–570). The final OMB guidance incorporated changes considered appropriate as a result of the public comments received.

The Department of the Treasury received comments from three organizations. One organization was particularly concerned with the short comment period. As stated herein, public comments had been received by OMB on major revisions of the FOIA Reform Act and were incorporated in OMB's final guidance where deemed appropriate. Although Departmental regulations were published in their

entirety, the major changes included the FOIA Reform Act and OMB's guidance. For this reason an extension of the comment period was deemed unnecessary. A sectional analysis of the comments is provided as follows.

**Section-by-Section Analysis**

*Section 1.2(c)(4)—Segregable Portions of Records.*

One commenter objected to the definition of "reasonably segregable portion". As used in this paragraph, it means any portion of a record which is not exempt from disclosure pursuant to 5 U.S.C. 552(b) and which after deletion of the exempt material still conveys meaningful and non-misleading information. The commenter stated that this definition is unfounded and inappropriate because agencies should not be in the business of evaluating the meaningfulness of segregated parts of documents. The commenter further stated that, in many cases where large portions of documents are exempt, any small piece of information may be of use to a requester. The requester should be the judge in determining whether information is useful or meaningful, not the agency. The same would apply to "misleading."

This definition was extracted from the Attorney General's 1974 FOI Amendments Memorandum, was originally included in Departmental regulations when first published in 1975, and has not been amended in this rule. When in doubt about whether segregable portions of documents would be meaningful, useful, or misleading, the Department releases the documents to the requester. In response to this comment, we have amended the language to more clearly reflect the Department's practice.

*Section 1.5(c)(1)*

One commenter stated that the Department of the Treasury has proposed an unnecessary step for determining a requester's eligibility under one of the specified categories, giving the Department an opportunity to delay indefinitely the processing of a request because the requester has not given enough information to be placed in a specific category. The commenter further stated that this result is clearly inconsistent with the intent of the Reform Act which was to simplify the process of obtaining fee waivers for groups and individuals entitled to them.

It is the Department's policy to immediately notify the requester of the need for clarification upon receipt of a FOIA request; therefore, there are no indefinite delays. In those circumstances where the category is unclear, the Department is obligated to obtain additional information to assure our compliance with the law.

Nevertheless, to assist requesters in receiving a prompt reply to requests, this section has been revised to include a requirement that requesters explain why they should be treated as non-commercial scientific institutions, news media, or educational institutions. They are also required to explain why they are not commercial use requesters so that the Department may fairly determine how and when fees will be assessed.

*Section 1.5(c)(1)(i) Commercial Use Request*

The commenters objected to the definition of commercial use. One commenter suggested that any definition of commercial use request should make it clear that, "Non-profit organizations, public interest groups, labor unions, libraries, and the news media are not commercial users." Another commenter suggested that the definition of "commercial use" specify that a request can be deemed commercial only where the information is sought "solely for a private, profit-making purpose."

The "commercial use" request issue was addressed in OMB's fee schedule and guidelines implementing certain provisions of the Reform Act. The Reform Act required OMB to issue guidelines containing a uniform schedule of FOIA fees that is applicable to all agencies. We agree with OMB that although the legislative history is in conflict on the precise meaning of a "commercial use" request, it seems clear that the Congress intended to distinguish between requesters whose use of the information would further business interests, as opposed to a use that in some way benefits the public. The amendment shifts some burden of paying for the FOIA to the requesters who will further their business interests and lessens it for those requesters whose use will benefit the public.

As opposed to the other fee categories created by the amendment, a "commercial use request" is not determined by the identity of the requester, but the use of the information. Because "use" is the exclusive determining factor, it is possible that a commercial entity can make a request that is not for a commercial use. It is also possible that a non-profit organization could make a request that is for a commercial use. Because use, not identity, controls, the Department believes that it would be contrary to the intent of the Reform Act to specify particular requesters as fitting or not fitting within this category. However, to assure that representatives of the news media will not be considered commercial users, we have revised the section relating to "representatives of the news media" to specifically state that, "A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use."

*Section 1.5 (c)(1)(ii) Educational Institution*

One commenter recommended that the definition of an educational institution be one that includes but is not limited to all entities recognized by the Internal Revenue Service as "organized and operated exclusively for * * * educational purposes" pursuant to 26 U.S.C. 501(c)(3). That statute merely provides that "Corporations, and any community chest, fund, or foundation organized and operated exclusively for * * * educational purposes * * *," qualify for exemption from taxation. This same issue was addressed in OMB's final publication. The Department of the Treasury agrees with OMB that it is not appropriate to tie eligibility for inclusion in the "educational institution" fee category to an IRS interpretation of the institution's eligibility for tax-exempt status. The IRS regulations interpreting this statutory provision are themselves too general to be useful in determining an institution's eligibility under the FOIA fee schedule. For this reason the Department of the Treasury is adopting OMB's definition of "educational institution," which was adapted from the Department of Education definition found in 20 U.S.C. 1681(c). This definition reads " 'educational institution' refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education and an institution of vocational education, which operates a program or programs of scholarly research."

The Department will evaluate requests on an individual basis when requesters can demonstrate that the request is from an institution that is within the category, that the institution has a program of scholarly research, and that the documents sought are in furtherance of the institution's program of scholarly research and not for a commercial use. Although it is unlikely that a preschool, elementary, or high school would be able to qualify as an "educational institution", since few preschools would conduct programs of

scholarly research, the Department of the Treasury will review the request to ensure that it is apparent from the nature of the request that it serves a scholarly research goal of the institution rather than an individual goal. The institutional versus individual test will apply to student requests. A student who makes a request in order to meet course requirements is carrying out individual research and the request would not qualify as scholarly research for the institution. (In this case, the student would have the opportunity to apply for a reduction or waiver of fees.)

*Section 1.5(c)(1)(iv) Representatives of the News Media*

The commenters expressed concern that the Department of the Treasury, following OMB's guildelines, proposes to define representatives of the news media as "any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public." According to the OMB guidelines the term "news" means information that is about current events or that would be of current interest to the public.

The Department of the Treasury agrees with OMB's guidelines that it is reasonable to give weight to the term "news" when developing the definition. Therefore, "news media" is limited to those persons or organizations who disseminate information that is current or would be of current interest.

*Section 1.5 (b)(2) Referral Policy*

The policy of referring unclassified documents to other agencies or components of the Department of the Treasury in which the documents originated has been further clarified in this section.

*Section 1.6 Business Information*

One commenter objected to the business notification procedures included in this section, stating that these provisions proposed by Congress have failed to gain Congressional approval in the past and would undermine mandatory disclosure obligations required by the FOIA Act. This commenter further argued that mandatory notice procedures to submitters of business information can lead to undue deference by the agencies to the concerns of business, requiring requesters to turn to the courts for impartial review. It is also feared that formal adoption of the procedure would prevent agencies from adhering to the 10-day time limit. Based upon agency experience, the Department of the Treasury does not agree with this recommendation. These procedures have been followed by the Department over the last several years based upon Department of Justice guidance. Requesters have been kept informed of the status of the request and undue delays have not been a problem. The Department is unaware of any requester initiating litigation in order to obtain an impartial review. In fact, giving submitters of business information the opportunity to make recommendations on the releasability of their submissions when there is a question of whether the business information can be released, results in more efficient processing of requests and a reduction in litigation.

*Section 1.7(d) Waiver or Reduction of Fees*

One commenter suggested that agencies should establish presumptions that certain categories of requesters (public interest organizations, scholars, and journalists) are entitled to fee waivers. The commenter submitted detailed arguments as to why agencies should reject the Department of Justice's guidance on fee waivers. Since these guidelines have not been included in the Department of the Treasury's proposed regulations and are not included in the final regulations at this time, no changes have been made to this section.

*Section 1.7(g)(2)(ii) Searches for Computerized Records*

One commenter argued that there is no basis in the FOIA Reform Act or its legislative history for construing the automatic waiver of fees for the first two hours of search time to mean something less than that for computer searches. The Department of the Treasury does not agree with this recommendation. It is clear that Congress intended that each agency develop regulations based on OMB's guidelines for a uniform schedule of fees. The Department of the Treasury's regulations are in conformance with OMB's guidelines on this section and are consistent with the requirements of the Reform Act.

The Department has determined that this document is not a major rule under E.O. 12291 since it has no significant economic effect upon the economy. This document is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 90-354). This document has been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980. (OMB Control Numbers 1505-0065, 1505-0066.)

**List of Subjects in 31 CFR Part 1**

Freedom of Information Act, Privacy Act.

Dated: July 7, 1987.

**John F.W. Rogers,**

*Assistant Secretary of the Treasury (Management).*

Part 1 is amended by revising the table of contents, authority citation, Subpart A, Subpart B and §§ 1.20–1.35 and Appendices A–L of Subpart C to read as follows: (Section 1.36 was amended on April 14, 1987 and appeared in that day's issuance of the **Federal Register.**)

## PART 1—DISCLOSURE OF RECORDS

### Subpart A—Freedom of Information Act

Sec.
1.1 General.
1.2 Information made available.
1.3 Publication in the Federal Register.
1.4 Public inspection and copying.
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Appendix A—Departmental Offices
Appendix B—Internal Revenue Service
Appendix C—United States Customs Service
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Appendix F—Bureau of Engraving and Printing
Appendix G—Financial Management Service
Appendix H—United States Mint
Appendix I—Bureau of the Public Debt
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Appendix K—United States Savings Bonds Division
Appendix L—Federal Law Enforcement Training Center
Appendix M—Office of the Assistant Secretary for Tax Policy

### Subpart B—Other Disclosure Provisions

1.8 Scope.
1.9 Records not to be otherwise withdrawn or disclosed.
1.10 Oral information.
1.11 Testimony or the production of records in a court or other proceeding.
1.12 Regulations not applicable to official request.

### Subpart C—Privacy Act

1.20 Purpose and scope of regulations.
1.21 Definitions.
1.22 Requirements relating to systems of records.
1.23 Publication in the Federal Register—Notices of systems of records, general exemptions, specific exemptions, review of all systems.
1.24 Disclosure of records to person other than the individual to whom they pertain.
1.25 Accounting of disclosures.
1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.
1.27 Procedures for amendment of records pertaining to individuals—format, agency review and appeal from initial adverse agency determination.

1.28 Training, rules of conduct, penalties for non-compliance.
1.29 Record transferred to Federal Records Center or National Archives of the United States.
1.30 Application to system of records maintained by Government contractors.
1.31 Sale or rental of mailing lists.
1.32 Use and disclosure of social security numbers.
1.34 Guardianship.
1.35 Information forms.
1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

Appendix A—Departmental Offices
Appendix B—Internal Revenue Service
Appendix C—United States Customs Service
Appendix D—United States Secret Service
Appendix E—Bureau of Alcohol, Tobacco and Firearms
Appendix F—Bureau of Engraving and Printing
Appendix G—Financial Management Service
Appendix H—United States Mint
Appendix I—Bureau of the Public Debt
Appendix J—Office of the Comptroller of the Currency
Appendix K—United States Savings Bonds Division
Appendix L—Federal Law Enforcement Training Center

**Authority:** 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

## Subpart A—Freedom of Information Act

### § 1.1 General.

(a) General. This subpart contains the regulations of the Department of the Treasury implementing the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. Information customarily furnished to the public in the regular course of the performance of official duties may continue to be furnished to the public without complying with this subpart, provided that the furnishing of such information would not violate the Privacy Act of 1974, 5 U.S.C. 552a, and would not be inconsistent with other subparts of this part. To the extent permitted by other laws, the Department will also consider making available records which it is permitted to withhold under the FOIA if it determines that such disclosures would be in the public interest.

(b) As used in this subpart, the following terms shall have the following meanings:

(1) "Appeal" means the appeal by a requester of an adverse determination of the request, as described in 5 U.S.C. 552(a)(6)(A)(ii).

(2) "Agency" has the meaning given in 5 U.S.C. 551(1) and 5 U.S.C. 552(e).

(3) "Component" means each separate bureau or office of the Department of the Treasury.

(4) "Request" means any request for records made pursuant to 5 U.S.C. 552(a)(3).

(5) "Requester" means any person who makes a request to a component.

(6) "Business information" means trade secrets or other commercial or financial information.

(7) "Business submitter" means any commercial entity which provides business information to the Department of the Treasury or its components and which has a proprietary interest in the information.

(c) Components of the Department of the Treasury shall comply with the time limits set forth in the FOIA for responding to and processing requests and appeals, unless there are exceptional circumstances within the meaning of 5 U.S.C. 552(a)(6)(C). A component shall notify a requester whenever the component is unable to respond to or process the request or appeal within the time limits established by the FOIA. Components shall respond to and process requests and appeals in their approximate order of receipt, to the extent consistent with sound administrative practice.

(d) Purpose and scope of regulations: These regulations apply to all components of the Department of the Treasury. Any reference in this subpart to the Department or its officials, employees, or records shall be deemed to refer also to the components or their officials, employees, or records. In order that interested parties may more readily find them, the components of the Department are hereby authorized to reprint these regulations in their entirety (less any appendices not applicable to the unit in question) in those titles of the Code of Federal Regulations which normally contain regulations applicable to each component. In connection with such republication, components may supplement and implement these regulations with materials applicable only to the component in question, provided such additional material is not inconsistent with this part. In the event of any actual or apparent inconsistency, these Departmental regulations should govern. Persons interested in the records of a particular component should, therefore, also consult the Code of Federal Regulations for any rules or regulations promulgated specifically with respect to that component. (See Appendices in this subpart for cross references.) The head of each component is hereby also authorized to substitute the officials designated and change the addresses specified in the appendix to this subpart applicable to the component. The components of the Department of the Treasury for the purposes of this part are:

(1) The Departmental Offices, which include the offices of: (i) The Secretary of the Treasury, including immediate staff;

(ii) The Deputy Secretary of the Treasury, including immediate staff;

(iii) The Under Secretary of the Treasury for Finance, including immediate staff;

(iv) The Fiscal Assistant Secretary, including immediate staff;

(v) The Assistant Secretary of the Treasury for Ecnomic Policy and all other offices reporting to such official, including immediate staff;

(vi) The General Counsel and also the Legal Division, except legal counsel to the components listed in paragraphs (d)(1)(ix) and (2) through (12) of this section;

(vii) The Assistant Secretary of the Treasury for International Affairs and all offices reporting to such official, including immediate staff;

(viii) The Treasuer of the United States, including immediate staff;

(ix) The Assistant Secretary of the Treasury for Tax policy, including immediate staff and all offices reporting to such official;

(x) The Assistant Secretary of the Treasury for Management, and all offices reporting to such official, including immediate staff.

(xi) The Assistant Secretary of the Treasury for Domestic Finance and all offices reporting to such official, including immediate staff;

(xii) The Assistant Secretary of the Treasury for Legislative Affairs, including immediate staff;

(xiii) The Assistant Secretary of the Treasury for Public Affairs and Public Liaison, including immediate staff;

(xiv) The Assistant Secretary of the Treasury for Enforcement and all offices reporting to such official, including immediate staff;

(xv) The Special Assistant to the Secretary (National Security), including immediate staff;

(xvi) The Inspector General and all offices reporting to such official, including immediate office.

(2) The Bureau of Alcohol, Tobacco and Firearms;

(3) The Office of the Comptroller of the Currency;

(4) The United States Customs Service;

(5) The Bureau of Engraving and Printing;

(6) The Federal Law Enforcement Training Center;

(7) The Financial Management Service;

(8) The Internal Revenue Service;

(9) The United States Mint;

(10) The Bureau of the Public Debt;

(11) The United States Savings Bonds Division;

(12) The United States Secret Service;

For purposes of this subpart, the office of legal counsel for the components listed in paragraphs (d), (2), (3), (4), (5), (7), (8), (9), (10), and (12) of this section are to be considered a part of their respective components. Any office, which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed above, shall be deemed a part of the Departmental Offices for the purpose of making requests for records under these regulations.

**§ 1.2 Information made available.**

(a) *General.* Section 552 of Title 5 of the United States Code provides for access to information and records developed or maintained by Federal agencies. Generally, this section divides agency information into three major categories and provides methods by which each category is to be made available to the public. The three major categories, for which the disclosure requirements of the components of the Department of the Treasury are set forth in this subpart, are as follows:

(1) Information required to be published in the **Federal Register** (see § 1.3 below);

(2) Information required to be made available for public inspection and copying or, in the alternative, to be published and offered for sale (see § 1.4 below); and

(3) Information required to be made available to any member of the public upon specific request (see § 1.5 below). The provisions of section 552 are intended to assure the right of the public to information.

(b) Subject only to the exemptions set forth in § 1.2(c), the public generally or any member of the public shall be afforded access to information or records in the possession of any component of the Department of the Treasury. Such access shall be governed by the regulations in this Subpart A and any regulations of a component implementing or supplementing them.

(c) *Exemptions*—(1) *In general.* Under 5 U.S.C. 552(b), the disclosure requirements of section 552(a) do not apply to certain matters which are:

(i)(A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of the national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order (See 31 CFR Part 2);

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute (other, than 5 U.S.C. 552(b)): Provided, that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings (see § 1.2(c)(2); (B) would deprive a person of a right to a fair trial or an impartial adjudication; (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy; (D) could reasonably be expected to disclose the identity of a confidential source including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source; (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or (F) could reasonably be expected to endanger the life or physical safety of any individual.

(viii) Contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2)(i) Whenever a request is made which involves access to records described in § 1.2(c)(1)(vii)(A), and—

(A) The investigation or proceeding involves a possible violation of criminal law; and

(B) There is a reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(ii) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the agency may treat the records as not subject to the requirements of this section unless the informant's status as an informant has been officially confirmed.

(iii) Whenever a request is made which involves access to records maintained by the Federal Bureau of Investigation pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in paragraph (b)(1) of this section, the Bureau may, as long as the existence of the records remains classified information, treat the records as not subject to the requirements of this section.

(3) The exemptions set forth in paragraph (c)(1) of this section apply to each of the three categories of information set forth in paragraph (a) of this section.

(4) *Segregable portions of records.* Portions of some records may be denied leaving the remaining reasonably segregable portions which must be released to the requester. These portions are released only when the meaning is not distorted by deletion of the denied portions and when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the deleted information. When a record is denied in whole, the response advising the requester of that determination shall specifically state that it is not reasonable to segregate portions of the record for release.

(5) *Application of exemptions.* Even though an exemption described in paragraph (c)(1) of this section may be fully applicable to a matter in a

particular case, a component of the Department of the Treasury may, if not precluded by law, elect under the circumstances of that case not to apply the exemption. The fact that the exemption is not applied by a component in that particular case will have no precedential significance in other cases, but is merely an indication that, in the particular case involved, the component finds no compelling necessity for applying the exemption.

**§ 1.3 Publication in the Federal Register.**

(a) *Requirement.* Subject to the application of the exemptions described in § 1.2(c) and subject to the limitations provided in paragraph (b) of this section, each component of the Department of the Treasury is required, in conformance with 5 U.S.C. 552(a)(1), to separately state, publish and maintain current in the **Federal Register** for the guidance of the public the following information with respect to that component:

(1) Descriptions of its central and field organization and the established places at which, the persons from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the component; and

(5) Each amendment, revision, or repeal of matters referred to in paragraphs (a)(1) through (4) of this section.

(b) *Limitations*—(1) *Incorporation by reference in the* **Federal Register.** Matter reasonably available to the class of persons affected thereby, whether in a private or public publication, will be deemed published in the **Federal Register** for purposes of paragraph (a) of this section when it is incorporated by reference therein with the approval of the Director of the Federal Register. The matter which is incorporated by reference must be set forth in the private or public participation substantially in its entirety and not merely summarized or printed as a synopsis. Matter, the location and scope of which are familiar to only a few persons having a special working knowledge of the activities of the Department of the Treasury, may not be incorporated in the **Federal Register** by reference. Matter may be incorporated by reference only pursuant to the provisions of 5 U.S.C. 552(a)(1) and 1 CFR Part 20.

(2) *Effect of failure to publish.* Except to the extent that a person has actual and timely notice of the terms of any matter referred to in paragrph (a) of this section which is required to be published in the **Federal Register**, such person is not required in any matter to resort to, or be adversely affected by, such matter if it is not so published or is not incorporated by reference therein pursuant to paragraph (b)(1) of this section. Thus, for example, any such matter which imposes an obligation and which is not so published or incorporated by reference will not adversely change or affect a person's rights.

**§ 1.4 Public inspection and copying.**

(a) *In general.* Subject to the application of the exemptions described in § 1.2(c), each component of the Department of the Treasury is required in conformance with 5 U.S.C. 552(a)(2), to make available for public inspection and copying, or, in the alternative, to promptly publish and offer for sale the following information with respect to the component:

(1) Final opinions, including concurring and dissenting opinions, and orders, if such opinions and orders are made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the component but are not published in the **Federal Register**; and

(3) Its administrative staff manuals and instructions to staff that affect a member of the public.

(b) *Indexes.* Each component of the Department of the Treasury is hereby also required in conformance with 5 U.S.C. 552(a)(2), to maintain and make available for public inspection and copying current indexes identifying any matter described in paragraphs (a)(1) through (3) of this section which is issued, adopted, or promulgated after July 4, 1967, and which is required to be made available for public inspection or published. In addition, each component shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplement unless the head of each component (or a delegate) determines by order published in the **Federal Register** that the publication would be unnecessary and impractical; in which case the component shall nonetheless provide copies of the index on request at a cost not to exceed the direct cost of duplication.

(c) *Effect of failure to publish or make available.* No matter, described in paragraphs (a)(1) through (3) of this section, which is required by this paragraph to be made available for public inspection or published, may be relied upon, used, or cited as precedent by the component against a party, other than an agency, unless that party has actual and timely notice of the terms of such matter or unless the matter has been indexed and either made available for inspection or published, as provided by this paragraph. This paragraph may be interpreted to apply only to matters which have precedential significance. It does not apply to matters which have been made available pursuant to § 1.3.

(d) *Deletion of identifying details.* To prevent a clearly unwarranted invasion of personal privacy, a component of the Department of the Treasury may, in accordance with 5 U.S.C. 552(a)(2), delete identifying details contained in any matter described in paragraphs (a)(1) through (3) of this section before making such matter available for inspection or publishing it. However, in every case where identifying details are so deleted, the exemption justifying the deletion will be identified in an attachment to the document from which the identifying details have been deleted.

(e) *Public reading rooms.* Each component of the Department of the Treasury shall make available for inspection and copying, in a reading room or otherwise, the matters described in paragraphs (a)(1) through (3) of this section which are required by such paragraph (a) to be made available for public inspection or published in the current indexes such matters. Facilities shall be provided whereby a person may inspect the material and obtain copies of that which is shelved. Fees shall not be charged for access to materials, but fees are to be charged in accordance with § 1.7 for copies of material provided to the person. (See the appendices to this subpart for the location of established reading rooms of components of the Department of the Treasury.)

**§ 1.5 Specific requests for other records.**

(a) *In general.* Except for records made available under §§ 1.3 and 1.4, above, but subject to the application of the exemptions described in § 1.2(c) above, each component of the Department of the Treasury shall promptly make the requested records available to any person in conformance with 5 U.S.C. 552(a) (3). The request must be for reasonably described

records and conform in every respect with the rules and procedures of this subpart A, particularly this section, § 1.7 and the applicable appendix to this subpart. Any request or any appeal from the initial denial of a request that does not comply with the foregoing requirements and those set forth elsewhere in subpart A will not be considered subject to the time constrains of paragraphs (g), (h), and (i) of this section, unless and until the request is amended to comply. Components shall promptly advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended for consideration in accordance with this subpart. When the request conforms with the requirements of this subpart, components shall make every reasonable effort to comply with the request within the time constraints. This subpart applies only to existing records in the possession or control of the component. There is no requirement that records be created or data processed in a format other than required for governmental purposes in order to comply with a request for records.

(b) *Requests for records not in control of component.* (1) When the record requested is in the possession or under the control of a component of the Department other than the office to whom the request is addressed, the request for the record shall immediately be transferred to the appropriate component and the requester notified to that effect. This referral shall not be considered a denial of access within the meaning of these regulations. The component of the Department to whom this referral is made shall treat this request as a new request addressed to it and the time limits for response set forth by paragraph (g)(1) of this section shall begin when the referral is received by the designated office or officer of the component. Where the request is for a record which is not in the possession or control of any component of the Department of the Treasury, the requester shall be so advised and the request shall be returned to the requester.

(2) When an unclassified record created by another agency or another Treasury component is in the possession of a component of the Department of the Treasury, and that record is requested under the FOIA, the responsible Treasury official shall refer the record to the agency or Treasury component originating the record for a direct response to the requester. The requester shall be informed of the referral. However, where it is determined that the record is exempt from disclosure under the provisions of the FOIA (5 U.S.C. 552) and will be withheld from disclosure, the referral need not be made. In such an instance, the component of the Department that maintains the records shall inform the requester of the applicable appeal rights and shall notify the agency or component that originated the record(s) of the request and the determination not to release the record(s). If there is any subsequent change in this initial determination, the documents shall be referred to the originating agency or component for response to the requester.

(3) When a classified record originated by another agency or another component of the Department is in the possession of a component of the Department of the Treasury, and a FOIA request for that record is received, the request shall be referred to the originating Department, agency, or component of the Department for a direct response. This is not a denial of a FOIA request; thus no appeal rights accrue to the requester.

(4) When a FOIA request is received for a record created by a component of the Department that includes information originated by another component of the Department or another agency, the record shall be referred to the originating agency or component of the Department for review, coordination, and concurrence. The Department component shall not release any records without prior consultation with the other component or agency.

(5) In certain instances and at the discretion of the Departmental Offices, requests having impact on two or more components of the Department shall be coordinated by the Departmental Offices.

(c) *Form of request.* In order to be subject to the provisions of this section, the following must be satisfied.

(1) The request for records shall be made in writing, signed by the person making the request, and state that it is made pursuant to the Freedom of Information Act, 5 U.S.C. 552, or these regulations. A request for records shall also state how the documents released will be used (See § 1.7(a)).

The Departmental components may determine from the use specified in the request that the requester is a commercial user. A commercial use request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. Moreover, where a component of the Department has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, components should seek additional clarification before assigning the request to a specific category.

(2) The request shall identify whether the requester is an educational institution, non-commercial scientific institution, or representative of the news media subject to the fee provisions described in § 1.7.

(i) These categories of requesters are defined as follows:

(A) *Educational institution.* This refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(B) *Non-commercial scientific institution.* This refers to an institution that is not operated on a "commercial" basis as that term is referenced in paragraph (c)(1)(i) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(C) *Representative of the news media.* This refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but components may also look to the past publication record of a requester in making this determination.

(3) The request must be addressed to the component that maintains the record. The request should be sent to the component at its proper address. Both the envelope and the request itself should be clearly marked "Freedom of Information Act Request," and addressed to the appropriate component. See the appendices to this subpart for the office or officer to which requests shall be addressed for each component. A requester in need of guidance in defining a request or determining the proper component to which a request should be sent may write to Disclosure Branch, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Requests for certain historical records must be directed to National Archives in accordance with its regulations;

(4) The request must reasonably describe the records in accordance with paragraph (d) of this section;

(5) The request must set forth the address where the person making the request wants to be notified about whether or not the request will be granted;

(6) The request must state whether the requester wishes to inspect the records or desires to have a copy made and furnished without first inspecting them; and

(7) The request must state the firm agreement of the requester to pay the fees for duplication, search, and/or review as may ultimately be determined in accordance with § 1.7, or request that such fees be reduced or waived and state the justification for such request (see § 1.7(d)). The requester shall be promptly advised of the estimate of fees due and asked to agree to pay this amount, when:

(i) The initial request does not state a firm agreement to pay fees, but instead places an upper limit on the amount the requester agrees to pay, and this upper limit exceeds the limitations in § 1.7(a) (for example, the first 100 pages of reproduction and the first two hours of search time are furnished without charge, etc.), and is likely to be lower than the fees ultimately estimated to be due; or

(ii) The request is determined to be for a commercial use; or

(iii) The requester asks for an estimate of the fees to be charged; or

(iv) When the estimated fee is below $250 but above the upper level set by the requester; or

(v) Whenever the estimate is above $250 whether or not an upper level is set.

Where the initial request includes a request for reduction or waiver of fees, the responsible official shall determine whether to grant the request for reduction or waiver in accordance with § 1.7(d) below and notify the requester of this decision. If the decision results in the requester being liable for all or part of the fees normally due, ask the requester to agree to pay the amount so determined. The requirements of this paragraph (c) will not be considered met until the requester has explicitly agreed to pay the fees applicable to the request for records, if any, or has made payment in advance of the fees estimated to be due, see § 1.7(f).

(d) *Reasonable description of records.* (1) The request for records must describe the records in reasonably sufficient detail to enable the Department of the Treasury employees who are familiar with the subject area of the request to locate the records without placing an unreasonable burden upon the component. Whenever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the record. In addition, if the request seeks records pertaining to pending litigation, the request should indicate the title of the case, the court in which the case was filed, and the nature of the case. If a component determines that the request does not reasonably describe the records sought, the requester shall be given an opportunity to refine the request. Such opportunity may, where desirable, involve a conference with knowledgeable Department of the Treasury personnel. The reasonable description requirement shall not be used by officers or employees of the Department of the Treasury as a device for improperly withholding records from the public.

(2) The Department of the Treasury will make every reasonable effort to comply fully with all requests for access to records subject only to any applicable exemption set forth in § 1.2(c). However, in any situation in which it is determined that a request for voluminous records would unduly burden and interfere with the operations of a component, the person making the request will be asked to be more specific and to narrow the request. In addition, the person making the request will also be asked to agree on an orderly procedure for producing the requested records in order to satisfy the request without adversely affecting agency operations.

(e) *Date of receipt of request.* A request for records shall be considered to have been received for purposes of this subpart on the later of the dates on which:

(1) The requirements of paragraph (c) of this-section have been satisfied, and, where applicable,

(2) The requester has agreed in writing, to pay the fees for search, duplication, and review determined due in accordance with § 1.7, or

(3) The fees have been waived in accordance with § 1.7(d), or

(4) Payment in advance has been received from the requester, when required in accordance with § 1.7(f).

Requests for records, including prepayment, shall be promptly stamped with the date of receipt by the office prescribed in the appropriate appendix. A final notification of waiver of fees will be stamped with the date of transmittal by the appropriate office. For purposes of this subpart, the date of receipt of the request is the lastest of these stamped dates. As soon as the date of receipt has been established, the requester shall be so informed. At this time the requester will also be advised when to expect a response within the time limits specified in paragraph (g)(1) of this section, unless extended as provided in paragraph (i)(1) of this section.

(f) *Search for record requested.* When a request is received, Department of the Treasury employees will search to identify and locate the requested records. Where a request includes documents stored at the Federal Records Center, the Department will make reasonable efforts to comply with the time constraints of the Act; however, delays in processing these requests are common and will usually require additional time. Searches for records maintained in computerized form include services functionally analogous to searches for records which are maintained in a conventional form. A component of the Department of the Treasury is not required under 5 U.S.C. 552 to tabulate or compile information for the purpose of creating a record.

(g) *Initial determination*—(1) *In general.* The officers designated in the appendices to this part will make initial determinations either to grant or to deny in whole or in part requests for records. These determinations will be made within 10 days excepting Saturdays, Sundays, and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (e) of this section, unless the designated officer invokes an extension pursuant to paragraph (i)(1) of this section or the requester otherwise agrees to an extension of the 10-day time limitation. The requester will be notified immediately of this determination.

(2) *Granting of request.* If the request is granted, and if the person making the request wants a copy of the requested records, a copy of these records shall be mailed to the requester by the component together with a statement of the fees for search and duplication, either at the time of the determination or shortly thereafter. In certain unusual circumstances, the Department may elect to coordinate the request involving two or more components; in such a case only one reply will be prepared. In the case of a request for inspection, the requester shall be notified in writing of the determination, when and where the requested records may be inspected, and of the fees involved in complying with the request. The records shall then promptly be made available for inspection at the time and place stated in a manner that will not interfere with their use by the Department of the Treasury and will not exclude other persons from making inspections. In addition, reasonable limitations may be placed on the number of records which may be inspected by a person on any given date. The procedure for inspection shall not unreasonably disrupt the operations of the component. The person making the request will not be allowed to remove the records from the room where inspection is made. If, after making inspection, the person making the request desires copies of all or a portion of the requested records, copies will be furnished upon payment of the established fees prescribed by § 1.7. Fees may be charged for search time as stated in § 1.7, and for copies made available for inspection.

(3) *Denial of request.* If it is determined that the request for records should be denied (whether in whole or in part or subject to conditions or exceptions), the person making the request will be so notified by mail. The letter of notification shall specify the city or other location where the requested records are situated (if known), contain a statement of the applicable exemptions relied on in not granting the request, set forth the name and title or position of the responsible official, advise the person making the request of the right to administrative appeal in accordance with paragraph (h) of this section, and specify the official or office to which such appeal shall be submitted. Fees may be charged for search time as prescribed in § 1.7, even if the time spent searching does not yield any records, or if records are denied.

(4) *Inability to locate records within time limits.* Where the records requested cannot be located and evaluated within the initial 10-day period or any extension of that period as specified in paragraph (i)(1) of this section, the search for the records shall continue. The requester shall be notified of this delay and asked to agree to a voluntary extension of time in which to locate the records. Agreeing to this voluntary extension of time will not be considered a waiver of the requester's right to appeal in the event of the Department's failure to comply with the time extension granted. The requester shall be advised that this notification may be considered a denial of access within the meaning of paragraph (g)(3) of this section, and be provided with the address to which an administrative appeal may be addressed.

(h) *Administrative appeal.* (1) When a request for access to records has been denied in whole or in part, or when there has been an adverse determination of the requester's category as described in § 1.5(c)(1) and provided in § 1.7(d)(4), the requester may appeal the denial at any time within 35 days of receipt of a notice denying the request or the date of the letter transmitting the last records released, whichever is later. The requester may also appeal when a component fails to respond to a request within the time limits set forth in the FOIA. The administrative appeal may be submitted to the official specified in the appropriate appendix to this subpart whose title and address should also have been included in the initial determination to deny access to the records. An appeal that is improperly addressed will be considered not to have been received by the Department until the office specified in the appropriate appendix receives the appeal. The appeal shall—

(i) Be made in writing and signed by the requester;

(ii) Be addressed to and mailed or hand delivered, within 35 days of the date of the initial determination, to the office or officer specified in the appropriate appendix to this subpart and also in the initial determination. (See the appendices to this subpart for the address to which appeals made by mail should be addressed.);

(iii) Reasonably describe, in accordance with paragraph (d) of this section, the records requested from the denial of access to which an appeal is being taken;

(iv) Set forth the address where the requester desires to be notified of the determination on appeal;

(v) Specify the date of the initial request and date of the letter denying the initial request; and

(vi) Petition such official to grant the request for records and state any supporting arguments.

(2) Appeals shall be promptly stamped with the date of their receipt by the office to which addressed. This stamped date will be considered to be the date of receipt for all purposes of this subpart. The receipt of the appeal shall be acknowledged by the responsible official and the requester advised of the date the appeal was received and the expected date of response. The determination to affirm the initial denial (in whole or in part) or to grant the request for records shall be made and notification of the determination mailed within 20 days (exclusive of Saturdays, Sundays, and legal public holidays) after the date of receipt of the appeal, unless extended pursuant to paragraph (i)(1) of this section. If it is determined that the appeal from the initial denial is to be denied (in whole or in part)—

(i) The requester shall be notified in writing of the denial;

(ii) The reasons for the denial, including the FOIA exemptions relied upon;

(iii) The name and title or position of the official responsible for the denial on appeal;

(iv) A statement that judicial review of the denial is available in the United States District Court for the judicial district in which the requester resides or has a principal place of business, the judicial district in which the requested records are located, or the District of Columbia in accordance with 5 U.S.C. 552(a)(4)(B).

If the denial of the request is reversed on appeal, the requester shall be so notified and the request shall be processed promptly in accordance with the decision on appeal.

(3) If a determination cannot be made within the 20-day period (or any extension pursuant to paragraph (i)(1) of this section) the requester shall be promptly notified in writing that the determination will be made as soon as practicable but that the requester is nonetheless entitled to commence an action in a district court as provided in paragraph (k) of this section. However, the requester may also be invited, in the alternative, to agree to a voluntary extension of the 20 day appeal period. This voluntary extension shall not constitute a waiver of the right of the requester ultimately to commence an action in a United States district court.

(i) *Time extensions*—(1) *10-day extension.* In unusual circumstances, the time limitations specified in paragraphs (g) and (h) of this section may be extended by written notice from the

official charged with the duty of making the determination to the person making the request or appeal setting forth the reasons for this extension and the date on which the determination is expected to be sent. Any extension or extensions of time shall not cumulatively total more than 10 additional working days. (For example, if an extension pursuant to this subparagraph is invoked in connection with an initial determination, any unused days of the extension period may be invoked in connection with the determination on administrative appeal by written notice from the official who is to make the appellate determination. If no extension is sought for the initial determination, an extension of 10 days may be added to the ordinary 20-day period for appellate review.) As used in this paragraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request, the following:

(i) The need to search for and collect the requested records from field facilities or other establishments in buildings other than the building in which the office of the official to whom the request is made is located;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request, or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components within the Department of Treasury or within a component (other than the legal staff or the component concerned with public affairs) having substantial subject-matter interest. Consultations with personnel of the Department of Justice concerned with requests for records under 5 U.S.C. 552 do not constitute a basis for an extension under this subdivision.

(2) *Extension by judicial review.* If a component of the Department of the Treasury fails to comply with the time limitations specified in paragraph (g) or (h) of this section and the person making the request initiates a suit in accordance with paragraph (k) of this section, the court in which the suit was initiated may retain jurisdiction and allow the component additional time to review its records, provided that the component demonstrates the existence of exceptional circumstances and the exercise of due diligence in responding to the request.

(j) *Failure to comply.* If a component of the Department of the Treasury fails to comply with the time specified in paragraph (g), (h), or (i) of this section, any person making a request for records shall be considered to have exhausted adminsitrative remedies with respect to the request. Accordingly, the person making the request may initiate suit as set forth in paragraph (k) of this section.

(k) *Judicial review.* If a request for records is denied upon appeal pursuant to paragraph (h) of this section, or if no determination is made within the 10-day or 20-day periods specified in paragraphs (g) and (h) of this section, respectively, together with any extension pursuant to paragraph (i)(1) of this section or by agreement of the requester, the person making the request may commence an action in a United States district court in the district in which he resides, in which his principal place of business is located, in which the records are situated, or in the District of Columbia, pursuant to 5 U.S.C. 552 (a)(4). Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Delivery of process shall be directed to the official specified in the appropriate appendix to this subpart as the official to receive such process.

(l) *Preservation of Records.* Each component shall preserve all correspondence relating to the requests it receives under this subpart, and all records processed pursuant to such requests, until such time as the destruction of such correspondence and records is authorized pursuant to Title 44 of the United States Code. Under no circumstances shall records be destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

(m) *Processing of requests that are not properly addressed.* A request that is not properly addressed as specified in the appropriate appendix to this subpart shall be forwarded to the Departmental Disclosure Office, who will forward the request to the appropriate component or components for processing. A request not addressed to the appropriate component will be considered not to have been received for purposes of paragraph (e) of this section until the request has been received by the appropriate component. A component receiving an improperly addressed request forwarded by the FOIA/PA Section shall notify the requester of the date on which it received the request.

**§ 1.6 Business information.**

(a) *In General.* Business information provided to the Department of the Treasury by a business submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Notice to business submitters.* A component shall provide a business submitter with prompt written notice of a receipt of a request encompassing its business information whenever required in accordance with paragraph (c) of this section, and except as is provided in paragraph (g) of this section. Such written notice shall either describe the exact nature of the business information requested or provide copies of the records or portions of records containing the business information.

(c) *When notice is required.* (1) For business information submitted to the Department prior to July 14, 1987, the component shall provide a business submitter with notice of receipt of a request whenever:

(i) The information is less than ten years old;

(ii) The information is subject to prior express commitment of confidentiality given by the component to the business submitter, or

(iii) The component has reason to believe that disclosure of the information may result in commercial or financial injury to the business submitter.

(2) For business information submitted to the Department on or after July 14, 1987, the component shall provide a business submitter with notice of receipt of a request whenever:

(i) The business submitter has in good faith designated the information as commercially or financially sensitive information, or

(ii) The component has reason to believe that disclosure of the information may result in commercial or financial injury to the business submitter.

(3) Notice of a request for business information falling within paragraph (c)(1) of this section shall be required for a period of not more than ten years after the date of submission unless the business submitter requests, and provides acceptable justification for, a specific notice period of greater duration.

(4) Whenever possible, the submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the company that the information in question is in fact confidential commercial or financial information and has not been disclosed to the public.

(d) *Opportunity to object to disclosure.* Through the notice described in paragraph (b) of this section, a component shall afford a business submitter ten working days within

which to provide the component with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

When notice is given to a submitter under this section, the requester will be advised that such notice has been given to the submitter. The requester will be further advised that a delay in responding to the request may be considered a denial of access to records and that the requester may proceed with an administrative appeal or seek judicial review, if appropriate. However, the requester will be invited to agree to a voluntary extension of time so that the component may review the business submitter's objection to disclosure.

(e) *Notice of intent to disclose.* A component shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a component decides to disclose business information over the objection of a business submitter, the component shall forward to the business submitter a written notice which shall include:

(1) Statement of the reasons for which the business submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which is ten working days after the notice of the final decision to release the requested information has been mailed to the submitter. A copy of the disclosure notice shall be forwarded to the requester at the same time.

(f) *Notice of FOIA lawsuit.* Wherever a requester brings suit seeking to compel disclosure of business information covered by paragraph (c) of this section, the component shall promptly notify the business submitter.

(g) *Exception to notice requirement.* The notice requirements of this section shall not apply if:

(1) The component determines that the information shall not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public.

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The information was acquired in the course of a lawful investigation of a possible violation of criminal law.

**§ 1.7 Fees for services.**

(a) *In general.* (1) This fee schedule is applicable uniformly to all components of the Department of the Treasury and supersedes fee schedules published by any component of the Department. Specific levels of fees are prescribed for each of the following categories of requesters. (Requesters are required to identify what category they belong to in their initial request in accordance with § 1.5(c)).

(i) *Commercial use requesters.* These requesters are assessed charges which recover the full direct costs of searching, reviewing, and duplicating the records sought. Commercial use requesters are entitled to neither two hours of free search time nor 100 free pages of reproduction of documents. Moreover, when a request is received for disclosure that is primarily in the commercial interest of the requester, the Department is not required to consider a request for a waiver or reduction of fees based upon the assertion that disclosure would be in the public interest. The Department may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records. Requesters must reasonably describe the records sought.

(ii) *Educational and Non-commercial Scientific Institution Requesters.* Documents shall be provided to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible, requesters must show that the request is made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. Requesters eligible for free search must reasonably describe the records sought.

(iii) *Requesters who are Representatives of the News Media.* Documents shall be provided to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. Requesters eligible for free search must reasonably describe the records sought.

(iv) *All Other Requesters.* Requesters who do not fit any of the categories described in this subsection shall be charged fees that will recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. The Department may recover the cost of searching for records even if there is ultimately no disclosure of records. Requests from record subjects for records about themselves filed in the Department's systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requesters must reasonably describe the records sought.

(2) *Definition of search, duplication, and review.* The search, duplication, and review services for which fees shall be charged in accordance with the category of requester are defined as follows:

(i) *Search.* The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(ii) *Duplication.* The term "duplication" refers to the process of making a copy of a document in order to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (*e.g.*, magnetic tape or disk), among others.

(iii) *Review.* The term "review" refers to the process of examining documents located in response to a commercial use request to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release.

(3) *Aggregating requests.* When the Department or a component of the Department reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency shall aggregate any such requests and charge accordingly.

(4) *Publications available for sale through the Government Printing Office.* While certain publications which are available for sale through the Government Printing Office may be placed on the shelves of the reading rooms and similar public inspection facilities, such publications will not be available for sale there. Persons desiring to purchase such publications should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. However, copies of pages of such publications may be obtained at those facilities in accordance with the schedule of fees set forth in paragraph (g) of this section.

(b) *When fees are charged.* (1) No fee will be charged for monitoring a requester's inspection of records.

(2) Fees shall be charged in accordance with the schedule contained in paragraph (g) of this section for serivces rendered in responding to requests for records, unless any one of the following applies:

(i) Services were performed without charge;

(ii) The cost of collecting a fee would be equal to or greater than the fee itself; or,

(iii) The fees were waived or reduced in accordance with paragraphs (c) or (d) of this section.

(c) *Services performed without charge.* The heads of components of their delegates are authorized to determine, under the rulemaking procedures of 5 U.S.C. 553, which classes of records under their control may be provided to the public without charge, or at a reduced charge.

(d) *Waiver or reduction of fees.* (1) Fees may be waived or reduced on a case by case basis in accordance with this paragraph by the official who determines the availability of the records, provided such waiver or reduction has been requested in writing. Fees shall be waived or reduced by this official when it is determined, based upon the submission of the requester, that a waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(2) Normally no charge shall be made for providing records to Federal, state or foreign governments, international governmental organizations, or local governmental agencies or offices.

(3) Appeals from denials of requests for waiver or reduction of fees shall be decided in accordance with the criteria set forth in paragraph (d)(1) of this section by the official authorized to decide appeals from denials of access to records. Appeals shall be addressed in writing to such official within 35 days of the denial of the initial request for waiver or reduction and shall be decided promptly.

(4) Appeals from an adverse determination of the requester's category as described in § 1.5(c)(1) and provided in § 1.5(h)(1) shall be decided by the official authorized to decide appeals from denials of access to records and shall be based upon a review of the requester's submission and the component's own records. Appeals shall be addressed in writing to such official within 35 days of the component's determination of the requester's category and shall be decided promptly.

(e) *Avoidance of unexpected fees.* In order to protect the requester from unexpected fees, all requests for records shall state the agreement of the requester to pay the fees determined in accordance with paragraph (g) of this section and qualified by the limitations in paragraph (a) of this section or state the amount which the requester has set as an acceptable upper limit he or she is willing to pay to cover the costs of processing the request.

(1) When the fees for processing the request are estimated by the component of the Department of the Treasury to exceed the limit set by the requester, and that amount is less than $250, the requester shall be notified of the estimated costs. In addition, the requester shall also be given an opportunity to reformulate the request in an attempt to reduce fees and still provide the requester with the documents sought.

(2) When the requester has failed to state a limit and the costs are estimated to exceed $250.00 and the relevant component has not then determined to waive or reduce the fees, a notice shall be sent to the requester. This notice shall:

(i) Inform the requester of the estimated costs;

(ii) Extend an offer to the requester to confer with personnel of the relevant component of the Department of the Treasury in an attempt to reformulate the request in a manner which will reduce the fees and still meet the needs of the requester.

(3) When the Department or a component of the Department acts under paragraphs (e)(1) or (2) of this section, the administrative time limits of 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial plus extensions of these time limits will begin only after fees have been paid or a request reformulated.

(f) *Form of payment.* (1) Payment shall be made by check or money order payable to the order of the Treasury of the United States or that relevant component of the Department of the Treasury.

(2) The Department of the Treasury reserves the right to request prepayment after a request is processed and before documents are released.

(3) When costs are estimated or determined to exceed $250, the Department shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees or require a requester to make an advance payment of the entire fee before continuing to process the request in the case of requesters with no history of payment.

(4) If a requester has previously failed to pay a fee in a timely fashion (*i.e.* within 30 days of the date of the billing), the requester shall be required to pay the full amount owed plus any applicable interest (31 U.S.C. 3717), and to make an advance payment of the full amount of the estimated fee before the Department begins to process a new request or the pending request. Whenever interest is charged, the Department shall begin assessing interest on the 31st day following the day on which billing was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717. In addition, the Department will take all steps authorized by the Debt Collection Act of 1982, including administrative offset pursuant to 31 CFR Part 4, disclosure to consumer reporting agencies and use of collection agencies, to encourage repayment.

(g) *Amounts to be charged for specified services.* The fees for services performed by the relevant component of the Department of the Treasury shall be imposed and collected as set forth in this paragraph. Should services other than those described be requested and rendered, appropriate fees shall be established by the head of the relevant component of the Department, or a delegate, and such fees shall be imposed and collected, but subject to the constraints imposed by 5 U.S.C. 552(a)(4)(A).

(1) *Copying records.* All requesters, except commercial requesters, will receive the first 100 pages duplicated without charge. Absent a determination to waive fees, a component shall charge requesters as follows:

(i) $.15 per copy of each page, up to 8½×14", made by photocopy or similar process.

(ii) Photographs, films, and other materials—actual cost of reproduction.

(iii) Other types of duplication services not mentioned above—actual cost.

(iv) Records may be released to a private contractor for copying and the requester will be charged the actual cost of duplication charged by the private contractor.

(2) *Search services.* Educational and non-commercial scientific requesters and members of the news media shall not be charged for any search time. Other requesters, who are not commercial requesters, shall not be charged for the first two hours of search time. Components shall charge for

search services consistent with the following:

(i) *Searches other than for computerized records.* The Department shall charge for records at the salary rate(s) (*i.e.* basic pay plus 16 percent) of the employee(s) making the search. However, where a single class of personnel is used exclusively (*e.g.*, all administrative/clerical, or all professional/executive), an average rate for the range of grades typically involved may be established. This charge shall include transportation of personnel and records necessary to the search at actual cost.

(ii) *Searches for computerized records.* Actual direct cost of the search, including computer search time, runs, and the operator's salary. The fee for computer printouts will be actual costs.

(3) *Review of records.* The Department shall charge commercial use requesters for review of records at the initial administration level at the salary rate(s) (i.e. basic pay plus 16 percent) of the employee(s) making the review. However, when a single class of personnel is used exclusively (*e.g.*, all administrative/clerical, or all professional/executive), components may establish an average rate for the range of grades typically involved.

(4) *Inspection of documents.* Fees for all services provided will be charged whenever a component must make copies available to the requester for inspection.

(5) *Other services.* Other services and materials requested which are not covered by this part nor required by the FOIA are chargeable at the actual cost to the Department. This includes, but is not limited to:

(i) Certifying that records are true copies;

(ii) Sending records by special methods such as express mail, etc.

**Appendix A—Departmental Offices**

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR 1.1(d)(1). It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process.

2. *Public reading room.* The public reading room for the Departmental Offices is maintained at the following location:

Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Departmental Offices will be made by the head of the organizational unit having immediate custody of the records requested or the delegate of such official. Requests for records should be addressed to: Freedom of Information Request, D.O., Chief, Disclosure Branch, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Requests may be delivered in person to the Main Treasury Building, Room 5030, 1500 Pennsylvania Avenue NW., Washington, DC.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the Departmental Offices will be made by the Secretary, Deputy Secretary, Under Secretary, General Counsel, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records requested, or the delegate of such officer. Appeals made by mail should be addressed to: Freedom on Information Appeal, D.O., Chief, Disclosure Branch, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Appeals may be delivered personally to the Main Treasury Building, Room 5030, 1500 Pennsylvania Avenue NW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such officer and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington. DC 20220.

**Appendix B—Internal Revenue Sevice**

1. *In general.* This appendix applies to Internal Revenue Service. It identifies the location of the public reading room at which the following documents of the Internal Revenue Service are available for public inspection and compying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register** administrative staff manuals and instructions to staff that affect a member of the public. In adition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued with respect to the Internal Revenue Service, see 26 CFR 601.701 and 601.702.

2. *Public reading room.* The public reading room for the Internal Revenue Service is maintained at the following location: Room 1569, 1111 Constitution Avenue NW., Washington DC.

Mailing address: Internal Revenue Service, P.O. Box 338, Ben Franklin Station, Washington, DC 20044.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Internal Revenue Service will be made by those officials specified in 26 CFR 601.702.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the Internal Revenue Service will be made by the Commissioner of Internal Revenue or the delegate of such officer. Appeals made by mail should be addressed to:

Freedom of Information Appeal, Commissioner of Internal Revenue Service, c/o Ben Franklin Station, P.O. Box 929, Washington, D.C. 20044.

Appeals may be delivered personally to the Director of the Disclosure Litigation Division, Office of the Chief Counsel, Internal Revenue Building, 1111

Constitution Avenue NW., Washington, D.C.

5. *Delivery of process.* Service of process will be received by the Commissioner of Internal Revenue at the following address:

Commissioner, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. Attention: CC:A:OS.

**Appendix C—United States Customs Service**

1. *In general.* This appendix applies to the United States Customs Service. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: a description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the United States Customs Service, see 19 CFR Part 103.

2. *Public reading rooms.* Public reading rooms for the United States Customs Service are maintained at the following locations:

*Headquarters*

United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

*Regions*

Northeast: 100 Summer Street, Boston, MA 02110.
New York: 6 World Trade Center, New York, NY 10048.
Southeast: 99 Southeast 5th Street, Miami, FL 33131.
South Central: 423 Canal Street, New Orleans, LA 70130.
Southwest: 5850 San Felipe Street, Houston, TX 77057.
Pacific: 300 North Los Angeles Street, Los Angeles, CA 90012.
North Central: 55 East Monroe Street, Chicago, IL 60603.

3. *Requests for records*—(a) *Headquarters.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records will be made by the appropriate Division Director at Customs Service Headquarters having custody of or functional jurisdiction over the subject matter of the requested records. If the request relates to records maintained in an office which is not within a division, the initial determination shall be made by the individual designated for that purpose by the Assistant Commissioner or Comptroller, having responsibility for that office. Requests may be mailed or delivered in peson to: Freedom of Information Act Request, Chief, Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

(b) *Regional Offices.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records will be made by the Regional Commissioner of Customs in whose region the records are maintained. Requests may be mailed or delivered personally to the respective Regional Commissioner at the following regional locations:

Northeast: 100 Summer Street, Boston, MA 02110.
New York: 6 World Trade Center, New York, NY 10048.
Southeast: 99 Southeast 5th Street, Miami, FL 33131.
South Central: 423 Canal Street, New Orleans, LA 70130.
Southwest: 5850 San Felipe Street, Houston, TX 77057.
Pacific: 300 North Los Angeles Street, Los Angeles, CA 90012.
North Central: 55 East Monroe Street, Chicago, IL 60603.

Any substantive denial of an initial request for information under 31 CFR 1.5(g) will be made by the appropriate Division Director at Customs Service Headquarters having custody of or functional jurisdiction over the subject matter of the requested records. If the request relates to records maintained in an office which is not within a division, the initial determination shall be made by the individual designated for that purpose by the Assistant Commissioner or Comptroller having responsibility for that office.

(c) All such requests should be conspicuously labeled on the face of the envelope, "Freedom of Information Act Request" or "FOIA Request".

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) will be made by the Commissioner of Customs, and all such appeals should be mailed or personally delivered to the United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

5. *Delivery of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

**Appendix D—United States Secret Service**

1. *In general.* This appendix applies to the United States Secret Service. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the United States Secret Service, see 31 CFR Parts 401 through 408.

2. *Public reading room.* The United States Secret Service will provide a room on an ad hoc basis when necessary. Contact the Disclosure Officer, Room 720, 1800 G Street NW., Washington, DC 20223 to make appointments.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the United States Secret Service will be made by the Freedom of Information and Privacy Acts Officer, United States Secret Service. Requests may be mailed or delivered in person to: Freedom of Information Act Request, FOI and Privacy Acts Officer, U.S. Secret

Service, Room 720, 1800 G Street, NW., Washington, DC 20223.

4. Administrative appeal of initial determinations under 31 CFR 1.5(h) with respect to records of the United States Secret Service will be made by the Deputy Director, United States Secret Service. Appeals should be addressed to: Freedom of Information Appeal, Deputy Director, United States Secret Service, Room 941, 1800 G Street, NW., Washington, DC 20223.

5. *Delivery of Process.* Service of process will be received by the United States Secret Service Chief Counsel at the following address: Chief Counsel, United States Secret Service, 1800 G Street NW., Room 842, Washington, DC 20223.

**Appendix E—Bureau of Alcohol, Tobacco, and Firearms**

1. *In general.* This appendix applies to the Bureau of Alcohol, Tobacco, and Firearms. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the Bureau of Alcohol, Tobacco, and Firearms, see 27 CFR Part 71.

2. *Public reading room.* The Bureau of Alcohol, Tobacco, and Firearms will make materials available for review on an ad hoc basis when necessary. Contact the Chief, Disclosure Branch, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Bureau of Alcohol, Tobacco, and Firearms will be made by the Chief, Disclosure Branch, Office of Assistant Director (Congressional and Media Affairs) or the delegate of such officer. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Chief, Disclosure Branch, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, NW., Room 4406, Washington, DC 20226.

4. *Administrative appeal of initial determination to deny records.* Appellate determination under 31 CFR 1.5(h) with respect to records of the Bureau of Alcohol, Tobacco, and Firearms will be made by the Director of the Bureau of Alcohol, Tobacco, and Firearms or the delegate of such officer.

Appeals may be mailed or delivered in person to: Freedom of Information Appeal, Director, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

5. *Delivery of process.* Service of process will be received by the Director of the Bureau of Alcohol, Tobacco, and Firearms at the following location: Director, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226, Attention: Chief Counsel.

**Appendix F—Bureau of Engraving and Printing**

1. *In general.* This appendix applies to the Bureau of Engraving and Printing. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process.

2. *Public reading room.* No room has been set aside for this purpose. The Bureau of Engraving and Printing will make materials available for review on an ad hoc basis when necessary. Contact the Disclosure Officer, 14th and C Street, SW., Washington, DC 20228, to make an appointment.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Bureau of Engraving and Printing will be made by the Executive Assistant to the Director. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Disclosure Officer, (Executive Assistant to the Director), Room 104–18M, Bureau of Engraving and Printing, Washington, DC 20228.

4. Administrative appeal of initial determination under 31 CFR 1.5(h) with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau of Engraving and Printing or the delegate of the Director. Appeals may be mailed or delivered in person to: Freedom of Information Appeal, Director, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 118–M, Washington, DC 20228.

5. *Delivery of process.* Service of process will be received by the Chief Counsel or the delegate of such officer at the following location: Chief Counsel, Bureau of Engraving and Printing, 14th and C Streets, SW., Room 109–M, Washington, DC 20228.

**Appendix G—Financial Management Service**

1. *In general.* This appendix applies to the Financial Management Service. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers

designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to Financial Management Service, see 31 CFR Part 270.

2. *Public reading room.* The public reading room for the Financial Management Service is maintained at the following location: Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) whether to grant requests for records will be made by the Disclosure Officer, Financial Management Service. Requests may be mailed or delivered in person to: Freedom of Information Request, Disclosure Officer, Financial Management Service, Room 108, Treasury Department, Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

4. Administrative appeal of initial determination to deny records. Appellate determinations under 31 CFR 1.5(h) will be made by the Commissioner, Financial Management Service. Appeals may be mailed to: Freedom of Information Appeal (FOIA), Commissioner, Financial Management Service, Department of the Treasury, Annex No. 1, Washington, DC 20226.

Appeals may be delivered personally to the Office of the Commissioner, Financial Management Service, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Commissioner, Financial Management Service, and shall be delivered to: Commissioner, Financial Management Service, Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

**Appendix H—United States Mint**

1. *In general.* This appendix applies to the United States Mint. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the United States Mint, see 31 CFR Part 92.

2. *Public reading room.* No room has been set aside for this purpose. The U.S. Mint will provide a room on an ad hoc basis when necessary. Contact the Disclosure Officer, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the United States Mint will be made by the Associate Director for Policy and Management, United States Mint. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Chief, Administrative Programs Division, United States Mint, Department of the Treasury, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the United States Mint will be made by the Director of the Mint. Appeals made by mail should be addressed to: Freedom of Information Appeal, Director of the Mint, Department of the Treasury, Judiciary Square Building, 633 3rd Street, NW., Washington, DC 20220.

5. *Delivery of process.* Service of process will be received by the Director of the Mint and shall be delivered to: Director of the Mint, Judiciary Square Building, 633 3rd Street NW., Washington, DC 20220.

**Appendix I—Bureau of the Public Debt**

1. *In general.* This appendix applies to the Bureau of the Public Debt. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the Bureau of the Public Debt, see 31 CFR Part 323.

2. *Public reading room.* The public reading room for the Bureau of the Public Debt is maintained at the following location: Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records will be made by the Information Officer of the Bureau of the Public Debt. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 553, Washington, DC, 20239.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the Bureau of the Public Debt will be made by the Commissioner of the Public Debt. Appeals made by mail should be addressed to: Freedom of Information Appeal, Commissioner, Bureau of the Public Debt, Department of the Treasury, Washington, DC 20239.

5. *Delivery of process.* Service of process will be received by the Chief Counsel, Bureau of the Public Debt, and shall be delivered to the following location: Chief Counsel, Bureau of the Public Debt, Room 503, 999 E Street NW., Washington, DC 20239.

**Appendix J—Office of the Comptroller of the Currency**

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency. It identifies the location of the

public reading room at which the following documents are available for public inspection and copying: a description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process. For additional rules issued specifically with respect to the Office of the Comptroller of the Currency, see 12 CFR Part 4.

2. *Public reading room.* The Office of the Comptroller of the Currency will make materials available for review on an ad hoc basis when necessary. Contact the Freedom of Information Officer, Communications Division, Comptroller of the Currency, 3rd Floor, 490 L'Enfant Plaza East SW., Washington, DC 20219.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Office of the Comptroller of the Currency will be made by the Freedom of Information Officer or the official so designated. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Freedom of Information Officer, Communications Division, 3rd Floor, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the Office of the Comptroller of the Currency will be made by the Chief Counsel or delegates of such person. Appeals made by mail should be addressed to: Communications Division, 3rd Floor, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC 20219.

Appeals may be delivered personally to the Communications Division, 3rd Floor, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Chief Counsel, Comptroller of the Currency and shall be delivered to such officer at the following location: Office of the Chief Counsel, Comptroller of the Currency, 6th Floor, 490 L'Enfant Plaza East SW., Washington, DC 20219.

**Appendix K—United States Savings Bond Division**

1. *In general.* This appendix applies to the United States Savings Bond Division. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the **Federal Register**; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process.

2. *Public reading room.* The public reading room for the United States Savings Bond Division is maintained at the following location: Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Ave NW., Washington DC 20220.

3. *Requests for records.* (a) Initial determinations under 31 CFR 1.5(g) whether to grant requests for records relating to the substantive Savings Bond Program, such as records relating to ownership of and transactions in savings bonds, will be made by the Information Officer of the Bureau of Public Debt. Requests may be mailed or delivered in person to: Freedom of Information Act Request, Information Officer, Bureau of the Public Debt, Room 300, Washington Building, 1435 G Street NW., Washington 20226.

(b) Initial determinations under 31 CFR 1.5(g) whether to grant requests for other records of the United States Savings Bond Division, such as personnel records or records relating to the internal management of the Division, will be made by the Director of Public Affairs, United States Savings Bond Division. Requests made by mail should be addressed to: Freedom of Information Act Request, Director of Public Affairs, U.S. Savings Bond Division, Department of the Treasury, Washington, DC 20226.

Requests may be delivered in person to the Office of the Director, U.S. Savings Bond Division, Room 257 1111 20th Street NW., Washington, DC.

4. *Administrative appeal of determination to deny records.* (a) Appellate determinations under 31 CFR 1.5(h) with respect to records, access to which has been denied by the Information Officer of the Bureau of the Public Debt, will be made by the Commissioner, Bureau of the Public Debt. Appeals made by mail should be addressed to: Freedom of Information Appeal, Commissioner Bureau of the Public Debt, Department of the Treasury, Washington, DC 20226.

Appeals may be delivered in person to the Office of the Information Officer, Room 300, Washington Building, 1435 G Street NW., Washington, DC.

(b) Appellate determinations under 31 CFR 1.5(h) with respect to records, access to which has been denied by the Director of Public Affairs, United States Savings Bond Division, will be made by the National Director, United States Savings Bond Division. Requests made by mail should be addressed to: Freedom of Information Appeal, National Director, Department of the Treasury, Washington, DC 20226.

Requests may be delivered personally to the office of the Deputy National Director, Room 317, 1111 20th Street NW., Washington, DC.

5. *Delivery of process.* Service of process will be received by the Commissioner, Bureau of the Public Debt and shall be delivered to such officer at the following location: Commissioner, Bureau of the Public Debt, Room 300, Washington Bldg., 1435 G Street NW., Washington, DC 20226.

**Appendix L—Federal Law Enforcement Training Center**

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: A description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions

are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate deteminations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process.

2. *Public reading room.* The public reading room for the Federal Law Enforcement Training Center is maintained at the following location: Library, Building 262, Federal Law Enforcement Training Center, Glynco, GA 31524.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records will be made by the Director, Federal Law Enforcement Training Center. Requests made by mail should be addressed to:

Freedom of Information Act Request, Freedom of Information Act Officer, Federal Law Enforcement Training Center, Department of the Treasury, Building 94, Glynco, GA 31524.

Requests may be delivered personally to the Library, Federal Law Enforcement Training Center, Building 94, Glynco, GA.

4. *Administrative appeal of initial determination to deny records.* Appellate determinations under 31 CFR 1.5(h) with respect to records of the consolidated Federal Law Enforcement Training Center will be made by the Assistant Secretary (Enforcement). Appeals may be mailed or delivered in person to: Freedom of Information Appeal, Assistant Secretary (Enforcement), Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 4312, Room 3448, Washington, DC 20220.

5. *Delivery of process.* Service of process will be received by the General Counsel of the Department of the Treasury, or his delegate, and shall be delivered to such officer at the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

**Appendix M—Office of the Assistant Secretary for Tax Policy**

1. *In general.* This appendix applies to the Office of the Assistant Secretary for Tax Policy, including the Office of International Tax Counsel, the Office of Tax Analysis, the Office of the Tax Legislative Counsel, and generally the Office of Industrial Economics. It identifies the location of the public reading room at which the following documents are available for public inspection and copying: a description of the central and field offices; the established places where the public may obtain information, decisions, statements of the general course and method by which functions are channeled and determined; rules of procedure, descriptions of forms and where they may be obtained; substantive rules and statements of general policy and interpretations adopted by the agency; and each amendment, revision, or repeal of the foregoing; final adjudications of cases; statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; administrative staff manuals and instructions to staff that affect a member of the public. In addition, the appendix identifies the officers designated to make the initial and appellate determinations to FOIA requests, the officers designated to receive service of process, and the addresses for delivery of requests, appeals and service of process.

2. *Public Reading Room.* The public reading room for the Office of the Assistant Secretary for Tax Policy is maintained at the following location: Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

3. *Requests for records.* Initial determinations under 31 CFR 1.5(g) as to whether to grant requests for records of the Office of the Assistant Secretary for Tax Policy will be made by the Freedom of Information Office, Office of Tax Legislative Counsel, or the Deputy Tax Legislative Counsel, Room 3064, Main Treasury Building, Washington, DC 20220.

Requests for records may be mailed or delivered in person to: Freedom of Information Act Request, Freedom of Information Officer, Office of the Assistant Secretary (Tax Policy), Room 4028, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

4. *Administrative appeal of initial determination to deny records.* The Assistant Secretary (Tax Policy) will make the determination on appeals. Appeals from initial determinations to deny records may be mailed or delivered in person to: Assistant Secretary for Tax Policy, Department of the Treasury, Main Treasury Building, Room 3112, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

5. *Delivery of process.* Service of process will be received by the General Counsel of the Department of the Treasury, or his delegate, and shall be delivered to such officer at the following location:

General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

**Subpart B—Other Disclosure Provisions**

**§ 1.8 Scope.**

The regulations in this subpart concern access to information and records other than under 5 U.S.C. 552. This subpart is applicable only to the Departmental Offices as defined in § 1.1(a) of this part and the United States Savings Bonds Division and the United States Secret Service.

**§ 1.9 Records not to be otherwise withdrawn or disclosed.**

Except in accordance with this part, or as otherwise authorized, Treasury Department officers and employees are prohibited from making records or duplicates available to any person, not an officer or employee of the Department, and are prohibited from withdrawing any such records or duplicates from the files, possession or control of the Department.

**§ 1.10 Oral information.**

(a) Officers and employees of the Department may, in response to requests, provide orally information contained in records of the Department which are determined to be available to the public. If the obtaining of such information requires search of the records, a written request and the payment of the fee for record search set forth in § 1.6 will be required.

(b) Information with respect to activities of the Department not a matter of record shall not be disclosed if the information involves matters exempt from disclosure under 5 U.S.C. 552 or the regulations in this part, or if the disclosure of such information would give the person requesting the information advantages not accorded to other citizens;

**§ 1.11 Testimony or the production of records in a court or other proceeding.**

(a) Treasury Department officers and employees are prohibited from testifying or otherwise furnishing information obtained as a result of their official capacities or in connection with the transaction of public business, in compliance with a subpoena or other order or demand of any court or other authority without the prior approval of an officer authorized to determine the availability of records under these regulations.

(b) Treasury Department officers and employees are prohibited from furnishing any record in compliance with subpoenas duces tecum or other order or demand of any court or other authority, without the prior approval of an officer authorized to determine the availability of records under the regulations in this part.

(c) In court cases in which the United States or the Treasury Department is not a party, where the giving of testimony is desired, an affidavit by the litigant or the litigant's attorney, setting forth the information with respect to which the testimony of such officer or employee is desired, must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit or to such portions thereof as may be deemed proper.

(d) Where approval to testify or to furnish records in compliance with a subpoena, order or demand is not given the person to whom it is directed shall, if possible, appear in court or before the other authority and respectfully state his inability to comply in full with the supoena, order or demand, relying for his action upon this section.

**§ 1.12 Regulations not applicable to official request.**

The regulations in this part shall not be applicable to official requests of other governmental agencies or officers thereof acting in their official capacities, unless it appears that granting a particular request would be in violation of law or inimical to the public interest. Cases of doubt should be referred for decision to the supervisory official designated in § 1.8.

## Subpart C—Privacy Act

**§ 1.20 Purpose and scope of regulations.**

The regulations in this subpart are issued to implement the provisions of the Privacy Act of 1974 (5 U.S.C. 552a). The regulations apply to all records which are contained in systems of records maintained by the Department of the Treasury and which are retrieved by an individual's name or personal identifier. They do not relate to those personnel records of Government employees, which are under the jurisdiction of the Office of Personnel Management to the extent such records are subject to regulations issued by such OPM. The regulations apply to all components of the Department of the Treasury. Any reference in this subpart to the Department or its officials, employees, or records shall be deemed to refer also to the components or their officials, employees, or records. The regulations set forth the requirements applicable to Department of the Treasury employees maintaining, collecting, using or disseminating records pertaining to individuals. They also set forth the procedures by which individuals may request notification of whether the Department of the Treasury maintains or has disclosed a record pertaining to them or may seek access to such records maintained in any nonexempt system of records, request correction of such records, appeal any initial adverse determination of any request for amendment, or may seek an accounting of disclosures of such records. For the convenience of interested persons, the components of the Department of the Treasury may reprint these regulations in their entirety (less any appendices not applicable to the component in question) in those titles of the Code of Federal Regulations which normally contain regulations applicable to such components. In connection with such republication, and at other appropriate times, components may issue supplementary regulations applicable only to the component in question, which are consistent with these regulations. In the event of any actual or apparent inconsistency, these Departmental regulations shall govern. Persons interested in the records of a particular component should, therefore, also consult the Code of Federal Regulations for any rules or regulations promulgated specifically with respect to that component (see Appendices to this subpart for cross references). The head of each component is hereby also authorized to substitute other appropriate officials for those designated and correct addresses specified in the appendix to this subpart applicable to the component. The components of the Department of the Treasury for the purposes of this subpart are:

(a) The Departmental Offices, which includes the offices of:

(1) The Secretary of the Treasury, including immediate staff;

(2) The Deputy Secretary of the Treasury, including immediate staff;

(3) The Under Secretary of the Treasury for Finance, including immediate staff;

(4) The Fiscal Assistant Secretary, including immediate staff;

(5) The Assistant Secretary of the Treasury for Economic Policy and all other offices reporting to such official, including immediate staff;

(6) The General Counsel and also the Legal Division, except legal counsel to the components listed in paragraphs (a)(9) and (b) through (l) of this section;

(7) The Assistant Secretary of the Treasury for International Affairs and all offices reporting to such official, including immediate staff;

(8) The Treasurer of the United States, including immediate staff;

(9) The Assistant Secretary of the Treasury for Tax Policy, including immediate staff and all offices reporting to such official;

(10) The Assistant Secretary of the Treasury for Management, and all offices reporting to such official, including immediate staff;

(11) The Assistant Secretary of the Treasury for Domestic Finance and all offices reporting to such official, including immediate staff;

(12) The Assistant Secretary of the Treasury for Legislative Affairs, including immediate staff;

(13) The Assistant Secretary of the Treasury for Public Affairs and Public Liaison, including immediate staff;

(14) The Assistant Secretary of the Treasury for Enforcement and all offices reporting to such official, including immediate staff;

(15) The Special Assistant to the Secretary (National Security), including immediate staff;

(16) The Inspector General and all offices reporting to such official, including immediate office.

(b) The Bureau of Alcohol, Tobacco and Firearms;

(c) The Office of the Comptroller of the Currency;

(d) The United States Customs Service;

(e) The Bureau of Engraving and Printing;

(f) The Federal Law Enforcement Training Center;

(g) The Financial Management Service;

(h) The Internal Revenue Service;

(i) The United States Mint;

(j) The Bureau of the Public Debt;

(k) The United States Savings Bond Division;

(l) The United States Secret Service;

For purposes of this subpart, the office of the legal counsel for the components listed in paragraphs (b), (c), (d), (e), (f),

(g), (h), (i), and (j) of this section are to be considered a part of such component. Any office, which is now in existence or may hereafter be established, which is not specifically listed or known to be a component of any of those listed above, shall be deemed a part of the Departmental Offices for the purpose of these regulations.

**§ 1.21 Definitions.**

(a) The term "agency" means agency as defined in 5 U.S.C. 552(e);

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term "maintain" includes maintain, collect, use, or disseminate;

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by the Department of the Treasury or component of the Department. This includes, but is not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains the name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(e) The term "system of records" means a group of any records under the control of the Department of the Treasury or any component from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(g) The term "routine use" means the disclosure of a record that is compatible with the purpose for which the record was collected;

(h) The term "component" means a bureau or office of the Department of the Treasury as set forth in § 1.20 and in the appendices to these regulations. (See 5 U.S.C. 552a(a).)

(i) The term "request for access" means a request made pursuant to 5 U.S.C. 552a(d)(1).

(j) The term "request for amendment" means a request made pursuant to 5 U.S.C. 552a(d)(2).

(k) The term "request for accounting" means a request made pursuant to 5 U.S.C. 552a(c)(3).

**§ 1.22 Requirements relating to systems of records.**

(a) *In general.* Subject to 5 U.S.C. 552a (j) and (k) and § 1.23(c), each component shall, in conformance with 5 U.S.C. 552a:

(1) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by the statute or by Executive Order of the President (See 5 U.S.C. 552a(e)(1)).

(2) Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. (See 5 U.S.C. 552a(e)(2)).

(b) *Requests for information from individuals.* Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), each component of the Treasury shall inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual:

(1) The authority (whether granted by statute, or by Executive Order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses which may be made of the information, as published pursuant to 5 U.S.C. 552a(e)(4)(D); and

(4) The effects on such individual, if any, of not providing all or any part of the requested information. (See 5 U.S.C. 552a(e)(3)).

(c) *Report on new systems.* Each component of the Treasury shall provide adequate advance notice to Congress and the Office of Management and Budget through the Disclosure Branch and Administration Section of the Office of the General Counsel of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers. (See 5 U.S.C. 552a(o)).

(d) *Accurate and secure maintenance of records.* Each component shall:

(1) Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), maintain all records which are used in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination (see 5 U.S.C. 552a(e)(5);

(2) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to 5 U.S.C. 552 (see 31 CFR Part 1, Subpart A), make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for Department of the Treasury purposes (see 5 U.S.C. 552a(e)(6)) and

(3) Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. (See 5 U.S.C. 552a(e)(10)).

(i) System managers, with the approval of the head of their offices within a component, shall establish administrative and physical controls, consistent with Department regulations, to insure the protection of records systems from unauthorized access or disclosure and from physical damage or destruction. The controls instituted shall be proportional to the degree of sensitivity of the records but at a minimum must insure that records other than those available to the general public under the Freedom of Information Act (5 U.S.C. 552), are protected from public view, that the area in which the records are stored is supervised during all business hours and physically secure during nonbusiness hours to prevent unauthorized personnel from obtaining access to the records. Automated systems shall comply with the security standards promulgated by the National Bureau of Standards.

(ii) System managers, with the approval of the head of their offices within a component, shall adopt access restrictions to insure that only those individuals within the agency who have a need to have access to the records for the performance of their duties have access to them. Procedures shall also be adopted to prevent accidental access to, or dissemination of, records.

(e) *Prohibition against maintenance of records concerning First Amendment rights.* No component shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment (e.g. speech), unless the maintenance of such record is:

(1) Expressly authorized by statute, or

(2) Expressly authorized by the individual about whom the record is maintained, or

(3) Pertinent to and within the scope of an authorized law enforcement activity. (See 5 U.S.C. 552a (e)(7).

(f) *Notification of disclosure under compulsory legal process.* Subject to 5 U.S.C. 552a(j) and § 1.23(c)(1), when records concerning an individual are subpoenaed by a Grand Jury, Court, or quasi-judicial agency, or disclosed in accordance with an ex parte court order pursuant to 26 U.S.C. 6103(i), the official served with the subpoena or court order shall make reasonable efforts to assure that notice of any disclosure is provided to the individual. Notice shall be provided within five working days of making the records available under compulsory legal process or, in the case of a Grand Jury subpoena or an ex parte order, within five days of its becoming a matter of public record. Notice shall be mailed to the last known address of the individual and shall contain the following information: the date and authority to which the subpoena is, or was returnable, or the date of and court issuing the ex parte order, the name and number of the case or proceeding, and the nature of the information sought and provided. Notice of the issuance of a subpoena or an ex parte order is not required if the system of records has been exempted from the notice requirement of 5 U.S.C. 552a (e)(8) and this section, pursuant to 5 U.S.C. 552a (j) and § 1.23 (c)(1), by a Notice of Exemption published in the **Federal Register.** (See 5 U.S.C. 552a (e)(8)).

(g) *Emergency Disclosure.* If information concerning an individual has been disclosed to any person under compelling circumstances affecting health or safety, the individual shall be notified at the last known address within 5 days of the disclosure (excluding Saturdays, Sundays, and legal public holidays). Notification shall include the following information: The nature of the information disclosed, the person or agency to whom it was disclosed, the date of disclosure, and the compelling circumstances justifying the disclosure. Notification shall be given by the officer who made or authorized the disclosure. (See 5 U.S.C. 552a (b)(8)).

**§ 1.23 Publication in the Federal Register—Notices of systems of records, general exemptions, specific exemptions, review of all systems.**

(a) *Notices of systems of records to be published in the* **Federal Register.** (1) The Department shall publish a notice of the existence and character of all systems of records every 3 years in the **Federal Register.** An annual notice of systems of records is required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a(f).

(2) Minor changes to systems of records shall be published annually. (See paragraph (d)(8) of this section)

(3) In addition, the Department shall publish in the **Federal Register** upon establishment or revision a notice of the existence and character of any new or revised systems of records. Unless otherwise instructed, each notice shall include:

(i) The name and location of the system;

(ii) The categories of individuals on whom records are maintained in the system;

(iii) The categories of records maintained in the system;

(iv) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(v) The policies and practices of the component regarding storage, retrievability, access controls, retention, and disposal of the records;

(vi) The title and business address of the Treasury official who is responsible for the system of records;

(vii) The procedures of the component whereby an individual can be notified if the system of records contain a record pertaining to the individual, including reasonable times, places, and identification requirements.

(viii) The procedures of the component whereby an individual can be notified on how to gain access to any record pertaining to such individual that may be contained in the system of records, and how to contest its content; and

(ix) The categories of sources of records in the system. (See 5 U.S.C. 552a(e)(4)).

(b) *Notice of new or modified routine uses to be published in the* **Federal Register.** At least 30 days prior to a new use or modification of a routine use, as published under paragraph (a)(3)(iv) of this section, each component shall publish in the **Federal Register** notice of such new or modified use of the information in the system and provide an opportunity for interested persons to submit written data, views, or arguments to the components. (See 5 U.S.C. 552a(e)(11)).

(c) *Promulgation of rules exempting systems from certain requirements*—(1) *General exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c) and (e), to exempt any system of records within the component from any part of 5 U.S.C. 552a and these regulations except subsections (b) (Sec. 1.24, conditions of disclosure), (c)(1) (Sec. 1.25, keep accurate accounting of disclosures), (c)(2) (Sec. 1.25, retain accounting for five years or life of record), (e)(4) (A) through (F) (paragraph (a) of this section, publication of annual notice of systems of records), (e)(6) (Sec. 1.22(d), accuracy of records prior to dissemination), (e)(7) (Sec. 1.22(e), maintenance of records on First Amendment rights), (e)(9) (Sec. 1.28, establish rules of conduct), (e)(10) (Sec. 1.22(d)(3), establish safeguards for records), (e)(11) (paragraph (c) of this section, publish new intended use), and (i) (Sec. 1.28(c), criminal penalties) if the systems of records maintained by the component which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (i) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole, and probation status; (ii) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (iii) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision. (See 5 U.S.C. 552a(j)).

(2) *Specific exemptions.* In accordance with existing procedures applicable to a Treasury component's issuance of regulations, the head of each such component may adopt rules, in accordance with the requirements (including general notice) of 5 U.S.C. 553 (b) (1), (2), and (3), (c), and (e), to exempt any system of records within the component from 5 U.S.C. 552a(c)(3) (Sec. 1.25(c)(2), accounting of certain disclosures available to the individual), (d) (Sec. 1.26(a), access to records), (e)(1) (Sec. 1.22(a)(1), maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (paragraph (a)(7) of this section, publication of procedures for

notification), (e)(4)(H) (paragraph (a)(8) of this section, publication of procedures for access and contest), (e)(4)(I) (paragraph (a)(9) of this section, publication of sources of records), and (f) (Sec. 1.26, promulgate rules for notification, access and contest), if the system of records is:

(i) Subject to the provisions of 5 U.S.C. 552(b)(1);

(ii) Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of 5 U.S.C. 552a and paragraph (a)(1) of this section. If any individual is denied any right, privilege, or benefit that such individual would otherwise be entitled to by Federal law, or for which such individual would otherwise be eligible, as a result of the maintenance of this material, such material shall be provided to the individual, except to the extent that the disclosure of the material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(iii) Maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. 3056;

(iv) Required by statute to be maintained and used solely as statistical records;

(v) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence;

(vi) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(vii) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(3) At the time that rules under this subsection are adopted, the head of the component shall include in the statement required under 5 U.S.C. 553(c) the reasons why the system of records is to be exempted from a provision of 5 U.S.C. 552a and this part. (See 5 U.S.C. 552a (j) and (k).)

(d) *Review and Report to OMB.* The Department shall ensure that the following reviews are conducted as often as specified below by each of the components who shall be prepared to report to the Departmental Disclosure Branch upon request the results of such reviews and any corrective action taken to resolve problems uncovered. Each component shall:

(1) Review every two years a random sample of the component's contracts that provide for the maintenance of a system of records on behalf of the component to accomplish a function of the component, in order to ensure that the working of each contract makes the provisions of the Act apply. (5 U.S.C. 552a(m)(1).)

(2) Review annually component's recordkeeping and disposal policies and practices in order to assure compliance with the Act.

(3) Review routine use disclosures every 3 years, that are associated with each system of records in order to ensure that the recipient's use of such records continues to be compatible with the purpose for which the disclosing agency originally collected the information.

(4) Review every three years each system of records for which the component has issued exemption rules pursuant to section (j) or (k) of the Privacy Act in order to determine whether the exemption is needed.

(5) Review annually each ongoing matching program in which the component has participated during the year, either as a source or as a matching agency in order to assure that the requirements of the Act, the OMB Matching Guidelines, and the OMB Model Control System and checklist have been met.

(6) Review component's training practices annually to ensure that all component personnel are familiar with the requirements of the Act, these regulations and Departmental directives.

(7) Review annually the actions of component personnel that have resulted either in the agency being found civilly liable under section (g) of the Act, or an employee being found criminally liable under the provisions of section (i) of the Act, in order to determine the extent of the problem and to prevent future recurrences.

(8) Review annually each system of records notice to ensure that it accurately describes the system. Where minor changes are needed, publish an amended notice in the **Federal Register**. Minor changes shall be consolidated in one annual comprehensive publication. The term "minor change to a system of records" means a change that does not significantly change the system. More specifically, a minor change does not affect the character or purpose of the system and does not affect the ability of an individual to gain access to a record about the individual or to any information pertaining to such individual which is contained in the system; for example, changing the title of the system manager or the location of the system.

**§ 1.24 Disclosure of records to person other than the individual to whom they pertain.**

(a) *Conditions of disclosure.* No component of Treasury shall disclose any record which is contained in a system of records maintained by it by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, or the parent, if a minor, or legal guardian, if incompetent, of such individual, unless disclosure of the record would be:

(1) To those offices and employees of the Department of the Treasury who have a need for the record in the performance of their duties;

(2) Retired under 5 U.S.C. 552 (Subpart A of this part);

(3) For a routine use as defined in 5 U.S.C. 552a(a)(7) and § 1.21(g) and as described under 5 U.S.C. 552a(e)(4)(D) and § 1.23(a)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 of the U.S. Code;

(5) To a recipient who has provided the component with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or the designee of such

official to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity.

(i) If the activity is authorized by law; and

(ii) If the head of the agency or instrumentality has made a written request to the Department of the Treasury specifying the particular portion desired and the law enforcement activities for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure, notification is transmitted to the last known address of such individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.

(10) To the Comptroller General, or the authorized representatives of such official, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction. (See 5 U.S.C. 552a(b)).

**§ 1.25 Accounting of disclosures.**

(a) *Accounting of certain disclosures.* Each component, with respect to each system of records under its control, shall:

(1) Keep an accurate accounting of: (i) The date, nature, and purpose of each disclosure of a record to any person or to an agency made under 5 U.S.C. 552a (b) and § 1.24; and (ii) the name and address of the person or agency to whom the disclosure is made;

(2) Retain the accounting made under paragraph (a)(1) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made; and

(3) Inform any person or other agency about any correction or notation of dispute made by the constitutent unit in accordance with 5 U.S.C. 552a (d) and § 1.28 of any record that has been disclosed to the person or agency if an accounting of the disclosure was made. (See 5 U.S.C. 552(c).)

(b) *Accounting systems.* To permit the accounting required by paragraph (a) of this section, system managers, with the approval of the head of their offices within a component, shall establish or implement, a system of accounting for all disclosures of records, either orally or in writing, made outside the Department of the Treasury. Accounting records shall:

(1) Be established in the least expensive and most convenient form that will permit the system manager to advise individuals, promptly upon request, what records concerning them have been disclosed and to whom:

(2) Provide, as a minimum, the identification of the particular record disclosed, the name and address of the person or agency to whom or to whom or to which disclosed, and the date, nature and purpose of the disclosure; and

(3) Be maintained for 5 years or until the record is destroyed or transferred to the National Archives and Records Service for storage in records centers, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(c) *Exemptions from accounting requirements.* No accounting is required for disclosure of records:

(1) To those officers and employees of the Department of the Treasury who have a need for the record in the performance of their duties; or

(2) If disclosure would be required under 5 U.S.C. 552 and Subpart A of this part.

(d) *Access to accounting by individual.* (1) Subject to paragraphs (c) and (d)(2) of this section, each component shall establish and set forth in the appendix to this subpart applicable to the component, procedures for making the accounting required under paragraph (a) of this section available to the individual to whom the record pertains and shall thereafter make such accounting available in accordance therewith at the request of the individual. The procedures may require the requester to provide reasonable identification.

(2) Access accountings of disclosure may be withheld from the individual named in the record only if the disclosures were (i) made under 5 U.S.C. 552a (b)(7) and § 1.24 (a)(7), or (ii) under a system of records exempted from the requirements of 5 U.S.C. 552a(c)(3) in accordance with 5 U.S.C. 552 (j) or (k) and § 1.23(c). (See 5 U.S.C. 552a(c)).

**§ 1.26 Procedures for notification and access to records pertaining to individuals—format and fees for request for access.**

(a) *Procedures for notification and access.* Each component shall establish, in accordance with the requirements of 5 U.S.C. 553, and set forth in the appendix to this subpart applicable to such component procedures whereby an individual can be notified, in response to a request, if any system of records named by the individual contains a record pertaining to that individual. In addition, such procedures shall set forth the requirements for access to such records. As a minimum such procedures shall specify the times during, and the places at which access will be accorded, together with such identification as may be required of the individual before access. (See 5 U.S.C. 552a(f) (1), (2) and (3))

(b) *Access.* Each component in accordance with the procedures prescribed under paragraph (a) of this section, shall allow an individual to gain access to records or to any information pertaining to such individual which is contained in the system of records upon request. The individual shall be permitted to review the record and have a copy made of all or any portion of the record in a form that is comprehensible. The individual will also be permitted to be accompanied by any person of the individual's choosing to review the record, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence. (See 5 U.S.C. 552a(d)(1)).

(c) *Exceptions.* Neither the procedures prescribed under paragraph (a) of this section nor the requirements for access under paragraph (b) of this section shall be applicable to—(1) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k) and § 1.23(c); (2) information compiled in reasonable anticipation of a civil action or proceeding (See 5 U.S.C. 552(d)(5)); or (3) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

(d) *Format of request.* (1) A record for notification of whether a record exists shall:

(i) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or such individual's duly authorized representative (See § 1.34);

(ii) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked "Privacy Act Request" on the request and on the envelope;

(iii) Give the name of the system or subsystem or categories of records to which access is sought, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart;

(iv) Describe the nature of the record(s) sought in sufficient detail to

enable Department personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, the date of the record or the period in which the record was compiled.

(v) Provide such identification of the requester as may be specified in the appropriate appendix to this subpart; and

(vi) Be addressed or delivered in person to the office or officer of the component indicated for the particular system or subsystem or categories of records the individual wishes access to, as specified in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart. Assistance in ascertaining the appropriate component or in preparing a request for notification may be obtained by a written request to this effect addressed as specified in Appendix A of this part, as the address for the Departmental Offices for "Request for notification and access to records and accountings of disclosures".

(2) A request for access to records shall, in addition to complying with paragraph (d)(1)(i) through (vi) of this section:

(i) State whether the requester wishes to inspect the records or desires to have a copy made and furnished without first inspecting them;

(ii) If the requester desires to have a copy made, state the firm agreement of the requester to pay the fees for duplication ultimately determined in accordance with (31 CFR 1.6) Subpart A of this title, unless such fees are waived pursuant to that section by the system manager or other appropriate official as indicated in the appropriate appendix to these regulations; and

(iii) Comply with any other requirement set forth in the applicable appendix to this subpart or the "Notice of Records Systems" applicable to the system in question. Requesters are hereby advised that any request for access which does not comply with the foregoing requirements and those set forth elsewhere in this Subpart C, will not be deemed subject to the time constraints of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request is deficient so that it may be processed. This section applies only to records which are contained in a system of records and which are in the possession or control of the component. (See 5 U.S.C. 552a (d) and (f)).

(e) *Requests for records not in control of component.* (1) Treasury employees shall make reasonable efforts to assist an oral requester to ascertain to which office or officer a written request should be sent. When the request is for a record which is not in the possession or control of any component of the Department of the Treasury, the requester shall be so advised.

(2) Where the record requested was created by a Department or agency other than the Department of the Treasury or a component of the Department and has been classified (e.g. National Defense or Intelligence Information) or otherwise restrictively endorsed (e.g. Office of Personnel Management records of FBI reports) by such other Department or agency, and a copy is in the possession of a component of the Department of the Treasury, that portion of the request shall be referred to the originating agency for determination as to all issues in accordance with the Privacy Act. In the case of a referral to another agency under this paragraph, the requester shall be notified that such portion of the request has been so referred and that the requester may expect to hear from that agency.

(3) When information sought from a system manager or other appropriate official in the Department of the Treasury includes information furnished by other Federal agencies not classified or otherwise restrictively endorsed, the system manager or other appropriate official receiving the request shall consult with the appropriate agency prior to making a decision to disclose or not to disclose the record. The decision as to whether the record shall be disclosed shall be made, in the first instance by the system manager or other appropriate official maintaining the record. (See 5 U.S.C. 552a (d) and (f)).

(f) *Date of receipt of request.* A request for notification or access to records shall be considered to have been received for purposes of this subpart on the date on which the requirements of paragraph (d) of this section have been satisfied. Requests for notification or access to records and any separate agreement to pay shall be stamped or endorsed with the date of receipt by the receiving office. The latest of such stamped dates will be deemed to be the date of receipt of the request for the purposes of this subpart. (See 5 U.S.C. 552a (d) and (f)).

(g) *Notification of determination*—(1) *In general.* Notification of determinations as to notification of whether a record exists or as to whether to grant access to records requested will be made by the officers designated in the appendices to this subpart. The notification of the determination shall be mailed within 30 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of the request, as determined in accordance with paragraph (f) of this section. If it is not possible to respond within 30 days, the designated officer shall inform the requester, stating the reason for the delay (e.g. volume of records requested, scattered location of the records, need to consult other agencies, or the difficulty of the legal issues involved) and when a response will be dispatched. (See 5 U.S.C. 552a (d) and (f)).

(2) *Granting of access.* When it has been determined that the request for access will be granted—(i) and a copy requested; such copy in a form comprehensible to the requester shall be furnished promptly, together with a statement of the applicable fees for duplication; and (ii) and the right to inspect has been requested, the requester shall be promptly notified in writing of the determination, and when and where the requested records may be inspected. An individual seeking to inspect such records may be accompanied by another person of such individual's choosing. The individual seeking access shall be required to sign the required form indicating that the Department of the Treasury is authorized to discuss the contents of the subject record in the accompanying person's presence. If, after making the inspection, the individual making the request desires a copy of all or a portion of the requested records, such copy in a form comprehensible to the individual shall be furnished upon payment of the applicable fees for duplication. Fees to be charged are as prescribed by 31 CFR Part 1, Subpart A, § 1.6 Fees shall not be charged where they would amount, in the aggregate, to less than $3.00. (See 5 U.S.C. 552a (d) and (f)).

(3) *Requirements for access to medical records.* When access is requested to medical records, including psychological records, the responsible official may determine that such release could have an adverse effect on the individual and that release will be made only to a physician authorized in writing to have access to such records by the individual making the request. Upon receipt of the authorization the physician will be permitted to review the records or to receive copies of the records by mail, upon proper verification of identity. (See 5 U.S.C. 552a (f) (3)).

(4) *Denial of request.* When it is determined that the request for notification of whether a record exists

or access to records will be denied (whether in whole or part or subject to conditions or exceptions), the person making the request shall be so notified by mail in accordance with paragraph (g)(1) of this section. The letter of notification shall specify the city or other location where the requested records are situated (if known), contain a statement of the reasons for not granting the request as made, set forth the name and title or position of the responsible official and advise the individual making the request of the right to file suit in accordance with 5 U.S.C. 552a (g)(1)(B).

(5) *Prohibition against the use of 5 U.S.C. 552 (b) exemptions.* Exemptions from disclosure under 5 U.S.C. 552 (b) (31 CFR Part 1, Subpart A, § 1.2 (c)), may not be invoked for the purpose of withholding from an individual any record which is otherwise accessible to such individual under the Privacy Act, 5 U.S.C. 552a and this subpart. (See 5 U.S.C. 552a (q)).

(6) *Records exempt in whole or in part.* (i) When an individual requests notification as to whether a record exists or access to records concerning the individual which have been exempted from individual access pursuant to 5 U.S.C. 552a (j) or which have been compiled in reasonable anticipation of a civil action or proceeding in either a court or before an administrative tribunal and the assertion of the exemption is deemed necessary, the Department of the Treasury will neither confirm nor deny the existence of the record but shall advise the individual only that no record available to the individual pursuant to the Privacy Act of 1974 has been identified.

(ii) Requests from individuals for access to records which have been exempted from access pursuant to 5 U.S.C. 552a (k) shall be processed as follows:

(A) Requests for information classified pursuant to Executive Order 11652 require the responsible component of the Department to review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D) and (E) of the Executive Order. Information which no longer warrants classification under these criteria shall be declassified and made available to the individual. If the information continues to warrant classification, the individual shall be advised that the information sought is classified, that it has been reviewed and continues to warrant classification, and that it has been exempted from access pursuant to 5 U.S.C. 552 (b)(1) and 5 U.S.C. 552a (k)(1). Information which has been exempted pursuant to 5 U.S.C. 552a (j) and which is also classified shall be reviewed as required by this paragraph but the response to the individual shall be in the form prescribed by paragraph (g)(6)(i) of this section.

(B) Requests for information which has been exempted from disclosure pursuant to 5 U.S.C. 552a (k)(2) shall be responded to in the manner provided in paragraph (g)(6)(i) of this section unless the requester shows that the information has been used or is being used to deny the individual any right, privilege or benefit for which he is eligible or to which he would otherwise be entitled under federal law. In that event, the individual shall be advised of the existence of the information but such information as would identify a confidential source shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary extract shall be provided to the requesting individual.

(C) Information compiled as part of an employee background investigation which has been exempted pursuant to 5 U.S.C. 552a (k)(5) shall be made available to an individual upon request except to the extent that it identifies the confidential source. Material identifying the confidential sources shall be extracted or summarized in a manner which protects the source to the maximum degree possible and the summary or extract shall be provided to the requesting individual.

(D) Testing or examination material which has been exempted pursuant to 5 U.S.C. 552a (k)(6) shall not be made available to an individual if disclosure would compromise the objectivity or fairness of the testing or examination process; but may be made available if no such compromise possibility exists. (See 5 U.S.C. 552a (d)(5), (j) and (k)).

**§ 1.27 Procedures for amendment of records pertaining to individuals—format, agency review and appeal from initial adverse agency determination.**

(a) *In general.* Subject to the application of exemptions promulgated by the head of each component, in accordance with § 1.23(c), and subject to § 1.27(f), each component of the Department of the Treasury, shall in conformance with 5 U.S.C. 552a(d)(2), permit an individual to request amendment of a record pertaining to such individual. Any request for amendment of records or any appeal that does not fully comply with the requirements of this section and any additional specific requirements imposed by the component in the applicable appendix to this subpart will not be deemed subject to the time constraints of paragraph (e) of this section, unless and until amended so as to comply. However, components shall advise the requester in what respect the request or appeal is deficient so that it may be resubmitted or amended. (See 5 U.S.C. 552a (d) and (f)).

(b) *Form of request to amend records.* In order to be subject to the provisions of this section, a request to amend records shall:

(1) Be made in writing and signed by the person making the request, who must be the individual about whom the record is maintained, or the duly authorized representative of such individual;

(2) State that it is made pursuant to the Privacy Act, 5 U.S.C. 552a or these regulations, have marked "Privacy Act Amendment Request" on the request and on the envelope;

(3) Be addressed to the office or officer of the component specified for such purposes in "Privacy Act Issuances" published by the Office of the Federal Register and referenced in the appendices to this subpart for that purpose; and

(4) Reasonably describe the records which the individual desires to have amended, including, to the best of the requester's knowledge, dates of letters requesting access to such records previously and dates of letters in which notification concerning access was made, if any, and the individual's documentation justifying the correction. (See U.S.C. 552a (d) and (f)).

(c) *Date of receipt of request.* A request for amendment of records pertaining to an individual shall be deemed to have been received for purposes of this subpart when the requirements of paragraph (b) of this section have been satisfied. The receiving office or officer shall stamp or otherwise endorse the date of receipt of the request. (See 5 U.S.C. 552a (d) and (f)).

(d) *Review of requests to amend records.* Officials responsible for review of requests to amend records pertaining to an individual, as specified in the appropriate appendix to this subpart, shall:

(1) Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(2) Promptly, either—(i) Make any correction of any portion which the individual believes and the official agrees is not accurate, relevant, timely, or complete; or

(ii) Inform the individual of the refusal to amend the record in accordance with the individual's request, the reason for the refusal, and the name and business address of the officer designated in the applicable appendix to this subpart, as the person who is to review such refusal. (See 5 U.S.C. 552a (d) and (f)).

(e) *Administrative appeal*—(1) *In general.* Each component shall permit individuals to request a review of initial decisions made under paragraph (d) of this section, when an individual disagrees with a refusal to amend this record. (See 5 U.S.C. 552a (d), (f), and (g)(1)).

(2) Form of request for administrative review of refusal to amend record. At any time within 35 days after the date of the notification of the initial decision described in paragraph (d)(2)(ii) of this section, the requester may submit an administrative appeal from such refusal to the official specified in the notification of the initial decision and the appropriate appendix to this subpart. The appeal shall:

(i) Be made in writing stating any arguments in support thereof and be signed by the person to whom the record pertains, or the duly authorized representative of such official;

(ii) Be addressed to and mailed or hand delivered within 35 days of the date of the initial decision, to the office or officer specified in the appropriate appendix to this subpart and in the notification. (See the appendices to this subpart for the address to which appeals made by mail should be addressed);

(iii) Have clearly marked on the appeal and on the envelope, "Privacy Act Amendment Appeal";

(iv) Reasonably describe the records requested to be amended; and

(v) Specify the date of the initial request, to amend records, and the date of the letter giving notification that the request was denied. (See 5 U.S.C. 552a (d) and (f)).

(3) *Date of receipt.* Appeals shall be promptly stamped with the date of their receipt by the office to which addressed and such stamped date will be deemed to be the date of receipt for all purposes of this subpart. The receipt of the appeal shall be acknowledged within 10 days (excluding Saturdays, Sundays, and legal public holidays) from the date of the receipt (unless the determination on appeal is dispatched in 10 days, in which case, no acknowledgement is required) by the responsible official and the requester advised of the date of receipt established by the foregoing and when a response is due in accordance with this paragraph. (See 5 U.S.C. 552a (d) and (f)).

(4) *Review of administrative appeals from denial of requests to amend records.* Officials responsible for deciding administrative appeals from denials of requests to amend records pertaining to an individual, as specified in the appendices to this subpart shall: Complete the review, and notify the requester of the final agency decision within 30 days (exclusive of Saturdays, Sundays and legal public holidays) after the date of receipt of such appeal, unless the time is extended by the head of the agency or the delegate of such official, for good cause shown. If such final agency decision is to refuse to amend the record, in whole or in part, the requester shall also be advised of the right—(i) to file a concise "Statement of Disagreement" setting forth the reasons for his disagreement with the decision which shall be filed within 35 days of the date of the notification of the final agency decision and (ii) to judicial review of the final agency decision under 5 U.S.C. 552a(g)(1)(A). (See 5 U.S.C. 552a (d), (f) and (g)(1)).

(5) *Notation on record and distribution of statements of disagreement.* The system manager is responsible, in any disclosure containing information about which an individual has filed a "Statement of Disagreement", occurring after the filing of the statement under paragraph (e)(4) of this section, for clearly noting any portion of the record which is disputed and providing copies of the statement and, if deemed appropriate, a concise statement of the component's reasons for not making the amendments requested to persons or other agencies to whom the disputed record has been disclosed. (See 5 U.S.C. 552a(d)(4)).

(f) *Records not subject to correction under the Privacy Act.* The following records are not subject to correction or amendment by individuals:

(1) Transcripts or written statements made under oath; and

(2) Transcripts of Grand Jury proceedings, judicial or quasi-judicial proceedings which form the official record of those proceedings; and

(3) Pre-sentence reports comprising the property of the courts but maintained in agency files; and

(4) Records pertaining to the determination, the collection and the payment of the federal taxes; and

(5) Records duly exempted from correction by notice published in the Federal Register; and

(6) Records compiled in reasonable anticipation of a civil action or proceeding.

**§ 1.28 Training, rules of conduct, penalties for non-compliance.**

(a) *Training.* Subject to policy guidance and regulations issued by the Deputy Secretary, who has Departmentwide responsibility therefor, each component shall institute a training program to instruct employees and employees of Government contractors covered by 5 U.S.C. 552a(m), who are involved in the design, development, operation or maintenance of any system of records, on a continuing basis with respect to the duties and responsibilities imposed on them and the rights conferred on individuals by the Privacy Act, the regulations in this subpart, including the appendices thereto, and any other related regulations. Such training shall provide suitable emphasis on the civil and criminal penalties imposed on the Department and the individual employees by the Privacy Act for non-compliance with specified requirements of the Act as implemented by the regulations in this subpart. (See 5 U.S.C. 552a(e)(9))

(b) *Rules of conduct.* In addition, to the Standards of Conduct published in Part O of this title, particularly 31 CFR 0.735–44, the following are applicable to employees of the Department of the Treasury (including, to the extent required by the contract or 5 U.S.C. 552a(m), Government contractors and employees of such contractors), who are involved in the design, development, operation or maintenance of any system of records, or in maintaining any records, for or on behalf of the Department, including any component thereof.

(1) The head of each office of a component of the Department shall be responsible for assuring that employees subject to such official's supervision are advised of the provisions of the Privacy Act, including the criminal penalties and civil liabilities provided therein, and the regulations in this subpart, and that such employees are made aware of their individual and collective responsibilities to protect the security of personal information, to assure its accuracy, relevance, timeliness and completeness, to avoid unauthorized disclosure either orally or in writing, and to insure that no information system concerning individuals, no matter how small or specialized is maintained without public notice.

(2) Employees of the Department of the Treasury involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record shall:

(i) Collect no information of a personal nature from individuals unless

authorized to collect it to achieve a function or carry out a responsibility of the Department;

(ii) Collect from individuals only that information which is necessary to Department functions or responsibilities, unless related to a system exempted under 5 U.S.C. 552a (j) or (k);

(iii) Collect information, wherever possible, directly from the individual to whom it relates, unless related to a system exempted under 5 U.S.C. 552a(j);

(iv) Inform individuals from whom information is collected about themselves of the authority for collection, the purposes thereof, the use that will be made of the information, and the effects, both legal and practical, of not furnishing the information. (While this provision does not explicitly require it, where feasible, third party sources should be informed of the purposes for which information they are asked to provide will be used.);

(v) Neither collect, maintain, use nor disseminate information concerning an individual's religious or political beliefs or activities or membership in associations or organizations, unless (A) the individual has volunteered such information for the individual's own benefits; (B) the information is expressly authorized by statute to be collected, maintained, used or disseminated; or (C) the activities involved are pertinent to and within the scope of an authorized investigation, adjudication or correctional activity;

(vi) Advise their supervisors of the existence or contemplated development of any record system which is capable of retrieving information about individuals by individual identifier;

(vii) Disseminate no information concerning individuals outside the Department except when authorized by 5 U.S.C. 552a or pursuant to a routine use published in the **Federal Register**;

(viii) Assure that an accounting is kept in the prescribed form, of all dissemination of personal information outside the Department, whether made orally or in writing, unless disclosed under 5 U.S.C. 552 and Subpart A of this part;

(ix) Maintain and process information concerning individuals with care in order to insure that no inadvertent disclosure of the information is made either within or without the Department; and

(x) Assure that the proper Department authorities are aware of any information in a system maintained by the Department which is not authorized to be maintained under the provisions of the Privacy Act of 1974, including information on First Amendment Activities, information that is inaccurate, irrelevant or so incomplete as to risk unfairness to the individual concerned.

(3) Heads of components within the Department or their delegates shall, at least annually, review the record systems subject to their supervision to insure compliance with the provisions of the Privacy Act of 1974 and the regulations in this subpart. (See 5 U.S.C. 552a (e)(9), (i) and (m)).

(c) *Criminal penalties.* (1) The Privacy Act imposes criminal penalties on the conduct of Government officers or employees as follows: Any officer or employee of an agency (which term includes the Department of the Treasury):

(i) Who by virtue of the official's employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section (5 U.S.C. 552a) or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or

(ii) Who willfully maintains a system of records without meeting the notice requirements of paragraph (e)(4) of this section (5 U.S.C. 552a)—shall be guilty of a misdemeanor and fined not more than $5,000.

(2) The Act also imposes a collateral criminal penalty on the conduct of any person as follows:

> "Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

(3) For the purposes of 5 U.S.C. 552a (i), the provisions of paragraph (c)(1) of this section are applicable to Government contractors and employees of such contractors who by contract, operate by or on behalf of the Department of the Treasury a system of records to accomplish a Departmental function. Such contractor and employees are considered employees of the Department of the Treasury for the purposes of 5 U.S.C. 552a(i). (See 5 U.S.C. 552a (i) and (m).)

### § 1.29 Records transferred to Federal Records Center or National Archives of the United States.

(a) *Records transferred to the Administrator of General Services for storage in the Federal Records Center.* Records pertaining to an identifiable individual which are transferred to the Federal Records Center in accordance with 44 U.S.C. 3103 shall, for the purposes of the Privacy Act, 5 U.S.C. 552a, be considered to be maintained by the component which deposited the record and shall be subject to the provisions of the Privacy Act and this subpart. The Administrator of General Services shall not disclose such records except to the Department of the Treasury or to others under rules consistent with the Privacy Act which may be established by the Department of the Treasury or a component. If such records are retrieved for the purpose of making a determination about an individual, they must be reviewed for accuracy, relevance, timeliness, and completeness.

(b) *Records transferred to the National Archives of the United States.* (1) Records transferred to National Archives prior to September 27, 1975. Records pertaining to an identifiable individual transferred to the National Archives prior to September 27, 1975, as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records [modeled after 5 U.S.C. 552a (e)(4) (A) through (G)] shall be published in the **Federal Register.**

(2) *Records transferred to National Archives on or after September 27, 1975.* Records pertaining to an identifiable individual transferred to the National Archives as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after September 27, 1975, shall be considered to be maintained by the National Archives, and

(i) Shall not be subject to 5 U.S.C. 552a,

(ii) Except, that a statement describing such records in accordance with 5 U.S.C. 552a (e)(4) (A) through (G) shall be published in the **Federal Register** and rules of conduct and training in accordance with 5 U.S.C. 552 (e) (9) are to be established by the National Archives. (See 5 U.S.C. 552a (e)).

### § 1.30 Application to system of records maintained by Government contractors.

When a component contracts for the operation of a system of records, to accomplish a Departmental function, the provisions of the Privacy Act, 5 U.S.C. 552a, and this subpart shall be applicable to such system. The component shall have responsibility for insuring that the contractor complies

with the contract requirements relating to privacy.

**§ 1.31 Sale or rental of mailing list.**

(a) *In general.* An individual's name and address shall not be sold or rented by a component unless such action is specifically authorized by law.

(b) *Withholding of names and addresses.* This section shall not be construed to require the withholding of names and addresses otherwise permitted to be made public. (See 5 U.S.C. 552a (n)).

**§ 1.32 Use and disclosure of social security numbers.**

(a) *In general.* An individual shall not be denied any right, benefit, or privilege provided by law by a component because of such individual's refusal to disclose his social security number.

(b) *Exceptions.* The provisions of paragraph (a) of this section shall not apply with respect to:

(1) Any disclosure which is required by Federal statute, or

(2) The disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(c) *Requests for disclosure of social security number.* Any component which requests an individual to disclose his or her social security account number shall inform that individual whether:

(1) Disclosure is mandatory or voluntary.

(2) By what statutory or other authority such number is solicited, and

(3) What uses will be made of it. (See section 7 of the Privacy Act of 1974 set forth at 5 U.S.C. 552a, note.)

**§ 1.34 Guardianship.**

The parent or guardian of a minor or a person judicially determined to be incompetent shall, in addition to establishing the identity of the minor or other person represented, establish parentage or guardianship by furnishing a copy of a birth certificate showing parentage or a court order establishing the guardianship and may thereafter, act on behalf of such individual. (See 5 U.S.C. 552a (h))

**§ 1.35 Information forms.**

(a) *Review of forms.* Except for forms developed and used by constituent units, the Deputy Assistant Secretary for Administration shall be responsible for reviewing all forms developed and used by the Department of the Treasury to collect information from and about individuals. The heads of components shall each be responsible for the review of forms used by such component to collect information from and about individuals.

(b) *Scope of review.* The responsible officers shall review each form for the purpose of eliminating any requirement for information that is not relevant and necessary to carry out an agency function and to accomplish the following objectives;

(1) To insure that no information concerning religion, political beliefs or activities, association memberships (other than those required for a professional license), or the exercise of First Amendment rights is required to be disclosed unless such requirement of disclosure is expressly authorized by statute or is pertinent to, and within the scope of, any authorized law enforcement activity;

(2) To insure that the form or a separate form that can be retained by the individual makes clear to the individual which information he is required by law to disclose and the authority for that requirement and which information is voluntary;

(3) To insure that the form or a separate form that can be retained by the individual states clearly the principal purpose or purposes for which the information is being collected, and summarizes concisely the routine uses that will be made of the information;

(4) To insure that the form or a separate form that can be retained by the individual clearly indicates to the individual the effect in terms of rights, benefits or privileges of not providing all or part of the requested information; and

(5) To insure that any form requesting disclosure of a Social Security Number, or a separate form that can be retained by the individual, clearly advises the individual of the statute or regulation requiring disclosure of the number or clearly advises the individual that disclosure is voluntary and that no consequence will follow from the refusal to disclose it, and the uses that will be made of the number whether disclosed mandatorily and voluntarily.

(c) *Revision of Forms.* Any form which does not meet the objectives specified in the Privacy Act and in this section, shall be revised to conform thereto. A separate statement may be used in instances when a form does not conform. This statement will accompany a form and shall include all the information necessary to accomplish the objectives specified in the Privacy Act and this section.

**§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.**

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**Appendix A—Departmental Offices**

1. *In general.* This appendix applies to the Departmental Offices as defined in 31 CFR Part 1, Subpart C, § 1.20. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records, the officers designated to make the initial and appellate determinations with respect to requests for amendment of records, the officers designated to grant extensions of time on appeal, the officers with whom "Statement of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Departmental Offices, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. This information is contained in the appropriate system notice in the "Privacy Act Issuances", published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records should be addressed to:

Privacy Act Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Requests may be delivered personally to the Main Treasury Building, Room 5030, 1500 Pennsylvania Avenue NW., Washington, D.C.

3. *Requests for amendments of records.* Initial determinations under 31 CFR 1.27(a) through (d) with respect to requests to amend records for records maintained by the Departmental Offices will be made by the head of the organization or unit having immediate custody of the records or the delegate of such official. Requests for amendment of records should be addressed as indicated in the appropriate system

notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send these requests should be addressed to: Privacy Act Amendment Request, DO, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

4. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Departmental Offices, including extensions of time on appeal, will be made by the Secretary, Deputy Secretary, Under Secretary, General Counsel, or Assistant Secretary having jurisdiction over the organizational unit which has immediate custody of the records, or the delegate of such official, as limited by 5 U.S.C. 552a(d) (2) and (3). Appeals made by mail should be addressed as indicated in the letter of initial decision or to:

Privacy Act Amendment Request, DO Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Appeals may be delivered personally to the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC.

5. *Statements of Disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e)(4) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location:

General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records required to be published by the Office of the Federal Register in the publication entitled "Privacy Act Issuances", as specified in 5 U.S.C. 552a (f). Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 and (8) below, and locations for access are indicated in the notice for the pertinent system.

8. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the Departmental Offices on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single official document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other official document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request, if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

**Appendix B—Internal Revenue Service**

1. *Purpose.* The purpose of this section is to set forth the procedures that have been established by the Internal Revenue Service for individuals to exercise their rights under the Privacy Act of 1974 (88 Stat. 1896) with respect to systems of records maintained by the Internal Revenue Service, including the Office of the Chief Counsel. The procedures contained in this section are to be promulgated under the authority of 5 U.S.C. 552a(f). The procedures contained in this section relate to the following:

(a) The procedures whereby an individual can be notified in response to a request if a system of records named by the individual contains a record pertaining to such individual (5 U.S.C. 552a(f)(1)).

(b) The procedures governing reasonable times, places, and requirements for identifying an individual who requests a record of information pertaining to such individual before the Internal Revenue Service will make the record or information available to the individual (5 U.S.C. 552a (f)(2)).

(c) The procedures for the disclosure to an individual upon a request of a record of information pertaining to such individual, including special procedures for the disclosure to an individual of medical records, including psychological records. (5 U.S.C. 552a (f)(3)).

(d) The procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the Internal Revenue Service of an initial adverse agency determination, and for whatever additional means may be necessary for individuals to be able to exercise fully their right under 5 U.S.C. 552a (5 U.S.C. 552a (f)(4)).

Any individual seeking to determine whether a system of records maintained by any office of the Internal Revenue Service contains a record or information pertaining to such individual, or seeking access to, or amendment of, such a record, must comply fully with the applicable procedure contained in paragraph (3) or (4) of this section before the Internal Revenue Service will act on the request. Neither the notification and access (or accounting of disclosures) procedures under paragraph (3) of this section nor the amendment procedures under paragraph (4) of this section are applicable to (i) systems of records exempted pursuant to 5 U.S.C. 552a (j) and (k), (ii) information compiled in reasonable anticipation of a civil action or proceeding (see 5 U.S.C. 552a (d)(5)), or (iii) information pertaining to an individual which is contained in, and inseparable from, another individual's record.

2. *Access to and amendment of tax records.* The provisions of the Privacy Act of 1974 may not be used by an individual to amend or correct any tax record. The determination of liability for taxes imposed by the Internal Revenue Service Code, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes are governed by the provisions of the Internal Revenue Service Code and by the procedural rules of the Internal Revenue Service.

These provisions set forth the established procedures governing the determination of liability for tax, the collection of such taxes, and the payment (including credits or refunds of overpayments) of such taxes. In addition, these provisions set forth the procedures (including procedures for judicial review) for resolving disputes between taxpayers and the Internal Revenue Service involving the amount of tax owed, or the payment or collection of such tax. These procedures are the exclusive means available to an individual to contest the amount of any liability for tax or the payment or collection thereof. See, for example, 26 CFR 601.103 for summary of general tax procedures. Individuals are advised that Internal Revenue Service procedures permit the examination of tax records during the course of an investigation, audit, or collection activity. Accordingly, individuals should contact the Internal Revenue Service employee conducting an audit or effecting the collection of tax liabilities to gain access to such records, rather than seeking access under the provisions of the Privacy Act. Where, on the other hand, an individual desires information or records not in connection with an investigation, audit, or collection activity, the individual may follow these procedures.

3. *Procedures for access to records*—(a) *In general.* This paragraph sets forth the procedure whereby an individual can be notified in response to a request if a system of records named by the individual which is maintained by the Internal Revenue Service contains a record pertaining to such individual. In addition, this paragraph sets forth the procedure for the disclosure to an individual upon a request of a record or information pertaining to such individual, including the procedures for verifying the identity of the individual before the Internal Revenue Service will make a record available, and the procedure for requesting an accounting of disclosures of such records. An individual seeking to determine whether a particular system of records contains a record or records pertaining to such individual and seeking access to such records (or seeking an accounting of disclosures of such records) shall make a request for notification and access (or a request for an accounting of disclosures) in accordance with the rules provided in paragraph 3(b) of this section.

(b) *Form of request for notification and access or request for an accounting of disclosures.* (i) A request for notification and access (or request for an accounting of disclosures) shall be made in writing and shall be signed by the person making the request.

(ii) Such request shall be clearly marked, "Request for notification and access," or "Request for accounting of disclosures."

(iii) Such a request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the particular system of records (as set forth in the Notice of Systems) for which the individual is seeking notification and access (or an accounting of disclosures), and the title and business address of the official designated in the access section for the particular system (as set forth in the Notice of Systems). In the case of two or more systems of records which are under the control of the same designated official at the same systems location, a single request may be made for such systems. In the case of two or more systems of records which are not in the control of the same designated official at the same systems location, a separate request must be made for each such system.

(vi) If an individual wishes to limit a request for notification and access to a particular record or records, the request should identify the particular record. In the absence of a statement to the contrary, a request for notification and access for a particular system of records shall be considered to be limited to records which are currently maintained by the designated official at the systems location specified in the request.

(vii) If such request is seeking notification and access to material maintained in a system of records which is exempt from disclosure and access under 5 U.S.C. 552a (k)(2), the individual making the request must establish that such individual has been denied a right, privilege, or benefit that such individual would otherwise be entitled to under Federal law as a result of the maintenance of such material.

(viii) Such request shall state whether the individual wishes to inspect the record in person, or desires to have a copy made and furnished without first inspecting it. If the individual desires to have a copy made, the request must include an agreement to pay the fee for duplication ultimately determined to be due. If the individual does not wish to inspect a record, but merely wishes to be notified whether a particular system or records contains a record pertaining to such individual, the request should so state.

(c) *Time and place for making a request.* A request for notification and access to records under the Privacy Act (or a request for accounting of disclosures) shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records for which the individual is seeking notification and access (or an accounting of disclosures). The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(d) Sample request for notification and access to records. The following are sample requests for notification and access to records which will satisfy the requirements of this paragraph:

**Request for Notification and Access to Records by Mail**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000–00–0000) request under the Privacy Act of 1974 that the following system of records be examined and that I be furnished with a copy of any record (or a specified record) contained therein pertaining to me. I agree that I will pay the fees ultimately determined to be due for duplication of such record. I have enclosed the necessary information.

System Name:
System Location:
Designated Official:

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John Doe

**Request for Notification and access to records in person**

I, John Doe, of 100 Main Street, Boston, MA 02108 (soc. sec. num. 000–00–0000) request under the provisions of the Privacy Act of 1974, that the following system of records be examined and that I be granted access in person to inspect any record (or a specified record) contained therein pertaining to me. I have enclosed the necessary identification.

System Name:
System Location:

Designated Official:

John Doe

(e) *Processing a request for notification and access to records or a request for an accounting of disclosures.* (i) If a request for notification and access (or request for an accounting of disclosures) omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised of the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for notification and access (or a request for an accounting of disclosures), to a particular system of records by the designated official for such system, a determination will be made as to whether the particular system of records is exempt from the notification and access provisions of the Privacy Act, and if such system is not exempt, whether it does or does not contain a record pertaining to the individual making the request. If a determination cannot be made within 30 days, the individual will be notified of the delay, the reasons therefor, and the approximate time required to make a determination. If it is determined by the designated official that the particular system of records is exempt from the notification and access provisions of the Privacy Act, the individual making the request will be notified of the provisions of the Privacy Act under which the exemption is claimed. On the other hand, if it is determined by the designated official that the particular system of records is not exempted from the notification and access provisions of the Privacy Act and that such system contains a record pertaining to the individual making the request, the individual will be notified of the time and place where inspection may be made. If an individual has not requested that access be granted to inspect the record in person, but merely requests that a copy of the record be furnished, or if it is determined by the designated official that the granting of access to inspect a record in person is not feasible in a particular case, then the designated official will furnish a copy of the record with the notification, or if a copy cannot be furnished at such time, a statement indicating the approximate time such copy will be furnished. If the request is for an accounting of disclosures from a system of records which is not exempt from the accounting of disclosure provisions of the Privacy Act, the individual will be furnished with an accounting of such disclosures.

(f) *Granting of access.* Normally, an individual will be granted access to inspect a record in person within 30 days (excluding Saturdays, Sundays, and legal public holidays) after the receipt for a request for notification and access by the designated official. If access cannot be granted within 30 days, the notification will state the reasons for the delay and the approximate time such access will be granted. An individual wishing to inspect a record may be accompanied by another person of his choosing. Both the individual seeking access and the individual accompanying him may be required to sign a form supplied by the IRS indicating that the Service is authorized to disclose or discuss the contents of the record in the presence of both individuals. See CFR 601.502 for requirements to be met by taxpayer's representatives in order to discuss the contents of any tax records.

(g) *Medical records.* When access is requested to medical records (including psychological records), the designated official may determine that release of such records will be made only to a physician designated by the individual to have access to such records.

(h) *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, must satisfy one of the following identification requirements before action will be taken by the IRS on any such request:

(i) An individual seeking notification or access to records in person, or seeking to amend a record in person, may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph but do bear both a name and signature (such as a driver's license or credit card).

(ii) An individual seeking notification or access to records by mail, or seeking to amend a record by mail, may establish identity by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual seeking notification or access to records by mail or in person, or seeking to amend a record by mail or in person, who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(i)(3) for requesting or obtaining access to records under false pretenses. Notwithstanding subdivisions (i), (ii), or (iii) of this subparagraph, a designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

(i) *Fees.* The fee for costs required of the IRS in copying records pursuant to this paragraph is $0.15 per page. However, no fee will be charged if the aggregate costs required of the IRS in copying records is less than $3.00. If an individual who has requested access to inspect a record in person is denied such access by the designated official because it would not be feasible in a particular case, copies of such record will be furnished to the individual without payment of the fees otherwise required under this subparagraph. If the IRS estimates that the total fees for costs incurred in complying with a request for copies of records will amount to $50 or more, the individual making the request may be required to enter into a contract for the payment of the actual fees with respect to the request before the Service will furnish the copies requested. Payment of fees for copies of records should be made by check or money order payable to the Internal Revenue Service.

4. *Procedures for amendment of records.* (a) In general. This paragraph sets forth the procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to such individual, for making a determination on the request, for making an appeal within the IRS of an initial adverse determination, and for judicial review of a final determination.

(b) *Amendment of record.* Under 5 U.S.C. 552a(d)(2), an individual who has been granted access to a record pertaining to such individual may, after inspecting the record, request that the record be amended to make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete. An individual may seek to amend a record in accordance with the rules provided in

paragraph (d)(3) of this section. See paragraph (b) of this section for prohibition against amendment of tax records.

(c) *Form of request for amendment of record.* (i) A request for amendment of a record shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for amendment of record."

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g., husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the official designated in the access section for such system (as set forth in the Notice of Systems).

(vi) Such request shall specify the particular record in the system which the individual is seeking to amend.

(vii) Such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(d) *Time and place for making request.* A request to amend a record under the Privacy Act shall be addressed to or delivered in person to the office of the official designated in the access section for the particular system of records. The title and office address of such official is set forth for each system of records in the Notice of Systems of Records. A request delivered to an office in person must be delivered during the regular office hours of that office.

(e) *Processing a request for amendment of a record.* (i) Within 10 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, the individual will be sent a written acknowledgement that will state that the request has been received, that action is being taken thereon, and that the individual will be notified within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of the request whether the requested amendments will or will not be made. If a request for amendment of a record omits any information which is essential to processing the request, the request will not be acted upon and the individual making the request will be promptly advised on the additional information which must be submitted before the request can be processed.

(ii) Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request to amend a record by the designated official, a determination will be made as to whether to grant the request in whole or part. The individual will then be notified in writing of the determination. If a determination cannot be made within 30 days, the individual will be notified in writing within such time of the reasons for the delay and the approximate time required to make a determination. If it is determined by the designated official that the request will be granted, the requested changes will be made in the record and the individual will be notified of the changes. In addition, to the extent an accounting was maintained, all prior recipients of such record will be notified of the changes. Upon request, an individual will be furnished with a copy of the record, as amended, subject to the payment of the appropriate fees. On the other hand, if it is determined by the designated official that the request, or any portion thereof, will not be granted, the individual will be notified in writing of the adverse determination. The notification of an adverse determination will set forth the reasons for refusal to amend the record. In addition, the notification will contain a statement informing the individual of such individual's right to request an independent review of the adverse determination by a reviewing officer in the national office of the IRS and the procedures for requesting such a review.

(f) *Administrative review of adverse determination.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with the refusal of the agency to amend a record may, within 35 days of being notified of the adverse determination, request an independent review of such refusal by a reviewing officer in the national office of the IRS. The reviewing officer for the IRS is the Commission of Internal Revenue, the Deputy Commissioner, or an Assistant Commissioner. In the case of an adverse determination relating to a system of records maintained by the Office of General Counsel for the IRS, the reviewing officer is the Chief Counsel or his delegate. An individual seeking a review of an adverse determination shall make a request for review in accordance with the rules provided in paragraph (d)(7) of this section.

(g) *Form of request for review.* (i) A request for review of an adverse determination shall be in writing and shall be signed by the individual making the request.

(ii) Such request shall be clearly marked "Request for review of adverse determination".

(iii) Such request shall contain a statement that it is being made under the provisions of the Privacy Act of 1974.

(iv) Such request shall contain the name and address of the individual making the request. In addition, if a particular system employs an individual's social security number as an essential means of accessing the system, the request must include the individual's social security number. In the case of a record maintained in the name of two or more individuals (e.g. husband and wife), the request shall contain the names, addresses, and social security numbers (if necessary) of both individuals.

(v) Such request shall specify the particular record which the individual is seeking to amend, the name and location of the system of records (as set forth in the Notice of Systems) in which such record is maintained, and the title and business address of the designated official for such system (as set forth in the Notice of Systems).

(vi) Such request shall include the date of the initial request for amendment of the record, and the date of the letter notifying the individual of the initial adverse determination with respect to such request.

(vii) such request shall clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reasons for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition.

(h) *Time and place for making the request.* A request for review of an adverse determination under the Privacy Act shall be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. A

request for review of an adverse determination will be promptly referred by the Director, Office of Disclosure to the appropriate reviewing officer for his review and final determination.

(i) *Processing a request for review of adverse determination.* Within 30 days (not including Saturdays, Sundays, and legal public holidays) after the receipt of a request for review of an adverse determination by the appropriate reviewing officer, the reviewing officer will review the initial adverse determination, make a final determination whether to grant the request to amend the record in whole or in part, and notify the individual in writing of the final determination. If a final determination cannot be made within 30 days, the Commissioner of Internal Revenue may extend such 30-day period. The individual will be notified in writing within the 30 day period of the cause for the delay and the approximate time required to make a final determination. If it is determined by the reviewing officer that the request to amend the record will be granted, the reviewing officer will cause the requested changes to be made and the individual will be so notified. Upon request, an individual will be furnished with a copy of the record as amended subject to the payment of appropiate fees. On the other hand, if it is determined by the reviewing officer that the request to amend the record, or any portion thereof, will not be granted, the individual will be notified in writing of the final adverse determination. The notification of a final adverse determination will set forth the reasons for the refusal of the reviewing officer to amend the record. The notification shall include a statement informing the individual of the right to submit a concise statement for insertion in the record setting forth the reasons for the disagreement with the refusal of the reviewing officer to amend the record. In addition, the notification will contain a statement informing the individual of the right to seek judicial review by a United States district court of a final adverse determination.

(j) *Statement of disagreement.* Under 5 U.S.C. 552a (d)(3), an individual who disagrees with a final adverse determination not to amend a record subject to amendment under the Privacy Act may submit a concise statement for insertion in the record setting forth the reasons for disagreement with the refusal of the reviewing officer to amend the record. A statement of disagreement should be addressed to or delivered in person to the Director, Office of Disclosure, Attention: OP:EX:D, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The Director, Office of Disclosure will foward the statement of disagreement to the appropriate designated official who will cause the statement to be inserted in the individual's record. Any such statement will be available to anyone to whom the record is subsequently disclosed and the prior recipients of the record will be provided with a copy of the statement of disagreement, to the extent an accounting of disclosures was maintained.

(k) *Judicial review.* If, after a review and final determination on a request to amend a record by the appropriate reviewing officer, the individual is notified that the request will not be granted, or if, after the expiration of 30 days (not including Sundays, Saturdays, and legal public holidays) from the receipt of such request by the Director, Disclosure Operations Division, action is not taken thereon in accordance with the requirements of paragraph (d)(9) of this section, an individual may commence an action within the time prescribed by law in a U.S. District Court pursuant to 5 U.S.C. 552a (g)(1). The statute authorizes an action only against the agency. With respect to records maintained by the IRS, the agency is the Internal Revenue Service, not an officer or employee thereof. Service of process in such an action shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C. App.) applicable to actions against an agency of the United States. Where provided in such Rules, delivery of process upon the IRS must be directed to the Commissioner of Internal Revenue, Attention: CC:GLS, 1111 Constitution Avenue, NW, Washington, DC 20224. The district court will determine the matter de novo.

5. *Records transferred to Federal Records Centers.* Records transferred to the Administrator of General Services for storage in a Federal Records Center are not used by the Internal Revenue Service in making any determination about any individual while stored at such location and therefore are not subject to the provisions of 5 U.S.C. 552a (e)(5) during such time.

**Appendix C—United States Customs Service**

1. *In general.* This appendix applies to the United States Customs Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officer designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* (a) For records which are maintained at the United States Customs Service Headquarters, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records maintained at Regional Offices, initial requests for notification and access to records and accountings of disclosures under 31 CFR 1.26, should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant the request or deny the request. The appropriate location of the regional offices is specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26, and in the appropriate system notice in the "Privacy Act Issuances" published annually by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

3. *Request for amendment of records.* (a) For records which are maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Director, Office of Regulations & Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington,

DC 20229. The official who has authority over the maintenance of the file will have the authority to grant or deny the request.

(b) For records not maintained at Customs Service Headquarters, initial requests for amendment of records under 31 CFR 1.27 (a) through (d) should be mailed or personally delivered to the Regional Commissioner of Customs in whose region the records are located. This official shall have the authority to grant or deny the request. A request directed to a Regional Commissioner should be mailed to or personally delivered at the appropriate location specified in Customs Appendix A in "Privacy Act Issuances" published annually by the Office of the Federal Register.

(c) Each request shall comply with the identification and other requirements set forth in 31 CFR 1.27, and in the appropriate system notice in "Privacy Act Issuance published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Request".

4. *Administrative appeal of initial determination refusing to amend records.* Appellate determinations (including extensions of time on appeal under 31 CFR 1.27 (e) with respect to all Customs Service records will be made by the Director, Office of Regulations & Rulings or the delegate of such official. All such appeals should be mailed or personally delivered to the United States Customs Service, Office of Regulations & Rulings, 1301 Constitution Avenue NW., Washington, DC 20229. Each appeal should be conspicuously labeled on the face of the envelope "Privacy Act Amendment Appeal".

5. *Statements of Disagreement.* "Statements of Disagreement" pursuant to 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of process.* Service of process will be received by the Chief Counsel, United States Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

7. *Annual notice of systems of records.* The annual notice of the United States Customs Service systems of records required to be published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f), is included in the publication entitled "Privacy Act Issuances".

8. *Verification of Identity.* Each request shall comply with the identification and other requirements set forth in 31 CFR 1.26 and in the appropriate system notice published by the Office of the Federal Register. Each request should be conspicuously labeled on the face of the envelope "Privacy Act Request".

**Appendix D—United States Secret Service**

1. *In general.* This appendix applies to the United States Secret Service. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, and time and places where records may be reviewed; identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Secret Service, will be made by the Freedom of Information and Privacy Act Officer, United States Secret Service. Requests for notification should be made by mail or delivered personally between the hours of 9:00 a.m. and 5:30 of any day excluding Saturdays, Sundays, and legal holidays to: Privacy Act Request, Freedom of Information and Privacy Act Officer, United States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

a. *Identification Requirements.* In addition to the requirements specified in 31 CFR 1.26, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a duly notarized statement signed by the requester asserting his or her identity and stipulating that the requesting individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretences is punishable by a fine of up to $5,000.

b. *Individuals making requests in person.* Individuals making requests in person will be required to exhibit acceptable identifying documents such as employee identification numbers, drivers licenses, medical cards or other documents sufficient to verify the identity of the requester.

c. *Physical Inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the requested records may be inspected. The inspection of records will be conducted at the Secret Service field office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the Secret Service Field Office or other facility where the disclosure is made. A person of his or her own choosing may accompany the individual making the request provided the individual furnishes a written statement authorizing the disclosure of that individual's record in the accompanying person's presence. Any disclosure of a record will be made in the presence of a representative of the United States Secret Service.

3. *Requests for amendment of records.* Initial determination under 31 CFR Part 1, whether to grant requests to amend records will be made by the Freedom of Information and Privacy Act Officer. Requests should be mailed or delivered personally between the hours of 9:00 a.m. and 5:30 p.m. to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Secret Service, Room 720, 1800 G Street NW., Washington, DC 20223.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to records of the United States Secret Service will be made by the Assistant Secretary of the Treasury for Enforcement. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Assistant Secretary of the Treasury for Enforcement, Department of the

Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

5. *Statements of Disagreement.* "Statements of Disagreements" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing of the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the United States Secret Service General Counsel and shall be delivered to the following location: General Counsel, United States Secret Service, Room 843, 1800 G Street NW., Washington, DC 20223.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**Appendix E—Bureau of Alcohol, Tobacco and Firearms**

1. *In general.* This appendix applies to the Bureau of Alcohol, Tobacco and Firearms. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(3)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determination under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Alcohol, Tobacco, and Firearms, will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director or the delegate of such officer. Requests may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

3. *Requests for amendment of record.* Initial determinations under 31 CFR 1.27 (a) through (d) with respect to requests to amend records maintained by the Bureau of Alcohol, Tobacco and Firearms will be made by the Chief, Disclosure Branch, Office of the Assistant to the Director. Requests for amendment of records may be mailed or delivered in person to: Privacy Act Request, Chief, Disclosure Branch, Room 4406, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

4. *Verification of Identity.* (a) In addition to the requirements specified in 31 CFR 1.26(d) of this appendix, each request for notification, access or amendment of records made by mail shall contain the requesting individual's date and place of birth and a statement signed by the requester asserting his or her identity and stipulating that the requester understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is a misdemeanor and punishable by a fine of up to $5,000 provided, that the Bureau of Alcohol, Tobacco and Firearms may require a signed notarized statement verifying the identity of the requester.

(b) Individuals making requests in person will be required to exhibit at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester.

(c) The parent or guardian of a minor or a person judicially determined to be incompetent, shall in addition to establishing the identity of the minor or other person he represents as required in (a) and (b), establish his own parentage or guardianship by furnishing a copy of a birth certificate showing parentage (or other satisfactory documentation) or a court order establishing the guardianship.

5. *Request for physical inspection of records.* Upon determining that a request for the physical inspection of records is to be granted, the requester shall be notified in writing of the determination, and when and where the records may be inspected. The inspection of records will be made at the Bureau of Alcohol, Tobacco and Firearms Field Office or other facility located nearest to the residence of the individual making the request. Such inspection shall be conducted during the regular business hours of the field office or other facility where the disclosure is made. A person of the requester's own choosing may accompany the requester provided the requester furnishes a written statement authorizing the disclosure of the requester's record in the accompanying person's presence. The record inspection will be made in the presence of a representative of the Bureau. Following the inspection of the record, the individual will acknowledge in writing the fact that he or she had an opportunity to inspect the requested record.

6. *Requests for copies of records without prior physical inspection.* Upon determining that an individual's request for copies of his or her records without prior physical inspection is to be granted, the requester shall be notified in writing of the determination, and the location and time for his or her receipt of the requested copies. The copies will be made available at the Bureau of Alcohol, Tobacco and Firearms field office or other facility located nearest to the residence of the individual making the request. Copies shall be received by the requester during the regular business hours of the field office or other facility where the disclosure is made. Transfer of the copies to the individual shall be conditioned upon payment of copying costs and his presentation of at least two acceptable identifying documents such as employee identification cards, driver's license, medical cards, or other documents sufficient to verify the identity of the requester. Following the receipt of the copies, the individual will acknowledge receipt in writing.

7. *Administrative appeal of initial determination refusing to amend record.* Appellate determinations under 31 CFR 1.27(e) with respect to records of the Bureau of Alcohol, Tobacco and Firearms, including extensions of time on appeal, will be made by the Director or the delegate of such officer. Appeals should be addressed to, or delivered in person to: Privacy Act Amendment Appeal, Director, Bureau of Alcohol, Tobacco and Firearms, Room 4406, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

8. *Statements of disagreement.* "Statements of Disagreement" as described in 31 CFR 1.27(e) (4) shall be filed with the official signing the notification within 35 days of the date of such notification and should be limited to one page.

9. *Service of process.* Service of process will be received by the Director of the Bureau of Alcohol, Tobacco and Firearms or the delegate of such official and shall be delivered to the following location: Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226, Attention: Chief Counsel.

10. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for each pertinent system.

**Appendix F—Bureau of Engraving and Printing**

1. *In general.* This appendix applies to the Bureau of Engraving and Printing. It sets forth specific notification and access procedures with respect to particular systems of records including identification requirements, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a (e)(4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Engraving and Printing, will be made by the head of the organizational unit having immediate custody of the records requested, or the delegate of such official. Requests for access to records contained within a particular system of records should be submitted to the address indicated for that system in the access section of the notices published by the Office of the Federal Register in "Privacy Act Issuances." Requests for information and specific guidance should be addressed to: Privacy Act Request, Disclosure Officer (Executive Assistant to the Director), Room 104—18M, Bureau of Engraving and Printing, Washington, DC 20228.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant request to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer (Executive Assistant to the Director), Bureau of Engraving and Printing, Room 104–18M, Washington, DC 20228.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of Engraving and Printing will be made by the Director of the Bureau or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Disclosure Officer (Executive Assistant to the Director), Room 104–18M, Bureau of Engraving and Printing, Washington, DC 20228.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(8) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the Chief Counsel of the Bureau of Engraving and Printing and shall be delivered to the following location: Chief Counsel, Bureau of Engraving and Printing, Room 109–M, 14th and C Streets, SW., Washington, DC 20228.

7. *Verification of identity.* An individual seeking notification or access to records, or seeking to amend a record, or seeking an accounting of disclosures, must satisfy one of the following identification requirements before action will be taken by the Bureau of Engraving and Printing on any such request:

(i) An individual appearing in person may establish identity by the presentation of a single document bearing a photograph (such as a passport or identification badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and signature (such as a credit card).

(ii) An individual may establish identity through the mail by a signature, address, and one other identifier such as a photocopy of a driver's license or other document bearing the individual's signature.

(iii) Notwithstanding subdivisions (i) and (ii) of this subparagraph, an individual who so desires, may establish identity by providing a notarized statement, swearing or affirming to such individual's identity and to the fact that the individual understands the penalties provided in 5 U.S.C. 552a(1)(3) for requesting or obtaining access to records under false pretenses.

Notwithstanding subdivision (i), (ii), or (iii) of this subparagraph, the Executive Assistant or other designated official may require additional proof of an individual's identity before action will be taken on any request if such official determines that it is necessary to protect against unauthorized disclosure of information in a particular case. In addition, a parent of any minor or a legal guardian of any individual will be required to provide adequate proof of legal relationship before such person may act on behalf of such minor or such individual.

8. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 522a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**Appendix G—Financial Management Service**

1. *In general.* This appendix applies to the Financial Management Service. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the

officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Financial Management Service, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Disclosure Officer, Financial Management Service, Room 108, Treasury Department Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organzational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Disclosure Officer, Financial Management Service, Department of the Treasury, Treasury Annex No. 1, Washington, DC 20226.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) incuding extensions of time on appeal, with respect to records of the Financial Management Service will be made by the Commissioner or the delegate of such official. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW., Washington, DC 20226.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the Commissioner, Financial Management Service or the delegate of such official and shall be delivered to the following location: Commissioner, Financial Management Service (Privacy), Department of the Treasury, Room 618, Treasury Annex No. 1, Pennsylvania Avenue and Madison Place, NW, Washington, D.C. 20226.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

Appendix H—United States Mint

1. *In general.* This appendix applies to the United States Mint. It sets forth specific notification and access procedures with respect to particluar systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the United States Mint will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests should be directed to the Superintendent or Officer in charge of the facility in which the records are located or to the Chief, Administrative Programs Division. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Chief, Administrative Programs Division, United States Mint, Judiciary Square Building, 633 3rd Street, N.W, Washington, D.C. 20220.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the Mint installation having immediate custody of the records or the delegated official. Requests should be mailed or delivered personally to: Privacy Act Amendment Request, Freedom of Information and Privacy Acts Officer, United States Mint, Judiciary Square Building, 633 3rd Street, Washington, D.C. 20220.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27 including extensions of time on appeal, with respect to records of the United States Mint will be made by the Director of the Mint or the delegate of the Director. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, United States Mint, Judiciary Square Building, 633 3rd Street, NW, Washington, D.C. 20220.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the Director of the Mint and shall be delivered to the following location: Director of the Mint,

Judiciary Square Building, 633 3rd street, NW., Washington, D.C. 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Insurances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**Appendix I—Bureau of the Public Debt**

1. *In general.* This appendix applies to the Bureau of the Public Debt. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officer designated to grant extension of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Bureau of Public Debt, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personnaly to: Privacy Act Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW. Room 553, Washington, DC 20239.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Information Officer, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 553, Washington, DC 20239.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Bureau of the Public Debt will be made by the Commissioner of the Public Debt or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street NW., Room 503, Washington, DC 20239.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the Chief Counsel of the Bureau of the Public Debt and shall be delivered to the following location: Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 503, Washington, DC 20239.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**Appendix J—Office of the Comptroller of the Currency**

1. *In general.* This appendix applies to the Office of the Comptroller of the Currency. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the intial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances".

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Office of the Comptroller of the Currency, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Communications Division, Comptroller of the Currency, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27(a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custory of the records or the delegate of such official. Requests for amendment should be addressed to: Privacy Act Amendment Request, Communications Division, 5th Floor, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, DC 20219.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Office of the Comptroller of the Currency will be made by the Comptroller of the Currency or Chief Counsel or the delegate of such officer.

Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Communications Division, 5th Floor, Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the Director, Communications Division at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the Office of the Chief Counsel of the Comptroller of the Currency or the delegate of such official and shall be delivered to the following location: Office of Chief Counsel, Comptroller of the Currency, Fifth Floor, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**Appendix K—U.S. Savings Bonds Division**

1. *In general.* This appendix applies to the U.S. Savings Bonds Division. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosures of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 52a(e) (4) and (11) and published annually by the Office of the Federal Register in "Privacy Act Issuances."

2. *Requests for notification and access to records and accountings of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and access to records and accountings of disclosures for the Financial Management Service, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, U.S. Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW., Washington, DC 20226.

3. *Requests for amendment of records.* Initial determination under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Privacy Act Contact, U.S. Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW., Washington, DC 20226.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the U .S. Savings Bonds Division will be made by the National Director, U.S. Savings Bonds Division or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, National Director, U.S. Savings Bonds Division, Department of the Treasury, 1111 20th Street, NW., Washington, DC 20226.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27 (e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location: General Counsel, Room 3000–MT, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

**APPENDIX L—FEDERAL LAW ENFORCEMENT TRAINING CENTER**

1. *In general.* This appendix applies to the Federal Law Enforcement Training Center. It sets forth specific notification and access procedures with respect to particular systems of records, identifies the officers designated to make the initial determinations with respect to notification and access to records and accountings of disclosure of records. This appendix also sets forth the specific procedures for requesting amendment of records and identifies the officers designated to make the initial and appellate determinations with respect to requests for amendment of records. It identifies the officers designated to grant extensions of time on appeal, the officers with whom "Statements of Disagreement" may be filed, the officer designated to receive service of process and the addresses for delivery of requests, appeals, and service of process. In addition, it references the notice of systems of records and notices of the routine uses of the information in the system required by 5 U.S.C. 552a(e) (4) and (11) and published annually by the Office of the Federal Register, in "Privacy Act Issuances".

2. *Requests for notification and access to records and accounting of disclosures.* Initial determinations under 31 CFR 1.26, whether to grant requests for notification and acesss to records and accounting of disclosures for the Federal Law Enforcement Training Center, will be made by the head of the organizational unit having immediate custody of the records requested or an official designated by this official. This is indicated in the appropriate system notice in "Privacy Act Issuances" published annually by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to:

Privacy Act Request, Library Building 262, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

3. *Requests for amendment of records.* Initial determinations under 31 CFR 1.27 (a) through (d), whether to grant requests to amend records will be made by the head of the organizational unit having immediate custody of the records or the delegate of such official. Requests for amendment should be addressed as indicated in the appropriate system notice in "Privacy Act Issuances" published by the Office of the Federal Register. Requests for information and specific guidance on where to send requests for amendment should be addressed to: Privacy Act Amendment Request, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

4. *Administrative appeal of initial determinations refusing amendment of records.* Appellate determinations refusing amendment of records under 31 CFR 1.27(e) including extensions of time on appeal, with respect to records of the Federal Law Enforcement Training Center will be made by the Assistant Secretary (Enforcement), Department of the Treasury or the delegate of such officer. Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, FLETC, Assistant Secretary (Enforcement), Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 4312, Washington, DC 20220.

5. *Statements of Disagreement.* "Statements of Disagreement" under 31 CFR 1.27(e)(4)(i) shall be filed with the official signing the notification of refusal to amend at the address indicated in the letter of notification within 35 days of the date of such notification and should be limited to one page.

6. *Service of Process.* Service of process will be received by the General Counsel of the Department of the Treasury or the delegate of such official and shall be delivered to the following location: General Counsel, Department of the Treasury, Room 3000, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

7. *Annual notice of systems of records.* The annual notice of systems of records is published by the Office of the Federal Register, as specified in 5 U.S.C. 552a(f). The publication is entitled "Privacy Act Issuances". Any specific requirements for access, including identification requirements, in addition to the requirements set forth in 31 CFR 1.26 and 1.27 are indicated in the notice for the pertinent system.

[FR Doc. 87-15801 Filed 7-13-87; 8:45 am]
BILLING CODE 4810-25-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 117

[CCGD5-87-056]

## Drawbridge Operations Regulations; Kent Island Narrows, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** In order to evaluate the proposed changes to the drawbridge opening regulations for the U.S. Route 50/301 bridge across Kent Island narrows, Maryland, contained in the supplemental notice of proposed rulemaking CGD5-87-055 (52 FR 25389) dated 7 July, 1987, temporary deviations from the regulations in 33 CFR 117.561 will be in effect on July 2, 3, 4, 5, 11, 12, 18, 19, 25, and 26, August 1, 2, 8, 9, 15, 16, 22, 23, 29, and 30, September 5, 6, 7, 12, 13, 19, 20, 26, 27, and October 3, 4, 10, 11, 12, 17, 18, 24, 25, 31, 1987.

The flow of vehicular traffic across the bridge and impact on marine traffic through the bridge on those days will be evaluated to determine whether the current regulations should be amended.

**EFFECTIVE DATE:** These regulations are effective on July 2, 3, 4, 5, 11, 12, 18, 19, 25, and 26, August 1, 2, 8, 9, 15, 16, 22, 23, 29, and 30, September 5, 6, 7, 12, 13, 19, 20, 26, 27, and October 3, 4, 10, 11, 12, 17, 18, 24, 25, 31, 1987.

**FOR FURTHER INFORMATION CONTACT:** Ann B. Deaton, Bridge Administrator, at Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, or telephone (804) 398-6222.

### Drafting Information

The drafters of these regulations are Ann B. Deaton, project officer, and CDR Robert J. Reining, project attorney.

### Discussion of Temporary Regulations

These temporary regulations are being issued to evaluate the proposed drawbridge regulations for the U.S. 50/301 bridge across Kent Island Narrows on Maryland's Eastern Shore. A discussion of that proposal is contained in the supplemental notice of proposed rulemaking.

The impact of the proposed regulations on highway and marine traffic during the remainder of this summer and boating season will be evaluated to determine if the proposed changes result in substantial improvements in vehicular traffic flow without unreasonably restricting marine traffic.

On the weekends when temporary regulations are in effect, the Maryland Department of Transportation will compile data on vehicle counts, boat counts, times of actual drawbridge openings, duration of openings, length of vehicle backups, and the reasons for the backups along U.S. Route 50/301 within fifteen miles of the bridge. This data will be used to determine whether the backups are, in fact, as a direct result of drawbridge openings or can be attributed to other causes.

### List of Subjects in 33 CFR Part 117

Bridges.

### Temporary Regulations

In consideration of the foregoing, the Coast Guard is temporarily amending Part 117 of Title 33, Code of Federal Regulations, as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g), 33 CFR 117.43.

2. In § 117.561 paragraphs (b)(1)-(4) and (c) are revised and the introductory text is republished to read as follows:

**§ 117.561 Kent Island Narrows.**

The draw of the U.S. Route 50/301 bridge, mile 1.0, at Kent Island Narrows, operates as follows:

* * * * *

(b) From May 1 through October 31, 1987:

(1) On Monday (except when Monday is a holiday) through Thursday (except when Thursday is the day before a Friday holiday), the draw shall open on signal on the hour from 7 a.m. to 7 p.m., but need not be opened at any other time.

(2) On Friday (except when Friday is a holiday) and on Thursday when it is the day before a Friday holiday, the draw shall open on signal on the hour from 6 a.m. to 3 p.m. and at 8 p.m., but need not be opened at any other time.

(3) On Saturday and on a Friday holiday, the draw shall open on signal at 6 a.m. and 12 noon and on signal on the hour from 3 p.m. to 8 p.m., but need not be opened at any other time.

(4) On Sunday and on a Monday holiday, the draw shall open on signal on the hour from 6 a.m. to 1 p.m. and at 3:30 p.m., but need not be opened at any other time.

* * * * *

(c) The draw shall open on signal for public vessels of the United States, State, or local government vessels used

for public safety purposes, commercial vessels, and vessels in distress.

Dated: June 29, 1987.

**A.D. Breed,**

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

[FR Doc. 87-15982 Filed 7-10-87; 10:57 am]

BILLING CODE 4910-14-M

## VETERANS ADMINISTRATION

### 38 CFR Part 36

### Loan Guaranty; Increase in Value of Security Which Can Be Released Without Prior Approval

**AGENCY:** Veterans Administration.

**ACTION:** Final regulatory amendment.

**SUMMARY:** The Veterans Administration (VA) is amending its regulations by increasing from $500 to $2,500 the maximum value of property securing a VA-guaranteed home loan that can be released by the holder without prior approval of the Administrator. A new maximum value of $2,500 will eliminate unnecessary paperwork for both the lender and the VA by reducing the number of partial security release cases referred by lenders to the VA for prior approval. The new maximum value will allow for greater reduction to the loan balance, and consequently to the Administrator's liability, because the regulations still provide for the entire consideration received for the released security to be applied to the loan balance.

**FOR FURTHER INFORMATION CONTACT:** Mr. Raymond L. Brodie, Assistant Director for Loan Management (261), Loan Guaranty Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-3668.

**EFFECTIVE DATE:** August 13, 1987.

**SUPPLEMENTARY INFORMATION:** On November 19, 1986, the VA published in the **Federal Register** (51 FR 41808) a proposed regulatory amendment to 38 CFR 36.4324(a). Public comments were requested on the proposed amendment; however, no comments were received. Therefore, the proposed regulatory amendment is adopted as final.

Section 36.4324(a) was last amended in 1970, to increase from $300 to $500 the value of property securing a VA-guaranteed loan that can be released by the holder without prior VA approval. This current amendment which raises the amount to $2,500 is due to the increase in property values since 1970. VA prior approval is required for release of property valued at more than $2,500.

The Administrator hereby certifies that this final regulatory amendment 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. By reducing the number of cases requiring referral by the holder to the VA, the amendment establishes a procedure which is less burdensome on the holder than that described in the current regulations. Pursuant to 5 U.S.C. 605(b), this final regulation is, therefore, exempt from the initial and final regulatory flexibility analysis requirements of Parts 603 and 604.

The Administrator has also determined that the final regulatory amendment is not a major rule within the meaning of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not cause a major increase in costs or prices for consumers or individual industries; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Numbers 64.114 and 64.119)

**List of Subjects in 38 CFR Part 36**

Condominiums, Handicapped, Housing loan programs—housing and community development, Manufactured homes, Veterans.

This amendment is made final under the authority granted the Administrator by sections 210(c) and 1820 of title 38, United States Code.

Approved: June 19, 1987.

**Thomas K. Turnage,**

*Administrator.*

38 CFR Part 36, *Loan Guaranty*, is amended to read as follows.

### PART 38—[AMENDED]

1. The authority citation for §§ 36.4300 through 36.4375 continues to read:

Authority 72 Stat. 1114 (38 U.S.C. 210).

**§ 36.4324 [Amended]**

2. In § 36.4324, paragraph (a) is amended by removing the words "$500" wherever they appear and adding, in their place, the words "$2,500".

[FR Doc. 87-15699 Filed 7-13-87; 8:45 a.m.]

BILLING CODE 8320-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 146

[FRL-3232-3]

### Underground Injection Control Program; Extension of Water-in-Annulus Mechanical Integrity Test Interim Approval

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Extension of interim approval.

**SUMMARY:** Notice is given today that the Director of the Office of Drinking Water, EPA, has granted an extension ending one year from July 14, 1987, to the interim approval for use of an alternative to the tests specified in § 146.8(b) to test the mechanical integrity of a well's tubular goods. This mechanical integrity test (MIT) known as the water-in-annulus test has been approved only for existing Class II enhanced recovery wells in specific counties in the States of New York and Pennsylvania. This extension of the interim approval is necessary to evaluate modified procedures outlined in this notice and to gather additional data on the test's sensitivity and reliability. The Agency is also requesting comments on this test for consideration in its final decision.

**EFFECTIVE DATE:** This approval extends for a period ending one year from July 14, 1987.

**ADDRESSES:** Comments should be addressed to Eric J. Callisto, EPA, Office of Drinking Water (WH-550A), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Bruce J. Kobelski, Office of Drinking Water (WH-550A), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-7275, or S. Stephen Platt, U.S. Environmental Protection Agency, Region III, Drinking Water/Ground Water Protection Branch, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-2537.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) protects underground sources of drinking water from contamination by injection wells. One of the cornerstones of the Underground Injection Control (UIC) program is the mechanical integrity of the wells. The regulations for the UIC program define mechanical integrity as the absence of significant leaks in the casing, tubing or packer and the absence

of significant fluid movement into an underground source of drinking water (USDW) through vertical channels adjacent to the injection wellbore. Acceptable methods of evaluating mechanical integrity for programs administered by EPA are specified in § 146.8. That section also provides that the Director of a State program (in this case the Regional Administrator) may allow the use of alternative mechanical integrity tests with the approval of the Administrator. In order to be approved, tests must "reliably demonstrate the mechanical integrity" of wells for which their use is proposed. The regulations also provide that alternative approved methods shall be published in the Federal Register and may be used in all States unless their use is restricted at the time of approval.

The Director of the Office of Drinking Water has been delegated the authority to approve alternative tests.

On July 20, 1984, the Administrator granted interim approval for two years for the alternative mechanical integrity test known as the water-in-annulus test for existing counties of New York and Pennsylvania: Allegheny, Cattaraugus, and Steuben Counties in New York, and Elk, Forest, McKean, Potter, Venango, Warren, and Washington Counties in Pennsylvania (49 FR 29375).

## II. Description of the Test

Historically, Class II injection wells in certain areas of Pennsylvania and New York were commonly constructed without the casing extending all the way from the top of the well to the injection zone at the bottom. During drilling, the water sands down to about 600 feet were first cased off, usually with 7-inch casing. Cement placed behind the casing ranged from none in older wells, to complete fill-up to conductor pipe in newer wells. Drilling then proceeded through intervening formations to total depth. When the target injection zone was penetrated, injection tubing (usually 2 in.) was run in with a packer on bottom and set against the formation just above the injection zone. Usually 10 sacks (about 50 ft.) of cement are placed above the packer. Typically, to save expense, cement bond logs are not run in either casing or tubing. Final completion consisted of stimulating the zone to be injected by acidizing and/or fracturing before water injection commenced, and then typically 25–50 barrels per day (BPD) were injected.

The water-in-annulus test, which measures the rate of change of the water level in the annulus, is based on operators' observations that in the majority of these wells, the annulus will retain a static water level (near the surface) for days. This reflects the fact that the exposed formation (uncased) below the surface pipe is so impermeable, its rate of water absorption is almost negligible.

To conduct the test, the operator fills the annulus of the well with water and observes the change in water level which occurs over a one-hour period; first with injection pressure applied to the tubing and next with no pressure applied. If there is no change in water level in either case, it is clear that:

(a) There is no water absorption into exposed formations nor leak(s) in surface pipe to permeable beds; and

(b) There is no leak in tubing, in the packer cement combination or in the formation immediately behind cement.

If there is no change in water level without injection pressure, but a rise in water level with injection pressure applied, then:

(a) There is no leak into exposed formations and no leak in the surface pipe; but

(b) There *is* a leak in either the tubing/packer/cement combination or in the formation behind cement.

Under these conditions a leak of only 1 BPD would cause the annulus level to rise at the rate of 1.3 feet/hour (for 2¾ in. O.D. tubing in 6¼ in. I.D. casing). A leak as small as 0.2 BPD corresponding to a level rise of 3 in./hr. would be detectable. Consequently the test is very sensitive.

If there is only a modest drop (e.g., 1 ft. in one-half hour) in annulus water level without tubing pressure applied, and exactly the same drop with injection pressure applied, then:

(a) There is a small leak-off into exposed formation(s); or

(b) A leak in surface casing; but

(c) There is no leak in tubing, packer-cement combination or formation behind cement.

If the leak was due to a hole in the surface casing (which communicated with a USDW for example) the consequence would be that the second tier of protection afforded by the surface casing is gone and a channel-type of leak in the tubing/packer/cement could conceivably go undetected and cause contamination of the USDW until the next test. Distinguishing a leak in surface casing from a leak-off into an exposed formation is a difficult, but not unsolvable, problem.

## III. Basis for Interim Approval

EPA initially approved this test after reviewing the findings of a study prepared by Dewan in 1983 for EPA Regions II and III that recommended this test be used, and after taking into account the following factors concerning the well construction and geologic characteristics common to the countries for which the test is being proposed:

(1) The past industry-wide use of two-inch injection tubing and other technical constraints have severely limited the availability of down-hole instruments for either the emplacement of temporary plugs for pressure testing or well logging.

(2) In the shales below the lowermost underground sources of drinking water, fractures are not apparent and experience has shown that these intervening shales are competent to support themselves in open-hole wells without long string casing down to the oil-producing sandstones. The past industry-wide practice of completing enhanced oil recovery wells without long string casing has precluded the use of annulus pressure monitoring or testing because there is no cased annulus.

(3) Monitoring records, which would establish a historic baseline of the pressure-flow rate relationship, rarely exist.

This test was initially approved for a period of two years because theoretical analysis indicated that it had the necessary sensitivity for leak detection in exposed formations which were so impermeable they allowed a well to maintain a static water level sufficiently long to perform the test.

Review of the records of the water-in-annulus test over the past two years shows the need to be more specific about testing procedures and to collect additional data to ensure that the test is detecting all significant leaks, including a comparison of results of this test with those of other established tests. Therefore, for this extension ending one year from July 14, 1987, EPA has made some revisions to the procedures for conducting the water-in-annulus mechanical integrity test to provide consistency, allow additional information to be collected to further analyze test results, and prevent possible confusion over interpretation of those test results.

## IV. Special Conditions

### *A. Limitations on Use of the Water-in-annulus Mechanical Integrity Test*

Use of the water-in-annulus test is limited to existing Class II enhanced recovery injection wells (existing wells are those wells which were in operation prior to June 25, 1984) located in Allegheny, Cattaraugus, and Steuben Counties in New York and Elk, Forest,

McKean, Potter, Venango, Warren, and Washington Counties in Pennsylvania which:

(1) Inject through a tubing string the size of which severely restricts the placement of temporary plugs for pressure testing or logging;

(2) Are constructed without long string casing due to the competent nature of the rock in the uncased interval;

(3) Are constructed with surface casing set through the lowermost underground source of drinking water;

(4) Can demonstrate the absence of obstruction in the surface casing which could interfere with the test; and

(5) Are constructed with tubing and packer cemented into the hole immediately above the injection zone.

*B. Procedures for Conducting the Water-in-annulus Mechanical Integrity Test*

The water-in-annulus test, as approved under this one year interim extension, must be run according to the following procedures:

(1) Determine with a verifiable procedure, such as using a sinker bar, that there are no obstructions in the annulus to at least the depth of the surface casing seat.

(2) Shut the well in.

(3) Fill the annulus between the injection tubing and surface casing to the top of the casing with water.

(4) Relieve pressure on the injection tubing until reservoir pressure is obtained.

(5) Measure the injection tubing pressure and the existing water level in the annulus and record the values.

(6) Measure and record the water level every 10 minutes for a period of one-half hour.

(7) Begin injection into the well and wait for the pressure to stabilize before beginning the second half of the test. Record the stabilized pressure.

(8) Repeat steps (3) and (6).

(9) Compare the rate of water level change between shut-in and operating conditions.

*C. Interpretation*

(1) The well has demonstrated mechanical integrity pursuant to § 146.8(b) if there is no change in water level in either shut-in or operating conditions, or the rate of change is less than two and one-half feet per one-half hour.

(2) The well has failed to demonstrate mechanical integrity pursuant to § 146.8(b) if:

(a) The water level rises with the well operating, but does not change with the well shut-in;

(b) The rate of change is not equal between shut-in and operating conditions even if the rate of change is less than two and one-half feet per one-half hour (e.g., if the water level declines two and one-half feet during shut-in conditions and one foot during operating conditions);

(c) The water level drops at a rate greater than 25 feet in one-half hour or if the annulus cannot be filled to the top with water to perform the test; and

(d) The water level drops between two and one-half feet and 25 feet per one-half hour, and the rate of change between shut-in and operating conditions is greater than two and one-half feet.

(3) The test is inconclusive regarding integrity of the surface casing if the water level drops at the same rate under operating and shut-in conditions and the rate of change is between two and one-half feet and 25 feet per one-half hour. This result requires that one of the following options be used.

*Option 1.* Repeat the water-in-annulus test on a quarterly basis to show integrity of the tubing and packer.

*Option 2.* Show that the water loss is not due to a leak in the surface casing by either plotting the water level rate of fall as it drops through and below the surface casing, thereby indicating the location of the leak, or by pumping the water level down to the base of the surface casing and comparing the rate of fall with the rate of fall with the annulus filled.

*Option 3.* Repair the well by inserting a liner pipe inside the injection tubing on a packer or by filling the annulus full with cement.

*Option 4.* Demonstrate mechanical integrity by one of the other methods outlined in § 146.8

Dated: July 6, 1987.

**Michael B. Cook,**

*Director, Office of Drinking Water.*

[FR Doc. 87-15889 Filed 7-13-87; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF THE INTERIOR

### 43 CFR Part 4, Subpart D

### Department Hearings and Appeals Procedures

**AGENCY:** Office of Hearings and Appeals, Interior.

**ACTION:** Final rule.

**SUMMARY:** This office amends its regulations requiring a hearing transcript to be prepared in all Indian probate proceedings. Because many probate hearings do not involve disputes over questions of fact, the mandatory transcription of all hearings has resulted in needless burdens on both Departmental personnel and budgets. The amended regulations eliminate the requirement for a transcript in every case. Conforming regulations provide procedures to be followed when a transcript is not prepared.

**EFFECTIVE DATE:** August 13, 1987.

**FOR FURTHER INFORMATION CONTACT:** Bruce A. Johnson, Deputy Director, Office of Hearings and Appeals, (703) 235-3810.

**SUPPLEMENTARY INFORMATION:** On August 12, 1986, the Office of Hearings and Appeals published proposed regulations providing for the amendment of the present regulations requiring the preparation of a transcript for each Departmental Indian probate hearing. Five public comments were received on the proposal: One from an individual employed by the Bureau of Indian Affairs; two from Indian tribes; one from an Indian group; and one from a private attorney representing Indian clients. One comment fully supported the proposal and four were opposed to it.

The objections to the elimination of the requirement for transcripts in every Indian probate hearing centered on uses which are not necessarily directly related to the probate of the estate of the particular decedent involved, such as for genealogical and historical reseach, determining tribal enrollment questions and the right to receive tribal services, and for other types of legal proceedings. Because it is anticipated that transcripts will still be prepared in cases where the information they contain is not already available from other sources, the objections were not accepted.

As stated in the preamble to the proposed rule, "[i]t is anticipated that, absent appeal, an administrative law judge will not have a transcript prepared when the hearing testimony merely confirms and does not add to the heirship data provided to the administrative law judge by the Bureau of Indian Affairs." Thus, in those cases in which significant additional testimony is presented or the testimony contradicts the information submitted by the Bureau, the administrative law judge has authority and discretion to have a transcript prepared. The intent of the change is to avoid needless duplication of information, not to cause the destruction or loss of information not available elsewhere. The office believes that making the transcription of Indian probate hearings discretionary is not incompatible with the Bureau's other uses of transcripts.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the amendment concerns internal Departmental procedures only.

**Paperwork Reduction Act**

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3051 *et seq.*

The Department of the Interior has determined that the rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321–4347).

This rule was written by Paul T. Baird, Director, Office of Hearings and Appeals.

**List of Subjects in 43 CFR Part 4**

Administrative practice and procedure, Indians.

Dated: May 28, 1987.

Earl Gjelde,

*Chief Operating Officer.*

43 CFR Part 4 is amended as follows:

## PART 4—[AMENDED]

1. The authority citation for Part 4, Subpart D, continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b.

2. Section 4.231(b) is revised to read as follows:

**§ 4.231 Hearings.**

* * * * *

(b) The proceedings of hearings shall be recorded verbatim.

* * * * *

3. Section 4.236(a)(3) and (b) are revised to read as follows:

**§ 4.236 Record.**

(a) * * *

(3) The record of the evidence received at the hearing, including any transcript made of the testimony;

* * * * *

(b) The administrative law judge shall lodge the original record with the designated title plant in accordance with 25 CFR Part 150. A duplicate copy shall be lodged with the Superintendent originating the probate. A partial record may also be furnished to the Superintendents of other affected agencies. In those cases in which a hearing transcript has not been prepared, the verbatim recording of the hearing shall be retained in the office of the administrative law judge issuing the decision until the time allowed for rehearing or appeal has expired. In cases in which a transcript is not prepared, the original record returned to the title plant shall contain a statement indicating no transcript was prepared.

* * * * *

4. Section 4.320(c) is revised to read as follows:

**§ 4.320 Who may appeal; scope of review.**

* * * * *

(c) *Action by administrative law judge; record inspection.* The administrative law judge, upon receiving a copy of the notice of appeal, shall notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f), to the title plant designated under § 4.236(b). The duplicate record shall be conformed to the original by the title plant and shall thereafter be available for inspection either at the title plant or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the administrative law judge shall have a transcript prepared which shall be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

5. Section 4.323 is revised to read as follows:

**§ 4.323 Disposition of the record.**

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcript prepared because of the appeal and the Board's decision, shall be forwarded by the Board to the title plant designated under § 4.236(b). Upon receipt of the record by the title plant, the duplicate record required by § 4.320(c) shall be conformed to the original and forwarded to the Superintendent concerned.

[FR Doc. 87–15897 Filed 7–13–87; 8:45 am]

BILLING CODE 4310–79–M

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 215 and 252

### Department of Defense Federal Acquisition Regulation Supplement; Industrial Modernization Incentives Program (IMIP)

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Defense Acquisition Regulatory Council has approved coverage in the DoD Federal Acquisition Regulation Supplement (DFARS) for the Industrial Modernization Incentives Program (IMIP). This program will benefit both the contractor and DoD in the form of increased manufacturing efficiencies based upon the terms and conditions established in a mutually agreed upon IMIP Business Agreement.

**EFFECTIVE DATE:** July 15, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The Department of Defense, in its DoD Directive 5000.44 of April 16, 1986, established policy covering the Industrial Modernization Incentives Program (IMIP). The objective of the program is to stimulate additional defense contractor capital investment and productivity improvement efforts that result in reduced DoD acquisition costs. A proposed rule was published in the **Federal Register** on May 28, 1986 (51 FR 19236) and public comments were solicited. As a result of these public comments the proposed rule was modified and these changes are reflected in this final rule.

**B. Regulatory Flexibility Act Certification**

The Department of Defense certifies that this rule will not have a significant impact on a substantial number of small entities. There will be a requirement for a "report" in that those businesses desiring to participate in IMIP will be required to submit IMIP agreement proposals. However, the data submitted in the proposals will be generated from cost data already contained in the contractor's recordkeeping systems. No comments from small entities were received regarding the Initial Regulatory Flexibility Analysis prepared in conjunction with the proposed rule.

**C. Paperwork Reduction Act Information**

The rule contains information collection requirements which were approved by OMB on March 2, 1987, for an increase of 22,400 hours under Account 0704–0232.

**List of Subjects in 48 CFR Parts 215 and 252**

Government procurement.

**Charles W. Lloyd,**

*Executive Secretary, Defense Acquisistion Regulatory Council.*

**Adoption of Amendments**

Therefore the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 215 and 252 continues to read as follows:

**Authority:** 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

## PART 215—CONTRACTING BY NEGOTIATION

2. Section 215.872 is revised to read as follows:

**§ 215.872 Capital investment incentives.**

(a) *Policy.* Although DoD profit and competition policies are intended to provide adequate incentives to the contractor for capital investment and productivity, it is also recognized that individual cases will arise when additional incentives may be appropriate. In these individual cases, it is the policy of DoD that industrial moderization incentives may be negotiated and included in contracts for research, development, and/or production of weapons systems, major components, or material. The purpose is to motivate the contractor to invest in facilities modernization and to undertake related productivity improvement efforts it would not have otherwise undertaken or to invest earlier than it otherwise would have done.

(b) *General.* Any industrial modernization incentives program (IMIP) shall be accomplished in accordance with this coverage and with DoD Directive 5000.44 and DoD Guide 5000.44–G. Sufficient flexibility is provided in the directive and guide to allow the IMIP to be tailored to the requirements of an individual situation. The incentives may be in the form of productivity savings, rewards, contractor investment protection, and/or other appropriate forms. They may be used separately or in combination, as addressed in subparagraphs (b)(1), (b)(2) and (b)(3) of this subsection. However, in no event, shall an IMIP agreement be made between DoD and a contractor until careful analyses have been conducted and reduced acquisition costs or equivalent benefits (such as improved quality, as a result of the application of the IMIP) are clearly evident. It may be generally desirable to initially negotiate a memorandum of understanding (MOU) to establish guidelines and criteria against which to anlayze and negotiate a specific IMIP.

(1) *Productivity Savings Reward (PSR).* This incentive shares the savings achieved from facilities modernization and related productivity improvement efforts. This incentive may be used to encourage productivity improvements in all facets of the production process including major cost driving areas such as labor, materials, overherad, support systems (including software), and organizations. In order for these to be considered viable projects that are beneficial for both the Government and the contractor, the contractor must show that PSR is required for project implementation and that these projects are over and above requirements to meet normal contractual obligations. The scope and limitation of productivity savings rewards are as follows:

(i) Productivity savings rewards in conjunction with contractor capital investment will be based on an internal rate of return (IRR) analysis. The productivity savings rewards should be sufficient to allow the contractor to obtain an equitable return on the investment. Nonseverable plant equipment and property may be included on a limited basis as part of the contractor's investment basis for calculating the appropriate return on investment. The effect of any Government funding provided in conjunction with modernization efforts must be included in the contractor's IRR, and no contractor costs or expenses otherwise allocable and allowable to any specific DoD contract may be included.

(ii) Productivity savings rewards providing the contractor a reward for productivity improvements other than through capital investment will be based on an economic analysis of the benefits to the Government and the contractor. The negotiated sharing amount or percentage shall be based on benefits and risks to both parties. It will be paid only for savings that are validated, and will be negotiated for a period normally no longer than five years after the date of implementation.

(iii) Productivity savings rewards shall not constitute fee within the meaning of the limitations imposed by 10 U.S.C. 2306(d).

(2) *Contractor Investment Protection.* If formally agreed to by the parties, this incentive would become operative in the event that the contract or program is terminated or funds are not provided in subsequent fiscal years for the planned acquisition upon which the investment decision was based. This incentive may permit the Government to acquire specific capital investments at no more than the undepreciated value. This value may be determined by considering a combination of investment incentives, income tax credits or incentives, and allowable depreciation costs pursuant to cost principles established in FAR Part 31. The scope and limitations are as follows:

(i) This technique is designed to transfer to the Government some of the risk associated with acquisition of certain capital assets by contractors. Its purpose is to cover only specifically identified cost-effective capital assets. It is not to be used to override the general policy that all facilities needed for the performance of Government contracts will be provided by the contractor as set forth in FAR Part 45.

(ii) This investment incentive is designed primarily for the situation when one program dominates the business base and the contractor may bear unacceptable monetary risk from the modernization effort. The program must provide for a sufficient buy to allow for amortization of the planned investment.

(iii) Capital assets which may be covered by such an investment incentive include only severable industrial plant equipment, and other types of severable plant equipment with a unit value in excess of $10,000, including associated accessories which would be capitalized in accordance with the contractor's disclosed accounting practices, but excluding real property.

(iv) The exact value and nomenclature of each piece of capital equipment must be included in the contract documents.

(v) The fiscal authority who commits funds to the resultant contract must certify that the approval authority has approved by fiscal year the amount of contingent Government liability and that the approval authority has notified the Congress in advance that the technique will be used on contracts for a specific weapon system or material program element. Unless there are unusual circumstances, this notification will be included in the justification material submitted to the Congress in support of authorization and appropriation requests. A copy of the notification shall be retained in the contract file.

(vi) Approval for use of this investment incentive must be obtained from the Secretary of the Military Departments or the Director of DLA. Authority up to $50 million may be delegated no lower than the Commander, AFSC, AFLC, or AMC.

(vii) In the event that it becomes apparent that the contingent liability

resulting from the use of this technique will become an actual obligation, the approval authority shall be notified and immediate steps shall be taken to obtain sufficient funds to cover the obligation.

(3) *Other Appropriate Incentives.* Other incentives such as award fees and direct Government funding, based on IMIP methodologies, may be provided under IMIP when appropriate.

(c) *Contracting Officer Evaluation.* The contracting officer must evaluate the proposed IMIP agreement to determine that benefits to the U.S. Government can be expected. A contractor statement that the investments or actions would not be undertaken without, or will be accelerated with, the use of the incentive may be required. The evaluation should include the following elements:

(1) A cost/benefit analysis of the investment or action and the overall cost savings or other benefits to the Government, including the payback quantities and payback periods and how the savings will be reflected in the pricing of individual contracts.

(2) An analysis of the contractor's past investments and capital investment profiles, and the relationship of specific projects to the contractor's factory analysis.

(3) Other considerations such as:

(i) Interaction with other incentives provided on the contract.

(ii) Effects of variations in procurement quantities on the incentives.

(iii) How the incentive techniques are integrated with the overall acquisition strategy, including items such as second sourcing plans and multiyear procurement.

(iv) Effects on overhead and indirect costs.

(d) *Negotiation.* (1) The Government objective should be to provide only those incentives sufficient to motivate the contractor to implement the desired investment or action. Ceiling should normally be provided to establish a maximum incentive amount.

(2) Emphasis should be placed on flowing down requirements or involvement to subcontractors and vendors where appropriate.

(3) Provisions should be provided establishing the extent to which the contractor may use equipment for commercial purposes. This should be reflected in the amount of incentive provided.

(4) The extent of disclosure or dissemination of technologies or processes contained in the IMIP are subject to negotiation and agreement.

(e) *Contractual Requirements.* (1) Specific contract requirements should be structured to match the circumstances of the individual acquisition.

(2) Measurement and verification requirements should be addressed contractually, and systems established that match the incentives used and the needs in this area. Contractors should be required to develop, maintain, and provide data supporting any measurement of savings achieved until three years after final payment under the contract.

(f) *Contract Clause.* The contracting officer shall include the clause at 252.215–7001, "IMIP Productivity Savings Reward", in all solicitations and contracts for which certified cost or pricing data were obtained involving the acquisition of supplies (i.e., weapon systems, equipment, and material) expected to result in contracts or contract modifications greater than $1 million. The clause is discretionary for inclusion in solicitations less than $1 million. Inclusion of the clause does not in itself result in the payment of any productivity savings reward amounts to the contractor—the clause becomes operable only when an IMIP business agreement has been executed establishing all the terms and conditions for payment of the productivity savings rewards.

## PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 252.215–7001 [Redesignated as 252.215–7002]

3. Section 252.215–7001 is redesignated as 252.215–7002 and a new section 252.215–7001 is added to read as follows:

### 252.215–7001 IMIP Productivity Savings Rewards.

As prescribed at 215.872(f), insert the following clause:

**IMIP Productivity Savings Rewards (July 1987)**

(a) *Purpose.* The purpose of this clause is to permit a contractor to be paid Productivity Savings Rewards (PSR) in accordance with the terms and conditions of an Industrial Modernization Incentives Program (IMIP) business agreement contained in this contract or which benefits this contract. PSR constitutes the Contractor's incentives paid from the total DoD net benefits (savings/cost avoidances).

(b) *Applicability.* This clause provides conditions for payment of the PSR amount applicable to this contract pursuant to the provisions of the IMIP business agreement. Inclusion of this clause in this contract does not in itself result in the payment of any PSR amounts to the Contractor. This clause shall become operable only when an IMIP business agreement has been established and placed in an IMIP contract, or incorporated into this contract, including all of the terms and conditions for payment of the PSR, the total amount of the PSR, and specifying that this total amount has not been earned through previous contracts. This agreement may be directly between DoD and the Contractor, or between the Contractor and a a lower-tier DoD Contractor; *Provided,* DoD approval has been obtained for the subcontract program.

(1) *Payment.* The Contracting Officer is authorized to approve payment of PSR amounts under this contract during the sharing period as defined in the IMIP business agreement. PSR amounts may be calculated and paid through a protected sharing, a sharing factor, or other approach as agreed to in the IMIP business agreement. The amount of PSR allocable to this contract along with the frequency of payment will be determined in accordance with the terms and conditions of the IMIP business agreement. When these conditions are met and verified, as determined by the Contracting Officer, the Contractor shall be paid PSR amounts on this contract. The Contractor or subcontractor shall keep records acceptable to the Contracting Officer of all PSR payments received under a specific IMIP business agreement. The Contractor is authorized to request payment of PSR is accordance with terms specified in the IMIP business agreement.

(2) *Sharing Factor Certification.* When a sharing factor approach is used, the Contractor shall include the following certification on each invoice for payment of a PSR share:

It is hereby certified that the PSR amount requested on this invoice represents an incremental share of the total PSR amount agreed to in the IMIP Business Agreement or this contract, dated _____, between the Government and _____, for which no entitlement has been previously paid.

(3) *Subcontract Applicability.* The Contractor shall include this clause (suitably modified, except for the certification requirement, to meet the circumstances of the subcontract concerned), and shall provide payment of PSR amounts for any subcontract wherein the subcontractor is participating in a DoD-approved IMIP business agreement. The only change authorized in the certification at (b)(2) is that necessary to reflect the identities of the parties involved. All subcontractor cost/price reductions on DoD programs attributable to an IMIP after establishment of the PSR shall be directly and entirely passed through to the Government.

(End of clause)

[FR Doc. 87–15884 Filed 7–13–87; 8:45 am]

BILLING CODE 3810–01–M

# Proposed Rules

Federal Register
Vol. 52, No. 134
Tuesday, July 14, 1987

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

[Docket No. 87-NM-73-AD]

### Airworthiness Directives; Aerospatiale Model ATR-42 Series Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes an airworthiness directive (AD), applicable to certain Aerospatiale Model ATR-42 series airplanes, that would require reinforcement of the seat pan structure of cabin attendants' seats manufactured by SOCEA, in order to prevent structural failure of the seat pan. This proposal is prompted by a report of an incident of breakage of a cabin attendant's seat. Failure of the seat may cause injury to a member of the flightcrew.

**EFFECTIVE DATE:** Comments must be received no later than September 4, 1987.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-73-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

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

#### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-73-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

*Discussion:* The Direction Generale de L' Aviation Civile (DGAC), the French Civil Aviation Authority, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain Aerospatiale Model ATR-42 airplanes. There has been an in-service incident involving breakage of a cabin attendant's seat. The present seat design, if not corrected, could result in failure of the seat, and possible injury to a flightcrew member.

SOCEA, the manufacturer of the seat, issued Service Bulletin 25-73, dated June 1, 1986, which describes procedures for reinforcing the seat pan assembly. Aerospatiale issued Service Bulletin ATR42-25-003, Revision 2, dated November 5, 1986, which references the SOCEA service bulletin's procedures for reinforcement of the cabin attendant's seat pan. The French DGAC issued Airworthiness Directive T86-79 which requires modification of the seat in accordance with the SOCEA service bulletin.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require reinforcement of the seat pans on cabin attendants' seats manufactured by SOCEA, in accordance with the previously mentioned service bulletins.

It is estimated that 3 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $360.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

#### List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

### PART 39—[AMENDED]

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

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

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model ATR-42-300 series airplanes fitted with SOCEA flight attendants' seats; Part Numbers 2510132 and 2510137, certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless already accomplished.

To prevent collapse of the seat pan of the flight attendant's seats, accomplish the following:

A. Modify seats in accordance with Aerospatiale Service Bulletin No. ATR42-25-0003, Revision 2, dated November 5, 1986, or SOCEA Service Bulletin No. 25-73, dated June 1, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. These documents may be examined at the FAA, Northwest Mountain Region 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aicraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on July 7, 1987.

Wayne J. Barlow,

*Director, Northwest Mountain Region.*

[FR Doc. 87-15851 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 86-NM-202-AD]**

## Airworthiness Directives; Airbus Model A310 Series Airplanes

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

**ACTION:** Amendment to notice of proposed rulemaking (NPRM); reopening of comment period.

**SUMMARY:** This notice proposes to amend an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A310 series airplanes, that would have required test, inspection, and rework, if necessary, of the ram air turbine (RAT) uplock and roller. This proposal would amend the proposed rule to require roller replacement as part of the optional terminating action.

**EFFECTIVE DATE:** Comments must be received no later than August 3, 1987.

**ADDRESSES:** Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-202-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-202-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

*Discussion*: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) which requires tests, inspections, and rework of the ram air turbine (RAT) uplock and roller on certain Airbus Model A310 airplanes to prevent failure of the RAT to deploy when needed to provide emergency standby hydraulic power, was published in the Federal Register on November 28, 1986 (51 FR 43010). The comment period closed January 20, 1987.

In its comment, the manufacturer pointed out that the optional terminating action specified in paragraph C. of the NPRM was incomplete, since it did not state that the roller must also be replaced. The FAA concurs with the commenter. Incorporation of Modification AI 5876, described in Airbus Industrie Service Bulletin A310-29-2011, Revision 1, dated September 2, 1986, and Modification AI 5958, described in Airbus Industrie Service Bulletin A310-29-2012, Revision 1, dated September 2, 1986, are both necessary to terminate the repetitive inspection requirements of the proposed AD.

The FAA, therefore, has determined that paragraph C. of the proposal must be amended to clarify the optional modifications necessary to terminate the repetitive inspection requirement. Since this action would expand the scope of the proposed AD, the comment period has been reopened to provide adequate time for public comment.

The airplane model is manufactured in France and type certificate in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

It is estimated that 52 airplanes of U.S. registry would be affected by this proposal. However, since the proposed change only applies to the optional terminating action, there would be no change to the cost impact of this AD to U.S. operators.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane (discussed above). A copy of a draft regulatory

evaluation prepared for this action is contained in the regulatory docket.

**List of Subjects in 14 CFR Part 39**

Aviation safety, Aircraft

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

**PART 39—[AMENDED]**

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

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

2. By revising paragraph C. of the Notice of Proposed Rulemaking, Docket No. 86-NM-202-AD, published in the **Federal Register** on November 28, 1986 (51 FR 43010), FR Docket 86-26710, to read as follows:

"C. Incorporation of both Modification AI-5876 described in Airbus Industrie Service Bulletin A310-29-2011, Revision 1, dated September 2, 1986, and Modification AI 5958 described in Airbus Industrie Service Bulletin A310-29-2012, Revision 1, dated September 2, 1986, constitutes terminating action for the repetitive inspection requirements of paragraph B. of this AD."

Issued in Seattle, Washington, on July 1, 1987.

**Wayne J. Barlow,**

*Director, Northwest Mountain Region.*

[FR Doc. 87-15856 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 87-AGL-5]**

## Proposed Alteration of VOR Federal Airways; Illinois

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the descriptions of Federal Airways V-126 and V-340 located in the vicinity of Knox, IN. The current alignment of these airways has created operational and navigational problems due to the reduced reliability of the O'Hare very high frequency omni-directional radio range and distance measuring equipment (VOR/DME) radial. This action would improve safety and reduce controller workload.

**EFFECTIVE DATE:** Comments must be received on or before August 26, 1987.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Management, Air Traffic Division, Docket No. 87-AGL-5, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holdiays, 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 Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

**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, aeronautical, 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. 87-AGL-5." 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 Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-126 and V-340 located in the vicinity of Knox, IN. Currently the navigation fix for arrival aircraft landing at O'Hare International Airport and satellite airports is based on the O'Hare VOR/DME 125° radial/36 nautical miles and the Chicago Heights VORTAC 063°M radial. The O'Hare radial is currently less reliable. This action would change the holding radials for arrival aircraft to the Chicago terminal area, thereby improving navigation and flying safety in that area. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

**PART 71—[AMENDED]**

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

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

2. Section 71.123 is amended as follows:

**V-126 [AMENDED]**

By removing the words "From Chicago Heights, IL, Goshen, IN;" and substituting the words "From INT Chicago Heights, IL, 061°T(063°M) and Knox, IN, 303°T(303°M) radials; Goshen, IN;"

**V-340 [Revised]**

From INT Chicago Heights, IL, 061°T(063°) and Knox, IN, 303°T(303°M) radials; Knox; Fort Wayne, IN; to Richmond, IN.

Issued in Washington, DC, on July 6, 1987.

**Shelomo Wugalter,**

*Acting Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 87-15853 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 87-AWA-10]**

## Proposed Alteration of VOR Federal Airways; Expanded East Coast Plan, Phase II

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

**ACTION:** Notice of Proposed rulemaking.

**SUMMARY:** This notice proposes to alter the descriptions of five Federal airways located in the vicinity of New York. These airways are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by New England, Great Lakes and the Southern Regions. This proposal is Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action would reduce en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas save fuel and reduce controller workload. The EECP is being implemented in coordinated segments until completed.

**EFFECTIVE DATE:** Comments must be received on or before August 26, 1987.

**ADDRESSES:** Sent comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 87-AWA-10, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

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 Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

**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, aeronautical, 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 submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-10." 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 Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to the descriptions of V-36, V-39, V-44, V-54, and V-58 located in the vicinity of New York. Currently, east coast traffic flows are saturated and compressed in the New York metropolitan area to the point that substantial delays are experienced daily. To alleviate the congestion, which causes delays, this proposed EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the Boston, MA; Chicago, IL; Atlanta, GA; and New York areas. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

## PART 71—[AMENDED]

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

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

2. Section 71.123 is amended as follows:

**V-36 [Amended]**

By removing the words "Lake Henry, PA; Sparta, NJ; LaGuardia, NY; INT LaGuardia 133° and Deer Park, NY, 209° radials; Deer Park," and substituting the words "INT Elmira 110°T(119°M) and LaGuardia, NY, 310°T(322°M) radials; to INT LaGuardia 310°(322°M) and Stillwater, NJ, 043°T(054°M) radials."

**V-39 [Amended]**

By removing the words "Linden, VA; Shawnee, VA; Martinsburg, WV;" and substituting the words "INT Gordonsville 331° T(337° M) and Martinsburg, WV, 216° T(223° M) radials; Martinsburg;" and also by removing the words "Carmel, NY. From Chester, MA;" and substituting the words "Carmel, NY; INT Carmel 045° T(057° M) and Bridgeport, CT, 343° T(355° M) radials; INT Bridgeport 343° T(355° M) and Chester, MA, 223° T(236° M) radials; Chester;"

**V-44 [Amended]**

By removing the words "Baltimore, MD; INT Baltimore 093° and Kenton, DE, 262° radials; Kenton; INT Kenton 086° and Atlantic City, NJ, 236° radials; Atlantic City; INT Atlantic City 048° and Deer Park, NJ, 209° radials; to Deer Park," and substituting the words "INT Martinsburg 094° T(101° M) and Baltimore, MD, 300° T(308° M) radials; Baltimore; INT Baltimore 122° T(130° M) and Sea Isle, NJ, 267° T(276° M) radials; Sea Isle; INT Sea Isle 040° T(049° M) and Deer Park, NY, 209° T(211° M) radials; Deer Park; Bridgeport, CT; INT BRIDGEPORT 324° T(336° M) and Pawling, NY, 160° T(172° M) radials; Pawling; INT Pawling 342° T(354° M) and Albany, NY, 181° T(194° M) radials; to Albany."

**V-54 [Amended]**

By removing the words "to Fayetteville," and substituting the words "Fayetteville; to Kinston, NC."

**V-58 [Amended]**

By removing the words "INT Lake Henry 078° and Kingston, NY, 274° radials; Kingston; INT Kingston 100° and Hartford, CT, 268° radials; Hartford; INT Hartford 130° and Providence, RI, 212° radials," and substituting the words "INT Lake Henry 078° T(088° M) and Kingston, NY, 270° T(282° M) radials; Kingston; INT Kingston, 095° T(107° M) and Hartford, CT, 269° T(282° M) radials; Hartford; Groton, CT; Sandy Point, RI; to Nantucket, MA. The airspace within R-4105 is excluded during times of use."

Issued in Washington, DC, on July 6, 1987.

**Shelomo Wugalter,**

*Acting Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 87-15854 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-43-M

## DEPARTMENT OF LABOR

### Employment Standards Administration

### 20 CFR Part 725

### Black Lung Disease; Claims for Benefits

**AGENCY:** Employment Standards Administration, Labor.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** On January 27, 1981 (46 FR 8570), the Employment Standards Administration issued for comment a proposed change to 20 CFR 725.491(b)(2) that would have specified certain circumstances under which lessors of coal mines would not be held liable for the payment of benefits for disability arising from employment with their lessees. The proposed rule is withdrawn. After review of the comments received in response to the proposed rule and review of the Department's experience during the intervening period under the current rule, it has been decided that the current practice and policy of making such determinations of liability on the facts of each individual case have served the Department well and that no changes in the regulation or that policy will be implemented at this time. The Department will, however, continue to monitor the situation to ascertain whether the initiation of any additional rulemaking is necessary.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. James L. DeMarce, Associate Director, Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room C3520, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 523-6692.

Signed at Washington, DC this 9th day of July 1987.

**Richard Staufenberger,**

*Acting Director, Office of Workers' Compensation Programs.*

[FR Doc. 87-15940 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-27-M

### Mine Safety and Health Administration

### 30 CFR Part 57

### Ionizing Radiation Standards for Metal and Nonmetal Mines; Public Hearing

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Mine Safety and Health Administration (MSHA) will hold a public hearing on its December 1986 proposal to revise existing standards for ionizing radiation at metal and nonmetal mines. The hearing will be held in Denver, Colorado and cover the major issues raised by comments submitted in response to the proposed rule.

**DATES:** All requests to make oral presentations for the record should be submitted at least five days prior to the hearing date. Immediately before the hearing, any unallotted time will be made available to persons making late requests.

The public hearing will be held in Denver, Colorado on Thursday, August 13, 1987, beginning at 9:00 a.m. If necessary, the hearing will continue Friday, August 14, 1987 at the same time and location.

**ADDRESSES:** The hearing will be held at the following location: Federal Office Building, Room 239, 1961 Stout Street, Denver, Colorado 80294.

Send requests to make oral comments to: Mine Safety and Health Administration; Office of Standards, Regulations, and Variances; Room 631; 4015 Wilson Boulevard, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey; Acting Associate Assistant Secretary for Mine Safety and Health; MSHA; Phone (703) 235-1910.

**SUPPLEMENTARY INFORMATION:** On December 19, 1986, MSHA published proposed revisions to its existing standards in 30 CFR Part 57 addressing ionizing radiation hazards at underground metal and nonmetal mines. The comment period for the proposal closed on February 17, 1987. In the comments submitted, MSHA received requests for a public hearing.

The purpose of the public hearing is for the Agency to receive relevant comment and allow for discussion of the provisions of the proposed rule. The hearing will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding

irrelevant or unduly repetitious material and questions.

The session will begin with an opening statement from MSHA. The public then will be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to respond to questions and to discuss issues raised by the proposed rule. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of the hearing for rebuttal statements. A verbatim transcript of the proceedings will be taken and make a part of the rulemaking record. Copies of the hearing transcript will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until September 11, 1987.

**Issues**

MSHA has received comment on virtually every aspect of the proposed rule. Many of these comments address issues on which the Agency wishes additional comment and data before proceeding to further rulemaking. MSHA specifically solicits comment on the issues delineated in this hearing notice, in addition to any other aspect of the proposed rule.

*A. Risk Assessment for Proposed Standard*

In the proposed rule, MSHA discussed the difficulties of estimating the risk of increased mortality from lung cancer induced by occupational exposure to the levels of radon daughters experienced in mining today. Principal among these difficulties is a scarcity of low-level exposure-response data. Risk assessments for miners are usually extrapolated from relatively high-level exposure response data to estimate the low-level exposure-response relationship. MSHA has stated that, until the exposure-response relationship at low levels is better known, the Agency considers it prudent to assume a non-threshold linear relationship for low cumulative radon daughter exposures.

Based on risk assessments by the National Academy of Sciences, the United Nations' Scientific Committee on the Effects of Radiation, the International Commission on Radiological Protection and others, MSHA estimated a lifetime excess risk of 1 to $6 \times 10^{-4}$ fatal lung cancers per working level month (WLM) of exposure to radon daughters. Using this estimate, out of a hypothetical group of 1000 miners who each receive a total exposure of 120 cumulative working level months (CWLM) during their working life, from 12 to 72 of them would be expected to die from lung cancer induced by *occupational* radon daughter exposure. In 1980, the normal male lifetime risk of lung cancer was 7.0 percent; this figure projects 70 naturally occurring deaths from lung cancer for a group of 1000. The 12 to 72 deaths projected by MSHA's risk assessment to result from occupational exposure to radon daughters would be in addition to these 70 expected lung cancer deaths. At the upper end of MSHA's risk assessment, the lifetime risk of lung cancer related mortality for workers exposed to 120 CWLM is about twice the normal risk of death from lung cancer.

In the course of this rulemaking, MSHA has also received risk assessments from two other Federal agencies, the Environmental Protection Agency (EPA) and the National Institute for Occupational Safety and Health (NIOSH).

EPA uses a relative risk projection model, incorporating a minimum induction period of 10 years followed by a lifetime expression of risk. With this analysis, EPA has estimated that the relative increase in risk is most likely to fall between 1.2 and 2.8 times the normal risk for a male population exposed from age 20 to 50 to 4 WLM per year, for a total exposure to 120 CWLM. Using EPA's risk assessment and individual cumulative exposures of 120 WLM, the hypothetical group of 1000 miners would be projected to have an additional 90 to 190 deaths that could be attributable to occupationally-induced lung cancer from radon daughters. In EPA's most recent comments to MSHA, they have stated that their Science Advisory Board has recommended that EPA consider even higher risks to be consistent with existing data. EPA concludes that "the risk associated with a lifetime exposure of 120 CWLM is high."

In a quantitative risk assessment of lung cancer in U.S. uranium miners at four exposure rates over a 30-year working life, the NIOSH study estimated a relative risk of 1.42 at an annual level of 1 WLM, 1.66 at 2 WLM, 1.88 at 3 WLM, and 2.07 at 4 WLM. These risks are relative to miners of the same age and smoking habits with a cumulative lifetime background exposure of 22 WLM and a background exposure rate of 0.4 WLM/year. Using this risk assessment, miners exposed to 4 WLM per year for 30 years would be projected to have slightly more than twice the normal risk of lung cancer. Using NIOSH's projection for a group of 1000 miners with 120 CWLM exposure, one would observe 75 lung cancers attributable to the occupational radon daughter exposure. This would be in addition to the 70 expected lung cancer deaths attributable to normal lifetime risks.

Other comments received by the Agency continue to reflect a strong disagreement about the accuracy and significance of risk projects extrapolated from higher levels of exposure. An industry association representing the majority of uranium mine operators stated that "the mere calculation of quantitative risks does not amount to a finding of significant risk." On the other hand, a labor group pointed out, even at the lower end of the range of risk used by MSHA ($1 \times 10^{-4}$ per WLM), a miner who accumulates only 10 WLM has an estimated one in a thousand lifetime risk of death from radiation-induced cancer, which the labor group and other commenters considered to be a significant risk.

In discussion of these risk assessments at the hearing, the Agency requests testimony on such factors as quality of the underlying data, reasonableness of the risk assessment, statistical significance of the findings, the type of risk presented, and the significance of the numerical risk relative to other risk factors.

*B. Application of Sume Rule to Mining*

The proposed rule would establish a combined exposure limit (sum rule) for radon daughters, thoron daughters, and gamma radiation. This concept takes into account the potential for increased cancer risk if there is exposure to more than one source of radiation. This proposal is based on the concept of "effective-dose equivalent" recommended by the International Commission on Radiological Protection which treats radiation doses from different types of radiation exposure in terms of equivalent fatal cancer risks as if the risks were due to uniform whole-body gamma exposure (ICRP Publication 26 "Recommendations of the International Commission of Radiological Protection", 1977 and ICRP Publication 47 "Radiation Protection of Workers in Mines", 1985). The ICRP recommendation establishes a limit of 5 rems in a calendar year based on the sum of the doses from radiation sources internal and external to the body.

Subsequent to the publication of MSHA's proposed rule, the President approved the Environmental Protection Agency's Federal Radiation Guidance for Occupational Exposure on January 20, 1987 (52 FR 2822). This document also recommended combining internal and external doses.

While some commenters supported use of a sum rule, others opposed it or disagreed with the components used in MSHA's formulation. Some commenters argued that the existing 4 WLM standard is a surrogate sum rule. They stated that the miner epidemiologic data upon which 4 WLM is based includes excess lung cancer risk from gamma radiation, other carcinogens, and any co-carcinogenic or synergistic effects. However, other commenters stated that the proposed sum rule should be expanded to include any available dose measurements from X-rays and source material regulated by the Nuclear Regulatory Commission (NRC).

In the proposed rule, MSHA included a denominator of 4 WLM for radon daughters rather than 4.8 WLM as recommended by ICRP. This was to compensate for the presence of long-lived radionuclides and eliminate the need to sample for them. However, some commenters stated that long-lived alpha emitting particulates are only present at negligible levels in their mines. They stated that operators should have the option of using a 4.8 WLM denominator if they choose to sample for long-lived radionuclides.

One commenter disagreed strongly on the risk equivalency of 5 rems to 4 WLM that is implied in the sum rule. The commenter cited a report (C.G. Stewart, "Comments Upon 'Basis of Intake Limits for Radon and Thoron Daughters,'" Canadian Nuclear Association, May 1984) that suggested the appropriate individual limit for radon daughters should be 7.2 WLM based on Czech data and 22.5 WLM based on U.S. data. However, the Agency is not aware of other studies supporting this conclusion.

Some commenters stated that the Agency should disregard thoron daughters because they are not currently known to be present in significant quantities in any U.S. mine. However, MSHA is aware of currently inactive mines where measurable concentrations of thoron daughters could pose a long-term risk.

*C. Feasibility of Lower Radon Daughter Limit*

Section 101(a)(6)(A) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires MSHA to set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity, even if the exposure occurs over the working life of the miner. In addition to the attainment of the highest degree of health for the miner, the Agency must consider the feasibility of the standards. The Legislative History of the Mine Act treats feasibility as having two aspects: Technological and economic.

NIOSH has indicated that the existing 4 WLM per year standard should be lowered based on recent epidemiologic studies. In its comments to the Agency, NIOSH has stated that recent engineering research suggests that it is technologically feasible for mines to meet a standard as low as 1 WLM. At that level, NIOSH estimates that the relative risk of mortality from lung cancer over a 30 year working lifetime could be as high as 1.4 times the risk of exposure to environmental levels of radon daughters. The Agency anticipates receiving additional information from NIOSH concerning radon daughters; this information will be made available for public comment.

The Agency has studied a 1984 Battelle report to the U.S. Bureau of Mines which analyzed the technological feasibility of lowering airborne radon daughters concentrations in underground mines ("Cost survey for radon daughter control by ventilation and other control techniques," C.H. Bloomster and others). The study concluded in part:

> * * * It would be technically feasible for some mines to operate a 2 WLM standard providing: (a) that it was early in the development phase of the mine; (b) that no inlet air contamination was present; (c) that the additional power penalty [for increased ventilation] was acceptable to the operator * * *
>
> * * * The technical feasibility of any mine operating at 1 WLM is uncertain. The results of this study suggest that it may be possible to operate some mines at 1 WLM providing other radon daughter control methods are used to augment the forced air ventilation system. Further research and development is required before the technical feasibility of operating at this standard can be fully assessed.

MSHA requests comments on both the health basis and the technological and economic feasibility of implementing an annual limit of 1 WLM.

An industry association representing the majority of uranium mines concluded that, from an economic perspective, "in view of the very severely strained market for uranium, conventional underground uranium [mining] in the United States could cease to exist, if a sum rule is adopted in the proposed format." One commenter stated that a MSHA grossly underestimated the cost to comply with the sum rule.

Some commenters stated that operators needed greater flexibility in meeting the sum rule. The proposed sum rule would combine exposure limits to radon daughters, thoron daughters, and gamma radiation and set the combined exposure limit at 1.0. A commenter suggested that the combined limit should be 1.5 in any calendar year, but not more than 3.0 in any three consecutive calendar years. According to commenters, another means of lessening the economic impact of a change in the existing standard would be to delay the effective date to allow mines to come into compliance in the most efficient manner.

The Agency also requests further information concerning the feasibility of the sum rule as well as the feasibility of lowering the existing radon daughter limit as a separate limit to levels suggested by various commenters as being feasible. Commenters should be as specific as possible concerning controls that could be used, costs, and production impact, assuming a range of annual exposure limits of from 1 to 4 WLM.

*D. Credit for Respirator Use*

Although commenters generally agreed that engineering and administrative controls should be the primary means of controlling exposures, the record shows disagreement on when or if credit should be allowed for the use of respirators. The proposed rule would require the use of respirators when radon gas and radon daughter ceilings are exceeded. In addition, it would allow respirator use to supplement engineering and administrative controls that have reduced exposures as low as feasible though not below the exposure limits. The respirators would have to be approved under 30 CFR Part 11 and used in accordance with the respiratory protection program requirements of 30 CFR 57.5005(b). Under the proposal, credit for use of respirators in the calculation of exposures would be limited to short-term entry for the purposes of inspection, maintenance, or installation of controls, and their use to supplement controls that have reduced exposures as low as feasible though not below the exposure limits.

Some commenters strongly objected to allowance of respirator credit, especially during normal work operations. They cited the difficulty of monitoring the effectiveness of respirators under actual work conditions

and expressed concern that serious under-reporting of exposures could occur. Other commenters suggested that respirator credit should be allowed even if respirators are used on a regular basis. They also stated that respirators are used for purposes other than radon daughter protection, such as protection from diesel fumes or nuisance dusts. Such respirators are often less uncomfortable and less likely to be removed during physical exertion. Although these respirators filter out some radon daughters, they do not provide the 90 percent protection provided for in the rule. Nonetheless, the commenters reasoned that an appropriate level of credit also should be allowed for the protection they provide.

*E. Record Retention*

Through an incorporation by reference of paragraph 9.8 of ANSI N13.8–1973, the existing standard requires that radon daughter exposure records for an individual be kept until the individual is 75 years of age or until 10 years after the known death of the individual. MSHA's existing standard does not set a retention period for gamma records. The proposed rule would require all sampling data, individual occupancy records, and combined exposure records to be retained for one year beyond the year to which they pertain.

There was a general agreement among commenters that records should be retained for a significantly longer period of time than proposed. The time periods suggested ranged from 30 years to retaining the existing requirement. Thirty years is consistent with other Department of Labor regulations addressing occupational diseases that have long latency periods. The ICRP and the National Council on Radiation Protection and Measurements (NCRP) also recommend a minimum 30-year retention period (ICRP Publication 35 "General Principles of Monitoring for Radiation Protection of Workers" (1982) and NCRP Report No. 57 "Instrumentation and Monitoring Methods for Radiation Protection" (1978)). Many commenters pointed out that the proposed retention period would result in a loss of essential information concerning the risk of radon exposure. This information would provide the basis for ongoing and future epidemiologic studies to determine the effectiveness of MSHA's standard. In addition, given the long latency period for the expresion of lung cancer, a longer retention period would protect the statutory rights of workers and former workers to access their own exposure records. Based on comments received, MSHA is considering a 30-year retention period.

Some commenters suggested that the mine operator be required to keep extensive records, including detailed information relating to the sampling process. At this point, MSHA believes that it would be appropriate for sampling data, individual occupancy records, and exposure records to be retained. To increase their utility for future epidemiological studies, such records could include: the name of the worker being monitored; race, sex, date of birth, social security number; date of hire, date of termination, dates and times of measurements; sampling and analytical methods used; number, duration, and results of the samples taken; and the type of personal protection used, if any. Federal Radiation Guidance recommens that each worker be provided an annual report of annual and comulative exposure. The Agency is considering such a provision in the final rule.

*F. Medical Surveillance*

The proposed rule did not include a provision for medical surveillance. MSHA quoted NIOSH as stating that lung cancer appears to be an unsuitable occupational disease for medical screening given the current state of knowledge about its early recognition and treatment. In responding to the proposed rule, NIOSH stated that medical surveillance would allow future determinations of the efficacy of the standard. Other commentes stated that they would support a medical surveillance program if a reliable, feasible screening method is develped to protect workers by screening them for potential lung cancer. One commenter requested an opportunity to present medical testimony at the hearing on the need for medical surveillance for respiratory carcinogens and suggested that MSHA consider the approach to medical surveillance adopted by the Occupational Safety and Health Administration in recent rulemakings. The Agency welcomes any information on the utility of such programs, including suggestions for how such a program could be effectively administered.

*G. Transfer*

The preproposal draft contained a provision to require transfer of workers who exceed annual exposure limits to jobs that do not expose them to additional occupational radiation. The proposal did not contain such a provision. Among the problems the Agency cited were the unclear nature of the health benefits that could be derived from a transfer provision and the difficulty in finding a suitable transfer location. One commenter stated that a radon daughter exposure in excess of 4 WLM is not a material impairment of health and that as a practical matter a worker who shows a high cumulative annual exposure is usually transferred to work that involves lower exposures with no loss of pay to ensure that the worker will not be overexposed. However, another commenter stated that a transfer provision need not be tied to a medical surveillance program and that workers could be easily transferred to suitable work areas defined in terms of ambient levels of radon daughters and gamma radiation. This commenter stated that the final rule should include full earnings protection for pregnant workers transferred or put on leave by their employers in order to meet the proposed exposure limits.

The Agency is not convinced that a transfer provision would be appropriate. Annual radiation exposure limits are usually set with the goal of limiting a worker's lifetime occupational exposure. However, during the course of a single year, the maximum exposure limit, taken in itself, does not necessarily represent a significant risk. Annual limits serve as an administrative means to limit cumulative exposures that over an individual's working life could otherwise produce significant risks. As such, they are an important method of keeping overall exposures as low as reasonably achievable. But, a transfer provision based on these limits would apply for a relatively short term (until a new calendar year begins) and thus would not significantly decrease a worker's risk of cancer. The lack of a transfer provision, however, does not diminish the mine operator's obligations to assure that workers do not exceed any exposure limit.

The question of transfer and earnings protection for pregnant workers potentially exposed to radiation presents a more difficult problem. Short-term exposure to gamma radiation rather than cumulative exposure to radon daughters poses the health risk to the fetus. The Agency solicits additional comment on whether a transfer provision for declared pregnant workers would be appropriate and how such a provision could be implemented.

*H. Action levels*

Unlike the existing rule which sets different radon daughter monitoring requirements for uranium than for non-uranium mines, the proposed rule would

set uniform monitoring requirements for all underground mines. It would require monitoring for radon daughters at an action level of 0.20 WL and for thoron daughters at 0.60 WL. Gamma dosimetry would be required for persons whose whole-body dose to gamma radiation exceeds an average of 0.75 millirem per hour during any shift. In developing these action levels, MSHA considered both scientific accuracy and practicality for the mining environment. Some commenters stated that lowered actions levels for airborne radiation would result in a severe burden which could not be justified in terms of any compensating benefit. They further stated the existing monitoring requirements for non-uranium mines should be modified "to reflect the generally lower and more consistent radon daughter concentrations that occur in such mines." Once commenter recommended setting a subaction level of 0.10 WL where sampling could be cutoff. The commenter stated that below 0.10 WL, the contribution to a worker's cumulative exposure is "so small as to be trivial, and the questionable sampling accuracy makes the information derived virtually meaningless." On the other hand, one of these commenters stated that periodic monitoring should be required whenever there is a reasonable potential for exceeding the action level. Other commenters stated that the proposed action levels were too high and could allow substantial unreported exposures which, over the course of time, could approach the maximum permissible limit. For example, one commenter calculated that the proposed action level for gamma monitoring of pregnant workers (0.33 mrem/hr) would allow an exposure of 100 percent of the limit before monitoring is even required.

*I. Dosimetry*

The Nuclear Regulatory Commission suggested that MSHA require mine operators to obtain gamma dosimetry services from processors that have been accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards. NRC issued final regulations for the accreditation of such processors on February 13, 1987 (52 FR 4601). NRC stated that the rule was necessary because performance evaluations of personnel dosimetry processors indicated that a significant percentage of such processors were not performing with a reasonable degree of accuracy. MSHA is considering the advisability of such an approach.

Dated: July 8, 1987.

**Alan C. McMillan,**

*Deputy Assistant Secretary for Mine Safety and Health.*

[FR Doc. 87-15882 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-43-M

## VETERANS ADMINISTRATION

### 38 CFR Part 8a

### Veterans Mortgage Life Insurance

**AGENCY:** Veterans Administration.

**ACTION:** Proposed regulatory amendments.

**SUMMARY:** The Veterans Administration (VA) is amending its Veterans Mortgage Life Insurance (VMLI) regulations to provide that where an eligible veteran ceases to own the housing unit purchased in part with a grant, or a subsequently acquired housing unit which was subject to a mortgage loan that resulted in his or her life being insured under Veterans Mortgage Life Insurance, he or she will again be eligible for full Veterans Mortgage Life Insurance coverage up to the statutory maximum. Eligibility for maximum coverage will not be reinstated where a housing unit is being remortgaged or refinanced.

**DATES:** Comments must be received on or before August 13, 1987. Comments will be available for public inspection until August 27, 1987. The effective date of this regulatory amendment, if promulgated, is the date of publication of the final rule.

**ADDRESSES:** Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulatory amendments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 27, 1987.

**FOR FURTHER INFORMATION CONTACT:** Paul F. Koons, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101 (215) 951-5360.

**SUPPLEMENTARY INFORMATION:** The Administrator hereby certifies that these proposed regulatory amendments, if promulgated, will not have a significant 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 proposed regulatory amendments are, therefore, exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604. The reason for this certification is that these regulatory amendments will affect only certain VMLI policyholders. They will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

The VA has also determined that these proposed regulatory amendments are nonmajor in accordance with Executive Order 12291, Federal Regulation. These proposed regulatory amendments will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

The Catalog of Federal Domestic Assistance Program Number is 64.103.

**List of Subjects in 38 CFR Part 8a**

Mortgage life insurance, Veterans.

Approved: June 9, 1987.

**Thomas K. Turnage,**

*Administrator.*

38 CFR Part 8, Veterans Mortgage Life Insurance, is proposed to be amended as follows:

## PART 8a—[AMENDED]

1. Section 8a.2 is revised to read as follows:

**§ 8a.2 Maximum amount of insurance.**

(a) Each eligible veteran is authorized up to a maximum of $40,000 in Veterans Mortgage Life Insurance (VMLI) to insure his or her life during periods he or she is obligated under a mortgage loan, except that, as to an individual housing unit, whenever there is a reduction in the actual amount of insurance in force as provided for in § 8a.4(b) of this title, the amount of Veterans Mortgage Life Insurance thereafter available to insure the life of the same veteran on the same housing unit is permanently reduced by a like amount.

(b) The maximum amount of insurance in force on any one life at one time shall not exceed the lesser of the following amounts:

(1) $40,000.

(2) For insurance issued prior to (date regulation is published as final), the reduced maximum amount of insurance then available to an eligible veteran.

(3) The amount of the unpaid principal of the mortgage loan outstanding on the date of approval of the grant on a housing unit then owned and occupied

by the eligible veteran, or on a housing unit being or to be constructed or remodeled for the eligible veteran, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(4) Where an eligible veteran ceases to own the housing unit purchased or adapted in part with a grant, or subsequently acquired housing unit which was subject to a mortgage loan that resulted in his or her life being insured under Veterans Mortgage Life Insurance, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the amount of the unpaid principal outstanding on the mortgage loan on the newly acquired housing unit on the date insurance hereunder is placed in effect.

(5) Where an eligible veteran incures or refinances a mortgage loan, subject to the provisions of paragraph (a) of this section, the amount of the incurred or refinanced mortgage loan.

(6) Where the title to a housing unit is or will be vested in an eligible veteran and his or her spouse, the amount of insurance shall not exceed the principal amount of the outstanding mortgage loans. If title to an undivided interest in a housing unit is or will be vested in a person other than the spouse of an eligible veteran, the amount of Veterans Mortgage Life Insurance or his or her life shall be computed to be such part of the total of the unpaid principal of the loan outstanding on the housing unit as is proportionate to the undivided interest of the veteran in the entire property.

(7) All claims, arising out of the deaths of insured veterans occurring prior to October 1, 1976, shall be subject to the $30,000 lifetime maximum amount of insurance then in effect.

(8) All claims, arising out of the deaths of insured veterans occuring prior to (date of final publication), shall be subject to the provisions of paragraph (a) of this section then in effect which limited the amount of Veterans Mortgage Life Insurance coverage to a lifetime maximum per eligible veteran.

(c) Any eligible veteran who prior to October 1, 1976, was covered by $30,000 Veterans Mortgage Life Insurance and who on that date became eligible to have his or her coverage increased may elect to retain the lesser amount of coverage he or she had in effect prior to that date.

(38 U.S.C. 210, 806)

2. In § 8a.4, paragraphs (b) and the first sentence of paragraph (d) are revised to read as follows:

**§ 8a.4 Coverage.**

* * * * *

(b) The amount of Veterans Mortgage Life Insurance in force on his or her life at any one time shall be reduced simultaneously (1) with the reduction in the principal of the mortgage loan, whether or not the mortgage loan is amortized, and (2) in addition, if the mortgage loan is amortized, according to the schedule for the reduction of the principal of the mortgage loan whether or not the schedule payments are timely made. (38 U.S.C. 210, 806)

* * * * *

(d) Subject to the $40,000 maximum amount of insurance, and to the reduced maximum amount of insurance available to the eligible veteran, he or she is entitled to be insured under Veterans Mortgage Life Insurance or to apply for such insurance as often as he or she become obligated under a mortgage loan or a refinanced mortgage loan on a housing unit or a successor housing unit owned and occupied by the eligible veteran. * * *

(38 U.S.C. 210, 806)

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 370

**[FRL-3230-6]**

### Hazardous Chemical Reporting; Emergency Planning and Community Right-to-Know Programs; Public Meeting and Reopening of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of public meeting and reopening of comment period.

**SUMMARY:** Sections 311 and 312 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) establish local and State reporting requirements for facilities required to prepare or have available a material safety data sheet (MSDS) under the Occupational Safety and Health Act (OSHA). EPA will hold a public meeting to discuss several issues raised during the initial rulemaking for sections 311 and 312 and has reopened the comment period on those issues.

**DATES:** Written comments should be submitted on or before August 10, 1987. The meeting will be held on Monday, July 27, 1987, from 9:00 a.m. to 4:00 p.m.

**ADDRESSES:** Written comments on the issues discussed in today's notice should be submitted in triplicate on or before August 10, 1987, to Preparedness Staff, Superfund Docket Clerk, Attention: Docket Number 300 PQ-IF, Superfund Docket Room, Lower Garage, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The meeting will be held in the EPA Auditorium, 401 M Street SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Brody or Chemical Emergency Preparedness Program Hotline, U.S. Environmental Protection Agency, WH-562A, 401 M Street SW., Washington, DC 20460, Telephone: (800) 535-0202, 202-479-2449 (Washington, DC and Alaska).

**SUPPLEMENTARY INFORMATION:** On January 27, 1987, EPA published a proposed rule setting out a form for inventory reporting and regulations to implement sections 311 and 312 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). During the 60-day comment period, EPA received nearly 250 comment letters and is in the process of revising the proposed rule to address those comments. The Agency would like to receive comment on three of the issues that were raised during the comment period and that EPA may revise in the final rule. These issues are the minimum thresholds for reporting, the hazard categories, and the household product exemption under section 311(e).

#### Reporting Thresholds

Under section 311(b) of SARA the Administrator may establish threshold quantities for hazardous chemicals below which no facility shall be required to report. The threshold quantities may be based on classes of chemicals or categories of facilities. In the proposed rule, EPA recommended a threshold that would allow facilities to phase in reporting under sections 311 and 312 over a period of three years. In the first year, only chemicals stored in excess of 10,000 lbs. would be reported; in the second year, the threshold would drop to 500 lbs., triggering reporting on chemicals stored between 500 and 10,000 pounds; in the third year, there would be no threshold, so that all

remaining hazardous chemicals would be reported.

A large number of commenters addressed the issues of the appropriate length of the phase-in and the appropriate threshold quantities for each year. Most comments favored the phase-in approach, with more commenters suggesting alternative quantities or lengths of time. The phase-in and reporting thresholds will allow time for planning and development of information management systems and will alleviate the administrative burden on government and industry.

In the final rule, EPA is considering establishing a threshold for the second year of 10,000 lbs. instead of 500 pounds and a permanent threshold of 500 pounds beginning in the third year.

In the proposed rule, EPA exempted the list of extremely hazardous substances from the threshold, requiring submission of MSDS or inventory information for any amount of these substances. EPA is now considering establishing a one-pound reporting threshold for such substances.

The changes being considered would not eliminate the provision for public access to information below the threshold through requests to the local emergency planning committee or State commission, as appropriate.

EPA requests comment on any of these issues. It should be noted that these Section 311 and 312 requirements under Title III would be applicable, not only to manufacturing and other sectors currently covered under OSHA's Hazard Communication Standard, but also to non-manufacturing facilities which may be required to prepare or have available an MSDS under the forthcoming expansion of the OSHA Hazard Communication Standard. Hence, EPA is interested in comments from the non-manufacturing sectors on these threshold provisions.

### Modification of Hazard Categories

Under section 311, a facility may meet reporting requirements by submitting an MSDS for each hazardous chemical or a list of all such chemicals grouped in hazard categories as defined by the Occupational Safety and Health Act of 1970 and regulations promulgated under that Act (OSHA). Under section 311(2)(b) of SARA, the Administrator may modify the categories of health and physical hazards as set forth under OSHA by requiring information to be reported in terms of groups of hazardous chemicals that present similar hazards in an emergency. Under section 312, Tier I information is also submitted by hazard category. EPA's proposed rule did not modify use of the OSHA hazard classification, a scheme of 23 categories, but solicited comments on alternative classification systems.

Based on the numerous comments requesting modification of the categories in the proposed rule, EPA is considering consolidation of the 23 OSHA hazard categories into five categories defined below:

(1) "Immediate (acute) health hazard" including highly toxic, corrosive, toxic, irritant, sensitizer, and other hazardous chemicals which cause an adverse effect to a target organ (as defined by 1910.1200 of Title 29 of the Code of Federal Regulations) which manifests itself within a short period of time following a one-time, high exposure to the substance.

(2) "Delayed (chronic) health hazard" including carcinogens and other hazardous chemicals which cause an adverse effect to a target organ (as defined by 1910.1200 of Title 29 of the Code of Federal Regulations) which manifests itself after a long period of time following or during repeated contacts with the substance.

(3) "Fire hazard" including flammable, combustible pyrophoric, and oxidizer as defined under 1910.1200 of Title 29 of the Code of Federal Regulations;

(4) "Sudden release of pressure hazard" including explosive and compressed gas as defined under 1910.1200 of Title 29 of the Code of Federal Regulations; and

(5) "Reactive hazard" including unstable reactive, organic peroxide, and water reactive as defined under 1910.1200 of Title 29 of the Code of Federal Regulations.

EPA requests comment on this reclassification.

### Household Product Exemption

Section 311 (e) exempts from the definition of "hazardous chemical" any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public. Because the public is generally familiar with such substances, their hazards, and their likely locations, the disclosure of such substances is unnecessary for right-to-know purposes.

EPA received numerous requests for clarification of this exemption. Although the clearest example of its application is ordinary household products stored in a home or located on a retailer's shelf, EPA believes that this exemption may also apply to such products prior to distribution to the consumer when packaged in a similar manner and present in the the same concentration as a consumer product whether or not they are used for the same purpose as the consumer product. Thus, the term "form" would refer to the packaging rather than any physical characteristic of the product. EPA solicits comments on this approach to defining the scope of this exemption.

If you are planning to participate in the meeting or present oral comments, please contact the Chemical Emergency Preparedness Hotline at the telephone number listed under "For Further Information." Time slots of approximately 10 minutes for each presentation will be allocated on a First come, first served basis.

J.W. McGraw,

*Acting Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 87-15674 Filed 7-13-87; 8:45 am]

BILLING CODE 6560-50-M

## Federal Communications Commission

## 47 CFR Part 73

**[MM Docket No. 87-233, RM-5841]**

## Radio Broadcasting Services; Melbourne and Jupiter, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed by Silicon East Communications Corporation, licensee of Station WVTI(FM), Melbourne, Florida, which seeks to substitute Channel 296C2 for Channel 296A at Melbourne, and to modify its Class A license, accordingly. To provide for channel 296A at Melbourne, petitioner has also requested that Channel 258A be substituted for Channel 296A at Jupiter, Florida, and the license for Station WKSY(FM) modified to specify the new Class A channel.

**DATES:** Comments must be filed on or before August 24, 1987, and reply comments on or before September 8, 1987.

**ADDRESS:** Fedeal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Michael J. Wilhelm, Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, 1660 L Street NW., Washington, DC 20036 (Attorney for petitioner).

**FOR FURTHER INFORMATION CONTACT:** Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of

Proposed Rule Making, MM Docket No. 87-233, adopted June 10, 1987, and released July 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-15919 Filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**[MM Docket No. 87-231, RM-5705]**

## Radio Broadcasting Services; LaSalle, IL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to substitute Channel 257B1 for Channel 257A at La Salle, Illinois, and to modify the Class A license for Station WAJK-FM accordingly, in response to a petition filed by the licensee, La Salle Broadcasting, Inc.

**DATES:** Comments must be filed on or before August 24, 1987, and reply comments on or before September 8, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jack W. Whitley, Baker and Hostetler, 1050 Connecticut Avenue NW., Washington, DC 20036 (Attorney for petitioner).

**FOR FURTHER INFORMATION CONTACT:** Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-231, adopted June 10, 1987, and released July 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

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

[FR Doc. 87-15922 Filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**[MM Docket No. 87-234, RM-5745]**

## Radio Broadcasting Services; Palestine, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by Hawthorne Broadcasting Company, Inc., licensee of Station KYYK-FM, Channel 252A, Palestine, Texas, proposing the substitution of Channel 252C2 for 252A at Palestine and modification of its license to specify the higher class frequency, as that community's first wide coverage area FM station. A site restriction of 28.6 kilometers (17.8 miles) north of Palestine is required.

**DATES:** Comments must be filed on or before August 24, 1987, and reply comments on or before September 8, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Richard J. Hayes, Jr., Esquire, Attorney at Law, 1359 Black Meadow Road, Spotsylvania, Virginia 22553 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-234, adopted June 11, 1987, and released July 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M. Street NW., Washington, DC. The Complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW. Suit 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

*Chief, Allocations Branch, Mass Media Bureau.*

[FR Doc. 87-15921 Filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

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**47 CFR Part 73**

**MM [Docket No. 87-229 , RM-5735]**

## Radio Broadcasting Services; Danville, VT

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by Peter Morton proposing the allotment of Channel 239A to Danville, Vermont, as that community's first FM service. Concurrence by the Canadian government must be obtained.

**DATES:** Comments must be filed on or before August 24, 1987, and reply comments on or before September 8, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitiners, or their counsel or consultant, as follows: Peter Morton, P.O. Box 1303, Burlington, VT 05402 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634–6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–229, adopted June 15, 1987, and released July 2, 1987. The full text of this Commission decision is available for inspection and copying during normal hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transportation Service, (202) 857–3800, 2100 M Street NW., Suite 140 Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no matter subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contract.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting

Federal Communications Commission.

**Mark N. Lipp,**

*Chief, Allocations Branch, Mass Media Bureau.*

[FR Doc. 87–15917 Filed 7–13–87; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73**

**[MM Docket No. 87–228, RM–5730]**

## Radio Broadcasting Services; Elk Mound, WI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by Dri-Five, Incorporated proposing the allotment of Channel 225A to Elk Mound, Wisconsin as that community's first FM service.

**DATES:** Comments must be filed on or before August 24, 1987, and reply comments on or before September 8, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Robert L. Olender, Esquire, Baraff, Koerner, Olender & Hochberg, P.C., 2033 M Street NW., Suite 203, Washington, DC 20036–3355 (Counsel for petitioner).

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634–6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–228, adopted June 15, 1987, and released July 2, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**Mark N. Lipp,**

*Chief, Allocations Branch, Mass Media Bureau.*

[FR Doc. 87–15918 Filed 7–13–87; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 87**

**[PR Docket No. 87–214; FCC 87–207]**

## Aviation Services

**AGENCY:** Federal Communication Commission (FCC).

**ACTION:** Proposed rule.

**SUMMARY:** The FCC proposes to revise and reorganize Part 87 of the rules governing the aviation services. This action is part of the FCC's ongoing effort to review, simplify and clarify its regulations. The intended effect of this action is to eliminate unnecessary rules and language and improve the organization of the regulations governing the aviation services.

**DATES:** Comments must be received on or before October 21, 1987, and reply comments must be received on or before December 21, 1987.

**ADDRESS:** Federal Communications Commission, 1919 M Street NW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Maureen Cesaitis, Robert Mickley, Jim Shaffer, Private Radio Bureau, Aviation and Marine Branch, Washington, DC 20554, (202) 632–7175.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making revising and amending its aviation services rules.

The full text of this Commission proposal is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of the proposal may also be purchased from the International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

**Summary of Notice of Proposed Rule Making**

1. In this Notice of Proposed Rule Making (Notice) we propose to revise Part 87 of Title 47 of the Code of Federal Regulations, which governs the aviation services. Our objectives in this proceeding are to simplify and to clarify the rules and to deregulate in several areas, which should provide more flexibility for aviation communications. Subparts A–E are of general applicability, while Subparts F–S apply

to specific classes of stations. A cross reference table, Appendix B, has been prepared which should provide a simple method for interested parties to determine quickly the new location of any existing rule and the general nature of any proposed changes.

2. *Subpart A—General Information.* This subpart contains a description of the basis and purpose of the regulations governing the aviation services and definitions of terms used throughout Part 87. Definitions not unique to the aviation services and that are contained in Part 2 of the rules have been deleted. Some definitions have been combined. Definitions that contained the term "airdrome" have been changed to reflect use of the more generally accepted term "airport."

3. *Subpart B—Applications and Licenses.* The subpart consists of the application and license requirements for stations in the aviation services. Many of its rules have been simplified and clarified. New language has been added concerning developmental stations, type accepted equipment, and operations during emergencies.

4. *Subpart C—Operating Requirements and Procedures.* This subpart contains rules concerning operating requirements, operator requirements and operating procedures. These regulations are now in Subpart A, under Operating Requirements. No substantive changes were made to the original rules now contained in this subpart.

5. *Subpart D—Technical Requirements.* The rules in this subpart relate to the technical specifications for stations. The material has been rewritten to simplify, clarify and update the rules.

6. *Subpart E—Frequencies.* A complete list of frequencies available for assignment in the aviation radio services is contained in tabular form in this subpart. The first column contains the frequency or frequency band. The second column contains the symbols of the subpart(s) with additional regulations applicable to frequency assignment and usage. The third column contains the symbol(s) of the class(es) of station(s) to which the frequency is assignable. To be consistent with other government agencies we have used symbols contained in the National Telecommunications and Information Administration's Manual of Regulations and Procedures for Federal Radio Frequency Management. The fourth column contains remarks to clarify frequency use or dual use. The latter column is especially useful in the case of the aeronautical enroute stations where many frequencies are available in specific geographical areas.

7. *Subpart F—Aircraft Stations.* This subpart sets forth the rules concerning radio equipment and operations on board aircraft. Several rules, including those concerning public correspondence equipment and operations, have been revised and clarified. The proposed Subpart F includes those frequencies available to aircraft stations. Frequencies shared with non-Government aeronautical land stations have been placed in the list of frequencies contained in new Subpart E. Additionally, the rules concerning ELTs have been consolidated in this subpart.

8. *Subpart G—Aeronautical Advisory Stations.* Aeronautical advisory stations (unicoms) provide non-air traffic control air-ground communications primarily between general aviation aircraft and airport facilities. Communications are generally limited to the necessities of safe and expeditious operation of aircraft such as runway conditions, fuel availability, dispatching, wind conditions, weather, and the like. At an uncontrolled airport, pilots also use the unicom frequency to report positions and intentions to other pilots. Traditionally, only one unicom station and frequency were allowed at an airport. This provided a published frequency for all communications related to the airport, including the common traffic advisory frequency (CTAF).

9. In the *Report and Order* in PR Docket No. 83-990 the one unicom per airport restriction was relaxed at the approximately 500 airports having control towers, as there was no need for a specified CTAF or the control tower frequency served as the CTAF. We now believe that the one unicom per airport restriction can be eliminated at the airports with full time FAA flight service stations, as the flight service station frequency serves as the CTAF. Over the years the congestion on unicom frequencies has increased. Although previous changes have helped, congestion on the unicom frequencies assigned at uncontrolled airports, particularly near large urban areas, continues to be a problem.

10. Therefore, to help reduce the congestion, we are proposing a number of changes in the unicom rules that we believe will be beneficial to the flying public. First, we propose to remove the distinction between unicoms at heliports and unicoms at airports that serve fixed wing aircraft. These unicom frequencies will be pooled. Second, we propose to make greater use of the 25 and 50 kHz spaced channels by making frequency assignments to new unicoms based on the greatest possible geographic separation between like channels. Third, beginning in 1990, we propose to review unicom renewal applications for geographic separation between like channel assignments. Where appropriate, a different frequency will be assigned.

11. *Subpart H—Aeronautical multicom stations.* Multicom stations are used for communications with aircraft concerning activities of a temporary, seasonal or emergency nature. Multicoms are sometimes authorized to relay ATC information where there is no unicom service available. Although the rules for multicoms have not been changed substantively, the language has been simplified.

12. *Subpart I—Aeronautical enroute and aeronautical fixed stations.* Aeronautical enroute stations are used to communicate operational control messages relating to the safe, efficient, and economical operation of aircraft. Aeronautical fixed stations provide non-public point-to-point communications service pertaining to safety, regularity and economy of flight where adequate land line facilities are unavailable. The two classes of stations have been combined because aeronautical fixed stations are licensed only to enroute station licensees.

13. *Subpart J—Flight test stations.* Flight test stations are used by manufacturers of aircraft or major aircraft components and educational institutions for communications during flight test evaluations. No substantive changes in flight test station rules have been proposed. The language has been simplified and clarified.

14. *Subpart K—Aviation support stations.* This subpart consolidates under the heading "aviation support stations" stations currently used to support (1) pilot flight training, (2) coordination of soaring activities, (3) coordination of free ballooning activities, and (4) coordination between aircraft and aviation service organizations concerning available ground services. The first three functions are currently licensed as aviation instructional stations while the fourth is licensed as an aeronautical utility mobile station. We are proposing to expand the scope of communications permitted between aircraft and aviation service organizations on the frequencies 122.775 and 122.850 MHz. The existing rules only permit communications between aviation service organizations and aircraft that are stationary on the airport. We believe that permitting aviation service organizations to

communicate with aircraft in the air as well as on the ground will provide for more efficient and convenient aircraft operations and reduce congestion on unicom frequencies. The FAA's designation of a common traffic advisory frequency for all airports will permit the proposed expansion of the scope of service of these stations without affecting safety of flight in the vicinity of uncontrolled airports.

15. *Subpart L—Aeronautical utility stations.* This subpart sets forth the rules concerning stations in vehicles operating on airport runways, taxiways and other areas used for taxiing, takeoff and landing of aircraft. The stations assist in the safe movement of vehicles operating on the airport. The existing rules have been reorganized and clarified. We propose to expand the scope of service of aviation support stations to permit air-ground communications relating to aircraft servicing, etc. This will allow any number of aviation support stations to communicate with aircraft in the local area concerning available ground services.

16. *Subpart M—Aeronautical search and rescue stations.* Aeronautical search and rescue stations are used for communications with aircraft and other search and rescue stations during actual or training search and rescue operations. A new section on eligibility has been added to reflect existing licensing practices. The language has been simplified and clarified.

17. *Subpart N—Emergency communications.* This subpart has been significantly reorganized and reduced in size. The existing emergency communications rules contain information duplicated from a number of emergency plans that generally affect the aviation services. Although the plans continue in force, our rules have been reduced to the information necessary for Commission licensees regarding the use of stations in the Aviation Services in emergency situations declared by local, state and federal authorities.

18. *Subpart O—Airport control tower stations.* These stations are licensed to provide ATC communications in the vicinity of an airport where there is no federal control tower. We have made a nonmenclature change here by deleting the term "airdrome" and replacing it with the more common "airport." We have also changed "airdrome control tower stations" to "control towers." These non-substantive modifications better reflect today's usage.

19. *Subpart P—Operational stations.* Operational stations are used to provide link or control circuits for other aeronautical operations. We have eliminated the nomogram charts associated with TV Channels 4 and 5 and verbalized the parameters for locating operational fixed stations. The rules have been simplified and clarified but otherwise remain unchanged.

20. *Subpart Q—Stations in the radiodetermination service.* These stations generally provide navigational information for aircraft. The current rule section dealing with harmful interference to radionavigation stations (§ 87.506) contains restrictions imposed upon the Joint Technical Information Distribution System (JTIDS). We are proposing to remove these restrictions from the rules because they have no direct impact upon Commission licensees.

21. *Subpart R—Civil Air Patrol stations.* This subpart simplifies and clarifies the rules governing the use of Civil Air Patrol stations for training, operational and emergency activities of the Civil Air Patrol. Additionally we are proposing to revise the method by which Civil Air Patrol stations are licensed. Currently over 24,000 transmitters are licensed to individual units of the Civil Air Patrol under Subpart O of the rules. We propose to grant a fleet license to each regional wing of the Civil Air Patrol in lieu of individual station licenses. This will reduce the number of licenses issued to the Civil Air Patrol to approximately 60. We believe this will not only reduce paperwork for the Civil Air Patrol and the Commission, but will also increase the flexibility of Civil Air Patrol units to respond to changing communications requirements.

22. *Subpart S—Automatic weather observation stations.* We are proposing that automatic weather observation stations (AWOS) located at high activity airports with part-time control towers, be allowed to provide automatic terminal information service (ATIS) during the hours of control tower operation. An automatic weather observation station (AWOS) consists of various sensors, a processor, a voice synthesizer, and a transmitter which relay local, real time, weather data directly to pilots over a radio frequency in the voice portion of a local aeronautical radionaviagation aid. ATIS is the continuous broadcast of pre-recorded information pertaining to the local airport terminal area. This service is usually provided by the FAA to reduce control tower frequency congestion by automating the transmission of essential but routine information.

23. When approved by the FAA, AWOS may provide ATIS while the control tower is in operation. We propose to allow existing and future AWOS stations to be operated in this dual mode without notification to the Commission.

24. In any such undertaking there are likely to be areas where further consolidations, reductions in regulatory burdens, or better explanations of requirements could be made. We urge interested parties to review this proposal and recommend additional improvements.

25. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.231, for rules governing permissible *ex parte* contacts.

26. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

27. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to decrease the information collection burden which the Commission imposes on the public. This proposed reduction in information collection burden is subject to approval by the Office of Management and Budget as prescribed by the Act.

28. Pursuant to the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before October 21, 1987; and reply comments on or before December 21, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

29. This Notice of Proposed Rule Making is issued under the authority of 47 U.S.C. 154(i) and 303(r).

30. A copy of this Notice of Proposed Rule Making will be served on the chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 87**

Aeronautical stations, Aviation services, Civil defense, Communications equipment, General aviation.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 87-15916 Filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 215

## Department of Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation

**AGENCY:** Department of Defense (DoD).

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

**SUMMARY:** The Defense Acquisition Regulatory Council is considering changes to DoD Federal Acquisition Regulation Supplement (DFARS) Part 215 to incorporate amendments to the Truth-in-Negotiations Act required by section 952 of the FY 1987 Department of Defense Authorization Act (Pub. L. 99–500).

**DATE:** Comments on the proposed rule should be submitted in writing to the DAR Council at the address shown below on or before September 14, 1987, to be considered in the formulation of a final rule. Please cite DAR Case 86–170 in all correspondence related to this issue.

**ADDRESS:** Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OASD (A&L) (M&RS), Room 3C841, The Pentagon, Washington, DC 20301–3062.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The FY 87 DoD Authorization Act made changes to the Truth-in-Negotiations Act which is now codified at 10 U.S.C. 2306a. Revisions to the FAR are being prepared to conform to the new statutory requirements, and several minor changes to DFARS coverage are necessary.

### B. Regulatory Flexibility Act

This proposed rule does not have a significant impact on a substantial number of small entities because it applies to contracts requiring submission and certification of cost or pricing data, and a substantial number of small entities do not submit cost or pricing data.

### C. Paperwork Reduction Act

The proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

### List of Subjects in 48 CFR Part 215

Government procurement.

**Charles W. Lloyd,**

*Executive Secretary, Defense Acquisition Regulatory Council.*

Therefore, it is proposed that 48 CFR Part 215 be amended as follows:

## PART 215—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 215 continues to read as follows:

**Authority:** 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 215.804–1 is added to read as follows:

**215.804–1 General.**

(a) Partial or limited data may be requested when less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result on awards under $100,000 without the submission of complete cost or pricing data. The contracting officer considers adequate to support the limited extent of the cost analysis required.

**215.804–2 [Amended]**

3. Section 215.804–2 is amended by removing paragraph (a)(2).

**215.804–3 [Amended]**

4. Section 215.804–3 (i) is amended by substituting in the first sentence the citation "2306a (a) (5)" in lieu of the citation "2306 (f)"; by removing at the end of the first sentence the words "clauses required by FAR 52.214–27 and 52.215–25" and substituting the words "required clauses"; by substituting in the second sentence the word "Contracting for the word "Procuring"; by adding in the first sentence of the format entitled "Determination and Findings" after the word "head" the numeral "(1)"; by substituting in the same sentence the citation "2306a(a) (5)" in lieu of the citation "2306(f)"; by substituting in Note (1) of the **"NOTES"** at the end of the format entitled "Determination" the word "contracting" in lieu of the word "procuring"; and by substituting in Note (2) of the "NOTES" at the end of the format the word "Contracting" in lieu of the words "Procuring or contracting".

[FR Doc. 87–15848 Filed 7–13–87; 8:45 am]

BILLING CODE 3810–01–M

# Notices

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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

### Office of the Secretary

### Human Nutrition Board of Scientific Counselors; Task Group on Nutrition Education Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of the Secretary schedules the following meeting:

*Name:* Human Nutrition Board of Scientific Counselors.

*Date:* July 20–21, 1987.

*Time and Place:* July 20–21, 1987; 9:00 a.m.–5:00 p.m. in Conference Room 3109, South Building, U.S. Department of Agriculture, Washington, DC.

*Type of Meeting:* Human Nutrition Board of Scientific Counselors, Task Group on Nutrition.

*Education:* Open to the public.

*Comments:* The public may file written comments before or after the meeting with the contact person listed below.

*Purpose:* For the Task Group on Nutrition Education to meet with nutrition educators from USDA agencies and representatives from the Land-Grant University system and to finalize its report for submission to the full board. This report of evaluation and recommendations will become part of the board's annual report to the Secretary of Agriculture.

*Contact Person:* Anne Winslow, Confidential Assistant, Office of the Assistant Secretary for Science and Education, U.S. Department of Agriculture, Room 217–W, Administration Building, Washington, DC, 20250, telephone 202/447–5035.

Done in Washington, DC, this 1st day of July, 1987.

Anne Winslow,

*Confidential Assistant to the Assistant Secretary for Science and Education.*

[FR Doc. 87–15938 Filed 7–13–87; 8:45 am]

BILLING CODE 3410–01–M

## Food and Nutrition Service

### National Average Minimum Value of Donated Foods for the Period July 1, 1987 Through June 30, 1988

July 9, 1987.

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the value of donated foods or, where applicable, cash in lieu thereof to be given in the 1988 school year for each lunch served by schools participating in the National School Lunch Program or by commodity schools and for each lunch and supper served by institutions participating in the Child Care Food Program.

**EFFECTIVE DATE:** July 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Susan Proden, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22303, (703) 756–3660.

**SUPPLEMENTARY INFORMATION:** This action, which implements mandatory provisions of sections 6(e), 14(f), and 17(h) of the National School Lunch Act (the Act), has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor", because it meets none of the criteria in the Executive Order: the action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets.

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Section 6(e) of the Act establishes the national average value of donated-food assistance to be given to States for each lunch served in the National School Lunch Program at 11.00 cents per meal. This amount is subject to annual adjustment as of July 1 of each year to reflect changes in the Price Index for Food Used in Schools and Institutions. Section 17(h) of the Act provides that the same value of assistance in donated foods for school lunches shall also be established for lunches and suppers served in the Child Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the National School Lunch Program (7 CFR Part 210) and per lunch and supper under the Child Care Food Program (7 CFR Part 226) shall be 12.00 cents for the period July 1, 1987, through June 30, 1988.

The Price Index for Food Used in Schools and Institutions is computed on the basis of five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oil). Each component is weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month simple average value of this Price Index for March, April and May. The three month average of the Price Index decreased by 6.0 percent from 252.9 for March, April and May of 1986 to 268.05 for the same three months in 1987. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1987 through June 30, 1988 will be 12.00 cents per meal. This constitutes a .75 cent per lunch increase over the rate in effect for the 1987 school year.

Section 14(f) of the Act provides that commodity schools shall be eligible to

receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(e) of the Act and the national average payment established under section 4 of the Act. Such schools are eligible to receive up to 5 cents of this value in cash for processing and handling expenses related to the use of such foods.

Commodity schools are defined in section 12(d)(7) of the Act as "schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs."

For the 1988 school year, commodity schools shall be eligible to receive donated-food assistance valued at 25.50 cents for each lunch served. This amount is based on the sum of the section 6(e) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 1988. The section 4 factor for commodity schools does not include the 2-cents per lunch increase for lunches served in the second preceding year free or at reduced prices, since that increase is applicable only to schools participating in the National School Lunch Program.

(Catalog of Federal Domestic Assistance Nos. 10.550, 10.555, and 10.558.)

**Authority:** Sections 6, 14 and 17 of the National School Lunch Act, as amended, 42 U.S.C. 1755, 1762a, 1766.

Dated: July 9, 1987.

**Anna Kondratas,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 87-15925 Filed 7-13-87; 8:45 am]

BILLING CODE 3410-30-M

## National Advisory Council on Maternal, Infant and Fetal Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

*Date and Time:* August 19-21, 1987; 9:00 a.m.

*Place:* Days Inn, 644 N. Lake Shore Drive, Chicago, Illinois 60611.

*Purpose of Meeting:* The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP).

*Agenda:* The agenda items will include a wide variety of issues pertaining to WIC and CSFP. The Council will also make a site visit to a local WIC and CSFP agency.

Meetings of the Council are open to the public. Members of the public may participate, as time permits.

Persons wishing additional information about this meeting should contact Doris Dvorscak, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302. *Telephone:* (703) 756-3730.

Dated: June 25, 1987.

**Anna Kondratas,**

*Administrator.*

[FR Doc. 87-15875 Filed 7-3-87; 8:45 am]

BILLING CODE 3410-30-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ES-030-07-4133-09; ES-0157-007]

## Environmental Impact Statement; Mark Twain National Forest, Shannon and Oregon Counties, MO

**AGENCY:** Forest Service, Department of Agriculture and Bureau of Land Management (BLM), Department of the Interior.

**ACTION:** Amendment to a Notice of Intent.

**SUMMARY:** The Department of Agriculture, Forest Service and Department of the Interior, Bureau of Land Management published a Notice of Intent to prepare an Environmental Impact Statement in the Federal Register on November 7, 1986 (51 FR 40473). The purpose of this notice is to amend key dates established in the previous notice and to update the list of Federal and State of Missouri agencies participating as Cooperating Agencies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leon Kridelbaugh, Staff Officer for Lands, Minerals, Soil and Watershed, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, Missouri 65401, telephone (314) 364-4621. Mr. Wink Hastings, Assistant District Manager for Energy and Minerals, Milwaukee District Office (BLM), P.O. Box 631, Milwaukee, Wisconsin 53201-0631, telephone (414) 291-4421.

**SUPPLEMENTARY INFORMATION:** The tentative dates for the public review of the draft environmental impact statement and for the completion of the final statement provided in the previous notice have been extended. The draft statement will be distributed for public review October 16, 1987 and the final statement will be published April 4, 1988. A detailed outline of the revised schedule has been prepared. Copies of the schedule may be obtained by writing to the Forest Supervisor, Mark Twain National Forest at the above address.

Further, the previous notice indicated that the U.S. Fish and Wildlife Service, National Park Service, U.S. Army Corps of Engineers, Missouri Department of Natural Resources and Missouri Department of Conservation would be invited to participate as Cooperating Agencies. In response to written invitations, each agency has indicated that it would assume the role as a cooperator except the Missouri Department of Natural Resources which has declined the invitation. In addition, the U.S. Geological Survey has at its initiative become a Cooperating Agency.

Dated: June 29, 1987.

**James R. Jordan,**

*Acting Regional Forester, USDA—Forest Service.*

Dated: July 1, 1987.

**G. Curtis Jones, Jr.,**

*Director, Eastern States Office, Bureau of Land Management.*

[FR Doc. 87-15861 Filed 7-13-87; 8:45 am]

BILLING CODE 4310-GJ-M

## COMMISSION ON CIVIL RIGHTS

### Hearing on Indian Civil Rights Issues

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1983, Pub. L. 98-183, 97 Stat. 1304, that a public hearing before a Subcommittee of the U.S. Commission on Civil Rights will be held August 13, beginning at 9:00 a.m., and August 14, beginning at 9:00 a.m., and such succeeding days as may be deemed appropriate at the discretion of the Chairman, at the Holiday Inn, 2915 W. U.S. Rt. 66, Gallup, New Mexico.

The purpose of the hearing is to receive evidence about enforcement of the Indian Civil Rights Act.

The Commission is an independent, bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, handicap, or national origin, or in the administration of justice.

Dated at Washington, DC, July 10, 1987.
**Clarence M. Pendleton, Jr.,**
*Chairman.*
[FR Doc. 87-16012 Filed 7-13-87; 8:45 am]
BILLING CODE 6335-01-M

### Agenda and Notice of Public Meeting; Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m., on July 28, 1987, at the Ramada Inn Downtown, 420 East 6th Street, Topeka, Kansas. The purpose of the meeting is to develop program plans and to hold a community forum to obtain information on the status of civil rights and bigotry and violence in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Burdett A. Loomis, or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 26, 1987.
**Susan J. Prado,**
*Acting Staff Director.*
[FR Doc. 87-15859 Filed 7-13-87; 8:45 am]
BILLING CODE 6335-01-M

### Agenda and Notice of Public Meeting; Missouri Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m., on July 21, 1987, at the Holiday Inn, 422 Monroe, Jefferson City, Missouri. The purpose of the meeting is to develop program plans and to hold a community forum to obtain information on the status of civil rights and bigotry and violence in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Acting Chairperson, Cora Douglass Thompson, or Melvin Jenkins, Director of the Central Regional Division (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 26, 1987.
**Susan J. Prado,**
*Acting Staff Director.*
[FR Doc. 87-15860 Filed 7-13-87; 8:45 am]
BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-429-601]

### Antidumping Duty Order; Urea From the German Democratic Republic

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** In separate investigations concerning urea from the German Democratic Republic (GDR), the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that urea from the GDR is being sold at less than fair value and that sales of urea from the GDR are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of urea from the GDR made on or after January 2, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary S. Clapp (202) 377-1769, Office of Investigations, Internarional Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** The merchandise covered by this order is solid urea as currently provided for in item 480.30 of the *Tariff Schedules of the United States.*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on December 23, 1986, the Department made its preliminary determination that there was reason to believe or suspect that urea from the GDR was being sold at less than fair value (52 FR 121, January 2, 1987). On May 18, 1987, the Department made its final determination that these imports were being sold at less than fair value (52 FR 19549, May 26, 1987).

On July 1, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such imports materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs U.S. Customs officers to asess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of urea from the GDR. These antidumping duties will be assessed on all unliguidated entries of urea entered, or withdrawn from warehouse, for consumption on or after January 2, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (52 FR 121).

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 44.80 percent.

This determination constitutes an antidumping duty order with respect to urea from the GDR, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C.

1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

July 8, 1987.

[FR Doc. 87-15930 Filed 7-13-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-601]

## Antidumping Duty Order; Urea From the Socialist Republic of Romania

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** In separate investigations concerning urea from the Socialist Republic of Romania (Romania), the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that urea from Romania is being sold at less than fair value and that sales of urea from Romania are materially injuring a United States industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of urea from Romania made on or after January 2, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary S. Clapp (202) 377-1769, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** The merchandise covered by this order is solid urea as currently provided for in item 480.30 of the *Tariff Schedules of the United States.*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on December 23, 1986, the Department made its preliminary determination that there was reason to believe or suspect that urea from Romania was being sold at less than fair value (52 FR 122, January 2, 1987). On May 18, 1987, the Department made its final determination that these imports were being sold at less than fair value (52 FR 19553, May 26, 1987).

On July 1, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such imports materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 735(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of urea from Romania. These antidumping duties will be assessed on all unliquidated entries of urea entered, or withdrawn from warehouse, for consumption on or after January 2, 1987, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (52 FR 122).

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin of 90.71 percent.

This determination constitutes an antidumping duty order with respect to urea from Romania, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

July 8, 1987.

[FR Doc. 87-15932 Filed 7-13-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-601]

## Antidumping Duty Order; Urea From the Union of Soviet Socialist Republics

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** In separate investigations concerning urea from the Union of Soviet Socialist Republics (USSR), the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that urea from the USSR is being sold at less than fair value and that sales of urea from the USSR are materially injuring a U.S. industry. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of urea from the USSR made on or after January 2, 1987, the date on which the Department published its "preliminary Determination" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

**EFFECTIVE DATE:** July 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mary S. Clapp (202) 377-1769, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** The merchandise covered by this order is solid urea as currently provided for in item 480.30 of the *Tariff Schedules of the United States.*

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on December 23, 1986, the Department made its preliminary determination that there was reason to believe or suspect that urea from the USSR was being sold at less than fair value (52 FR 124, January 2, 1987). On May 18, 1987, the Department made its final determination that these imports were being sold at less than fair value (52 FR 19557, May 26, 1987).

On July 1, 1987, in accordance with section 735(d) of the Act (19 U.S.C. 1673(d)), the ITC notified the Department that such imports materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of urea from the USSR. These antidumping duties will be

assessed on all unliquidated entries of urea entered, or withdrawn from warehouse, for consumption on or after January 2, 1987, the date on which the Department published it's "Preliminary Determination" notice in the **Federal Register** (52 FR 124).

On and after the date of publication of this notice, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margin for each of the following companies:

| Manufacturer/producer exporter | Weighted-average margin (percent) |
|---|---|
| Soyuzpromexport (SPE) | 68.26 |
| Philipp Brothers, Ltd., and Philipp Brothers, Inc. (Phibro) | 53.23 |
| All others | 64.93 |

This determination constitutes an antidumping duty order with respect to urea from the USSR, pursuant to section 736 of the Act (19 U.S.C. 1673e and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping duty findings and orders currently in effect. Instead, interested parties may contact the Central Records Unit, Room B-099, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e and § 353.48 of the Commerce Regulations (19 CFR 353.48).

**Gilbert B. Kaplan,**

*Deputy Assistant Secretary for Import Administration.*

July 8, 1987.

[FR Doc. 87-15931 Filed 7-13-87; 8:45 am]

BILLING CODE 3510-DS-M

## Order Amending Denial of Permission To Apply for or Use Export Licenses; Werner Ernst Gregg

On April 9, 1987, the United States Department of Commerce (Department) issued an order pursuant to § 370.15 of the Export Administration Regulations (15 CFR Parts 368-399 (1987)) denying Werner Ernst Gregg permission to apply for or use export licenses (52 FR 13279, April 22, 1987). Included in the terms of that Order was Gregg International, a business organization then known to be related to Werner Gregg in the conduct of trade or related services.

The Department has learned that Werner Gregg has recently sold the assets of Gregg International. In connection with that sale, Werner Gregg relinquished all of his ownership interest and control over Gregg International and, as a result, Gregg International is no longer related to Werner Gregg. Accordingly, after consultation with the Acting Director, Office of Export Enforcement, I have decided that, since Gregg International is no longer related to Werner Gregg, it should be deleted from the April 9, 1987 order, leaving Werner Gregg as the only party effected by the April 9, 1987 order.

Accordingly, it is hereby

*Ordered*

I. The April 9, 1987 order against Werner Ernst Gregg is amended by deleting Gregg International as a related party.

II. The April 9, 1987 order remains in full force and effect against Werner Ernst Gregg.

III. A copy of this order shall be served upon Werner Ernst Gregg. This order shall be published in the **Federal Register.**

Dated: July 18, 1987.

**Richard M. Seppa,**

*Acting Director, Office of Export Licensing.*

[FR Doc. 87-15874 Filed 7-13-87; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF DEFENSE

### Chief of Naval Operations; Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Capabilities Task Force will meet August 11-12, 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to review the Navy's future needs and balance of strategic offensive/defensive forces, potential initiatives to enhance strategic capabilities, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For futher information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: July 9, 1987.

**Jane M. Virga,**

*Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.*

[FR Doc. 87-15857 Filed 7-13-87; 8:45 am]

BILLING CODE 3810-AE-M

## Department of the Navy

### Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Navy Training Task Force will meet August 18-19, 1987 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting will include an examination of Navy training to assess how best to organize and manage training to accommodate future requirements, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: July 9, 1987.

**Jane M. Virga,**

*Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.*

[FR Doc. 87-15858 Filed 7-13-87; 8:45 am]

BILLING CODE 3810-AE-M

## DEPARTMENT OF EDUCATION

### Grants; Availability; Final Funding Priorities and Special Awards Under the Law-Related Education Program

**SUMMARY:** The Secretary issues final funding priorities to assist elementary and secondary schools in developing and conducting projects related to the bicentennial of the U.S. Constitution. The Secretary will use the regulations for the Secretary's Discretionary Program to conduct this competition under the Law-Related Education Program.

**EFFECTIVE DATE:** These final funding priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas N. Wikstrom, Secretary's Discretionary Program, U.S. Department of Education, 400 Maryland Avenue SW., Room 1011, FOB–6, Washington, DC 20202. Telephone: (202) 732–3566.

**SUPPLEMENTARY INFORMATION:** On May 8, 1987, the Secretary published a Notice of Proposed Funding Priorities and Special Awards under the Law–Related Education Program in the **Federal Register** (52 FR 17522). No changes have been made between the NPRM and this final notice. During the 30-day public comment period, one comment was received. The following is a summary of the public comment received and the Secretary's response to that comment.

*Comment:* One commenter questioned why the procedures for intergovernmental review under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 34 CFR Part 79, "Intergovernmental Review of Department of Education Programs and Activities" do not apply to this competition.

*Discussion:* While intergovernmental review procedures do apply to the Law-Related Education Program at 34 CFR Part 241, they do not apply to the Secretary's Discretionary Program. Intergovernmental review procedures do not apply to a program or activity that does not "directly affect State or local governments." 34 CFR 79.3(d). The activities supported by the Secretary's Discretionary Program do not directly affect State or local governments. The Secretary's Discretionary Program supports activities such as research and demonstrations and teacher training. 34 CFR 760.10(a).

The purpose of this competition is to fund projects related to the Bicentennial of the U.S. Constitution. The use of the Secretary's Discretionary Program regulations reflects the intent of the Secretary to fund nationally significant projects that have the potential to improve elementary and secondary education. See 34 CFR 760.31 (f) and (g). The Secretary does not intend to fund projects which directly affect State or local governments under this competition.

*Changes:* None.

**Final Rules for Fiscal Year 1987**

*1. Regulations*

Notwithstanding 34 CFR 241.3 and 760.3, the Secretary will conduct this competition under the regulations for the Secretary's Discretionary Program at 34 CFR Part 760, rather than under the regulations for the Law-Related Education Program at 34 CFR Part 241. Final regulations for the Secretary's Discretionary Program were published in the **Federal Register** on June 12, 1987 (52 FR 22441). These final regulations do not affect this competition which will be conducted under the current regulations for the Secretary's Discretionary Program at 34 CFR Part 760.

*2. Absolute Priority*

The Secretary will reserve $950,000 of the funds appropriated for the Law-Related Education Program for grants to assist elementary and secondary schools in developing and conducting projects related to the bicentennial of the U.S. Constitution. Only those applications meeting this priority will be considered under this competition.

**Authority:** 20 U.S.C. 3851.

*3. Competitive Preferences*

The Secretary will award up to 10 points, in addition to the 100 possible points under § 760.31, for applications that propose projects based on existing instructional programs that provide students with a comprehensive grounding in the historical and philosophical origins and the development and workings of the American constitutional order.

The Secretary also will award up to 5 points, in addition to the 100 possible points under § 760.31, for applications that propose to involve within their proposed programs, elementary and secondary students from several schools, their parents, their teachers, and members of the community at large.

**Authority:** 20 U.S.C. 3851.

**Activities**

In addition to meeting the absolute priority (rule number 2), projects must consist of one or more of the following activities under § 760.10:

a. Gathering and disseminating information.

b. Carrying our research and demonstrations.

c. Improving the training of teachers and other instructional personnel.

d. Providing technical assistance to State educational agencies (SEAs) and local educational agencies (LEAs).

The following examples are offered as illustrations of projects an applicant might propose for funding:

- *Projects to improve the training of teachers.* These projects could, through seminars or workshops, help teachers develop curriculum resources and instructional techniques that address the historical and philosophical development of our constitutional order as well as contemporary problems arising from controversial constitutional issues; or
- *Demonstration projects.* These projects could link existing exemplary programs that teach about the Constitution to bicentennial events and ceremonies, and involve additional elementary and secondary schools.

Dated: July 9, 1987.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 87–15911 Filed 7–13–87; 8:45 am]

BILLING CODE 4000–01–M

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**[CFDA No. 84.064]**

### Invitation To Apply for New Awards Under the Veterans Education Outreach Program for Fiscal Year 1987

*Purpose*: Provides funds to institutions of higher education for the educational needs of veterans. Funded projects are designed to support offices for veterans affairs that provide outreach and recruitment activities, counseling and tutorial services, and special programs for disabled and educationally disadvantaged veterans.

Deadline for Transmittal of Applications: August 21, 1987.

Applications Available: July 20, 1987.

Available Funds: $3,000,000.

Estimated Range of Awards: $1,000–$75,000.

Estimated Average Size of Awards: $4,270.

Estimated Number of Awards: 700.

Project Period: 12 to 24 months.

Applicable Regulations: (a) The Veterans Education Outreach Program Regulations as proposed to be codified

in 34 CFR Part 629, and (b) The Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78. Applications are being accepted based on the Notice of Proposed Rulemaking which was published in the Federal Register on June 24, 1987, 52 FR 23774–23777. If any substantive changes are made in the final regulations for this program, applicants will be given the opportunity to revise of resubmit their applications.

For Applications or Information Contract: Neil McArthur or Charles I. Griffith, U.S. Department of Education, 400 Maryland Avenue SW., Room 3022, ROB–3, Mail Stop 3327, Washington, DC 20202. Telephone: (202) 732–4406 or 732–4389.

Program Authority: 20 U.S.C. 1070e–1.

Dated: July 7, 1987.

**C. Ronald Kimberling,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 87–15912 Filed 7–13–87; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Office of Civilian Radioactive Waste Management

### Announcements of NRC-DOE Technical Meetings

On June 17 and June 27, 1983, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Energy (DOE), respectively, signed a Procedural Agreement (48 FR 38701, 8–25–83) which outlines the procedures which DOE and NRC will observe in their interactions on the characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425, 96 Stat. 2201).

The Procedural Agreement specifies that schedules for technical meetings between DOE and NRC will be made publicly available by DOE in a timely manner with members of the public invited to attend.

To provide members of the public with timely information pertaining to the time, location, and agenda for all such public meetings, DOE established a toll-free telephone information service. The purpose of this notice is to make the annual announcement of the availability of this service. The most recent announcement about this service was issued on August 26, 1986 (51 FR 30394).

The recorded message is updated at least weekly and provides the meeting topic, time and place, and identifies a DOE contact person. The toll-free telephone numbers are as follows: for calls originating outside Washington, DC 800–368–2235, for calls originating within Washington, DC 479–0487.

For additional information about the toll-free announcements of NRC-DOE Technical Meetings contact: James P. Knight, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW–24, Washington, DC 20585.

Issued in Washington, DC July 8, 1987.

**Ben C. Rusche,**

*Director, Office of Civilian Radioactive Waste Management.*

[FR Doc. 87–15953 Filed 7–13–87; 8:45 am]

BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL–3232–7]

### Science Advisory Board; Long-Range Ecological Research Needs Subcommittee; Open Meeting

Under the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that a two-day meeting of the Long-Range Ecological Research Needs Subcommittee of the Science Advisory Board will be held on August 4 and 5, 1987. The meeting will begin at 9:00 a.m. on August 4, and will be held in Conference Rooms A and B at the U.S. EPA Environmental Research Laboratories, South Ferry Road, Narragansett, Rhode Island, 02882. Adjournment on August 5 will take place no later than 5:00 p.m.

The main purpose of the meeting is to continue an assessment of EPA's ecological research needs, specifically those research needs that address ecological problems that may be encountered or may persist in the future. The Subcommittee will continue receiving information on ecological research conducted by other agencies. Speakers from several organizations will describe their activities related to these issues. As speakers are confirmed, an agenda will be available from Ms. Jan Kurtz (address below).

The meeting will be open to the public. Anyone who wishes to attend, present information to the Subcommittee, or obtain information concerning the meeting, should contact Ms. Janis Kurtz, Executive Secretary, or Mrs. Lutithia Barbee, Staff Secretary, (A101–F), Environmental Effects, Transport and Fate Committee, Science Advisory Board, U.S. Environmental Protection Agency, 401 M. Street SW., Washington, DC 20460, Telephone (202) 382–2552 or FTS 8–382–2552. Written comments will be accepted, and can be sent to Ms Kurtz at the address above. Persons interested in making statements before the Subcommittee must contact Ms. Kurtz no later than July 30, 1987 in order to be assured of space on the agenda.

Dated: July 7, 1987.

**Terry F. Yosie,**

*Director, Science Advisory Board.*

[FR Doc. 87–15890 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

July 2, 1987.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3707).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Doris Benz, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0056.

Title: Application for Registration of Equipment to be Connected to the Telephone Network.

Form Number: FCC 730.

Action: Extension.

Respondents: Manufacturers of telephone equipment.

Frequency of Response: On occasion.

Estimated Annual Burden: 2,400 Responses; 57,600 Hours.

Needs and Uses: FCC Form 730 is used by equipment manufacturers to provide data and information to obtain registration of telephone equipment pursuant to Part 68 of the Commission's Rules. Tests are conducted by Common Carrier Bureau staff and FCC Laboratory for evaluation of equipment to determine whether such equipment meets the criteria set forth in the Commission's Rules. This is necessary in order to prevent improperly designed equipment from causing harm to the nation's telephone network. The information submitted is available for public inspection.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 87-15926 Filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

**[MM Docket No. 87-211; File Nos. BPH-850708 MJ et al.]**

## Applications for Consolidated Hearing; Tara Lynn Stephens et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

| Applicant, city/State | File No. | MM docket No. |
|---|---|---|
| A. Tara Lynn Stephens; Salina, KS. | BPH-850708MJ | 87-211 |
| B. Claudia Waters; Salina, KS. | BPH-850709MM | |
| C. Gayland and Sherl Gaut; Salina, KS. | BPH-850710NK | |
| D. Ruth Ann Wilburn; Salina, KS. | BPH-850710NL | |
| E. Cryer Productions; Salina, KS. | BPH-850711PP | |
| F. Charles E. Franklin, d/b/s, Franklin Broadcasting Salina, KS. | BPH-850712N5 | |
| G. Mary Ellen Domingos Holley; Salina, KS. | BPH-850712N6 | |
| H. Ricky Lee Siebert and Donald Eugene Nistl, d/b/a, R&D Communications, A, General Partnership; Salina, KS. | BPH-850712N9 | |
| I. Shara Whitney, d/b/a, Small Market Minority Radio; Salina, KS. | BPH-85071201 | |

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

*Issue Heading and Applicant(s)*

1. Air Hazard, D,G,H
2. Comparative, A,B,C,D,E,F,G,H,I
3. Ultimate, A,B,C,D,E,F,G,H,I

3. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).

**W. Jan Gay,**

*Assistant Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 87-15927 filed 7-13-87; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL HOME LOAN BANK BOARD

**[No. 87-777]**

## Approval of Application for Unlisted Trading Privileges; Cincinnati Stock Exchange

Dated: July 7, 1987.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Notice.

**SUMMARY:** On May 14, 1987, the Cincinnati Stock Exchange filed with the Federal Home Loan Bank ("Board") an application ("Application"), pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 ("Act") and Rule 12f-1 [17 CFR 240.12f-1] thereunder, for unlisted trading privileges in the following securities which are listed on one or more national securities exchange; Coast Savings and Loan Association, Los Angeles, California (FHLBB No. 7046), Common Stock, No Par Value.

Notice of the Application and opportunity for hearing was published in the **Federal Register** on June 11, 1987, and interested persons were invited to submit written data, views and arguments within 15 days. See Board Resolution No. 87-620 dated June 5, 1987 (52 FR 22383, June 11, 1987). The Board received no comments with respect to the Application. Notice is hereby given that the Office of General Counsel of the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in these securities on June 30, 1987.

**SUPPLEMENTARY INFORMATION:** The Board finds that the approval of the Application for unlisted trading privileges in these securities is consistent with the maintenance of fair and orderly markets and the protection of investors. As a national securities exchange registered with the Securities and Exchange Commission ("Commission") pursuant to section 6 of the Act, the Cincinnati Stock Exchange is subject to the provisions of paragraph (b) of that section, and to the Commission's inspection authority and oversight responsibility under sections 17 and 19 of the Act and the rules and regulations thereunder. Transactions in the subject securities, regardless of the market in which they occur, are reported in the consolidated transaction reporting system contemplated by Rule 11Aa3-1 under the Act [17 CFR 240.11Aa3-1]. The availability of last sale information for the subject securities should contribute to pricing efficiency and to ensuring that transactions on the Cincinnati Stock Exchange are executed at prices which are reasonably related to those occurring in other markets. Further, the approval of the Application will provide increased opportunities for competition among brokers and dealers and among exchange markets consistent with the purposes of the Act and the objectives of the national market system. Finally, the Board received no comments indicating that the granting of the Application would not be consistent with the maintenance of fair and orderly markets and the protection of investors.

Accordingly, pursuant to section 12(f)(1)(B) of the Act, the Office of General Counsel for the Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the Application for unlisted trading privileges in the above named securities on June 30, 1987.

By the Federal Home Loan Bank Board

**John F. Ghizzoni,**

*Assistant Secretary.*

[FR Doc. 87-15898 Filed 7-13-87; 8:45 am]

BILLING CODE 6720-01-M

**[No. 87-779]**

## CK Federal Savings and Loan Association, Concord, North Carolina; Security Federal Savings and Loan Association of Virginia, Richmond, Virginia; Final Action; Approval of Conversion Applications; Technical Correction

Dated: July 9, 1987.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Notice; technical correction.

**SUMMARY:** The Federal Home Loan Bank Board ("Board") adopted on May 18, 1987, two Notices of Final Action, Approval of Conversion Applications ("AC Notices") on behalf of CK Federal Savings and Loan Association, Concord, North Carolina and Security Federal Savings and Loan Association of Virginia, Richmond, Virginia. These AC Notices were published on pp. 19574-19575 of the **Federal Register** of Tuesday, May 26, 1987. Inadvertently the AC Notices were incorrectly reported. This technical amendment corrects those errors. This correction is

needed in order for the Board's Office of the Secretariat to maintain consistent and correct records.

Accordingly, the Board corrects on page 19574, second column, by changing "[No. AC–519]" to read "[No. AC–619]".

The Board also corrects on page 19575, first column, by changing "[No. AC–520]" to read "[No. AC–620]".

By the Federal Home Loan Bank Board.

**John F. Ghizzoni,**

*Assistant Secretary.*

[FR Doc. 87–15899 Filed 7–13–87; 8:45 am]

BILLING CODE 6720–01–M

## FEDERAL MARITIME COMMISSION

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, 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.:
202–010979–003.

Title:
Caribbean Shipowner's Association.

Parties:
Tropical Shipping & Construction Co., Ltd.
Sea-Land Service, Inc.
Trailer Marine Transport Corporation
Puerto Rico Maritime Shipping Authority.

Synopsis:
The proposed amendment would expand the scope of the agreement to include U.S. Atlantic and Gulf ports in the Eastport, Maine/Brownsville, Texas range as well as ports and points in Puerto Rico.

Agreements No.:
(1) 226–011124
(2) 226–011125
(3) 226–011126
(4) 226–011127
(5) 226–011128
(6) 226–011129
(7) 226–011130
(8) 226–011131

Titles:
(1) Totem Ocean Trailer Express (TOTE)/Mitsui OSK Lines Equipment Interchange Agreement
(2) TOTE/NYK Lines Equipment Interchange Agreement
(3) TOTE/Japan Line Ltd. Equipment Interchange Agreement
(4) TOTE/Showa Lines Equipment Interchange Agreement
(5) TOTE/Star Shipping Equipment Interchange Agreement
(6) TOTE/Westwood Shipping Lines Equipment Interchange Agreement
(7) TOTE/Y–S Lines Equipment Interchange Agreement
(8) TOTE/Hapag-Lloyd Equipment Interchange Agreement

Parties:
(1) TOTE Mitsui OSK Lines
(2) TOTE NYK Lines
(3) TOTE Japan Line, Ltd.
(4) TOTE Showa Lines
(5) TOTE Star Shipping
(6) TOTE Westwood Shipping Lines
(7) TOTE Y–S Lines
(8) TOTE Hapag-Lloyd

Synopsis:
The proposed agreements would permit the parties to interchange empty and loaded containers and related equipment, in the trade between ports and inland points in Alaska, and ports and inland points in the Far East and Europe with interchange in either Seattle or Tacoma, Washington. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

Dated: July 9, 1987.

[FR Doc. 87–15913 Filed 7–13–87; 8:45 am]

BILLING CODE 6730–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Notice of Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 [Pub. L. 92–463, 86 Stat. 770–776], and the Health Research Extension Act of 1985, November 20, 1985 [Pub. L. 99–158, section 402(b)(6)], the Director, NIH, announces the reestablishment, effective August 1, 1987, of the following committees:

Epidemiology and Disease Control Study Section
Experimental Therapeutics Study Section
General Medicine B Study Section
Genetics Study Section
Hematology Study Section
Human Embryology and Development Study Section
Medicinal Chemistry Study Section
Metabolism Study Section
Metallobiochemistry Study Section

Duration of these committees is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: July 8, 1987.

**Joseph E. Rall,**

*Acting Director, NIH.*

[FR Doc. 87–15849 Filed 7–13–87; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. N–87–1713]**

### Submission of Proposed Information Collections to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notices.

**SUMMARY:** The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

**ADDRESS:** Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information

submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

**Submission of Proposed Information Collection to OMB**

Proposal: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Regulation)
Office: Administration
Description of the Need for the Information and Its Proposed Use: The proposed common rule will implement the revised OMB Circular A–102, which sets forth uniform requirements for the administration of grants and cooperative agreements to State and local governments and to Federally recognized Indian tribal governments.
Form Number: Various
Respondents: State or Local Governments
Frequency of Response: On Occasion
Estimated Burden Hours: 391,440
Status: New.
Contact: David S. Cristy, HUD, (202) 755–6050; John Allison, OMB, (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Proposal: Requirements Associated with the Office of Interstate Land Sales Registration, 24 CFR 1700–1730
Office: Housing
Description of the Need for the Information and Its Proposed Use: The Interstate Land Sales Full Disclosure Act requires developers of certain types of subdivisions to register with the Department of Housing and Urban Development or take steps to comply with the law prior to commencing sales. Disclosure requires developers to define their plans for such subdivisions and to provide purchasers with information on registered subdivisions.
Form Number: None
Respondents: Individuals or Households and Businesses or Other For-Profit
Frequency of Response: On Occasion and Annually
Estimated Burden Hours: 48,406
Status: Reinstatement
Contact: John L. Brady, HUD, (202) 755–0502; John Allison, OMB, (202) 395–6880
Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 6, 1987.

**John T. Murphy,**

*Director, Information Policy and Management Division.*

[FR Doc. 87–15802 Filed 7–13–87; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY–030–87–4410–08]

### Availability of the Lander Resource Management Plan and the Record of Decision for the Land Resource Management Plan/Environmental Impact Statement, Rawlins District, WY

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** The Bureau of Land Management, Rawlins District, Wyoming, makes available the adopted Lander Resource Management Plan (RMP) and the Record of Decision (ROD) for the Lander RMP/Environmental Impact Statement (EIS). The ROD was signed by the BLM Wyoming State Director on June 9, 1987.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Rawlins District of the Bureau of Land Management has prepared a record of decision on the environmental impact statement for the Lander RMP.

**SUPPLEMENTARY INFORMATION:** The ROD completes the environmental analysis process associated with preparing the Lander RMP. The RMP is a concise record of decisions adopted by the ROD. These decisions deal with rangeland management, oil and gas activities, aquatic and riparian habitat improvement, forest management, landownership adjustments, fire management, access, and areas of critical environmental concern. The RMP covers 2.5 million surface acres of BLM administered land and 2.7 million acres of Federal mineral estate for the planning area involving five Wyoming counties (most of Fremont and small portions of Natrona, Sweetwater, Carbon, and Hot Springs Counties). The RMP also includes the requirements for the rangeland program summary for the Lander Resource Area.

Copies of the plan and ROD have been sent to all parties that were involved in the planning process. Other interested parties may request a copy at the address below.

**FOR FURTHER INFORMATION CONTACT:** Jack Kelly, Area Manager, P.O. Box 589, Lander, Wyoming 82520, Phone (307) 332–7822.

**Hillary A. Oden,**

*State Director.*

[FR Doc. 87–15787 Filed 7–13–87; 8:45 am]

BILLING CODE 4310–22–M

### National Park Service

### Intention to Negotiate Concession Contract; Bryce-Zion Trail Rides, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate concession contracts with Bryce-Zion Trail Rides, Inc., authorizing it to continue to provide saddle service, commercial guide, pack service and pack trips and services for the public at Bryce Canyon and Zion National Parks, Utah for periods of five (5) years from January 1, 1987, through December 31, 1991.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposals, including those of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth

(60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, 655 Parfet Street Denver, Colorado, 80225, for information as to the requirements of the proposed contracts.

Dated: June 11, 1987.

**Homer L. Rouse,**

*Acting Regional Director, Rocky Mountain Region.*

[FR Doc. 87-15934 Filed 7-13-87; 8:45 am]

BILLING CODE 4310-07-M

## Intention To Negotiate Concession Contract; Carl F. Oberlitner

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Carl F. Oberlitner, authorizing it to continue to provide food and merchandising facilities and services for the public at Wind Cave National Park, South Dakota for a period of five (5) years from January 1, 1987 through December 31, 1991.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Serrvice, P.O. Box 25287, Denver, Colorado 80225, for information as to the requirements of the proposed contract.

Dated: June 11, 1987.

**Homer L. Rouse,**

*Acting Regional Director, Rocky Mountain Region.*

[FR Doc. 87-15933 Filed 7-13-87; 8:45 am]

BILLING CODE 4310-70-M

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 4, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 29, 1987.

**Carol D. Shull,**

*Chief of Registration National Register.*

**COLORADO**

**Boulder County**

Lafayette, *Terrace, The (Lafayette Coal Mining Era Buildings TR)*, 207 E. Cleveland St. Longmont, *Longmont College*, 546 Atwood St.

**Custer County**

Westcliffe, *National Hotel—Wolff Building*, 201 Second St.

**Denver County**

Denver, *Hanigan—Canino Terrace*, 1421–1435 W. Thirty-fifth Ave.

**Morgan County**

Fort Morgan, *Sherman Street Historic Residential District*, 400 and 500 blocks of Sherman St.

**CONNECTICUT**

**Hartford County**

West Hartford, *Whiting Homestead*, 291 N. Main St.

**FLORIDA**

**Santa Rose County**

*Arcadia Sawmill and Arcadia Cotton Mill*

**GEORGIA**

**Washington County**

Sandersville, *City Cemetery*, W. Church, Cemetery and Haynes Sts.

**ILLINOIS**

**Cook County**

Chicago, *Manor House*, 1021–1029 W. Bryn Mawr Ave.

**Edgar County**

Paris, *France Hotel*, 118 E. Court St.

**KENTUCKY**

**Woodford County**

Versailles, *Margaret Hall*, 117 Elm St.

**MINNESOTA**

**Martin County**

Sherburn, *Sherburn Commercial Historic District*, Main St. N. between Front and Second Sts.

**PUERTO RICO**

**Caguas County**

Caguas, *Aguayo Aldea Vocational High School (Early Twentieth Century Schools in Puerto Rico TR)*, Jct. San Juan and Principal Sts.

**Guayama County**

Guayama, *Eleuterio Derkes Grammar School (Early Twentieth Century Schools in Puerto Rico TR)*, Jose Maria Angueli St.

**Ponce County**

Ponce, *Ponce High School (Early Twentieth Century Schools in Puerto Rico TR)*, Cristina St.

**San Juan County**

Santurce, *Central High School (Early Twentieth Century Schools in Puerto Rico TR)*, Ponce de Leon Ave.

Santurce, *Rafael M. Labra High School (Early Twentieth Century Schools in Puerto Rico TR)*, Jct. Ponce de Leon and Roberto H. Todd Aves.

**RHODE ISLAND**

**Providence County**

*Cutler Farm Complex and Tavern Site (RI-424)*

**Washington County**

South Kingston, *Usquepaug Road Historic Distric*, Usquepaug Rd.

[FR Doc. 87-15935 Filed 7-13-87; 8:45 am]

BILLING CODE 4310-10-M

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 27, 1987. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written

comments should be submitted by July 29, 1987.

Carol D. Shull,

*Chief of Registration National Register.*

DISTRICT OF COLUMBIA

*Washington*

*Foggy Bottom Historic District*, Bounded by New Hampshire Ave., Twenty-fourth, Twenty-sixth, H, and K Sts., NW

GEORGIA

*Washington County*

Sandersville, *Church-Smith-Harris Street Historic District*, E. Church, S. Smith, and S. Harris Sts.

ILLINOIS

*Cook County*

Chicago, *Best Brewing Company of Chicago Building*, 1315–1317 W. Fletcher
Evanston, *Roycemore School*, 640 Lincoln St.

*Fulton County*

Table Grove, *Carithers Store Building*, Table Grove Village Sq., W of US 136

*Warren County*

Alexis, *Alexis Opera House*, 101–105 N. Main St.

MICHIGAN

*Houghton County*

Houghton, *St. Ignatius Loyola Church*, 703 E. Houghton Ave.

MISSISSIPPI

*Jefferson County*

Fayette, *Hughes-Clark House*, 221 Poindexter St.

MONTANA

*Big Horn County*

Lodge Grass, *Balswin House (Lodge Grass MRA)*, 25 Third Ave.
Lodge Grass, *Cammocks' Hotel (Lodge Grass MRA)*, 28 N. Main St.
Lodge Grass, *Chivers Memorial Church (Lodge Grass MRA)*, E of Chicago Burlington RR tracks, W side of US 87
Lodge Grass, *Drew, J.W., Grain Elevator (Lodge Grass MRA)*, E side of Main St.
Lodge Grass, *Lodge Grass City Jail (Lodge Grass MRA)*, Alley S of Third Ave.
Lodge Grass, *Lodge Grass Merchandise Company Store (Lodge Grass MRA)*, First Ave.
Lodge Grass, *Pease's, George, Second Store (Lodge Grass MRA)*, 8 N. Main St.
Lodge Grass, *Ryan's, John, House (Lodge Grass MRA)*, 15 N. Helen St.
Lodge Grass, *Sharp's, Jay, Store (Lodge Grass MRA)*, 18 Helen St.
Lodge Grass, *Simmonsen's House (Lodge Grass MRA)*, 4 S. George St.
Lodge Grass, *Stevens, Dominic, House (Lodge Grass MRA)*, 10 W. Hester Ave.
Lodge Grass, *Trytten, J.M., House (Lodge Grass MRA)*, George St.

*Madison County*

Pony, *Pony Historic District (Pony MRA)*, Town of Pony, SW of Harrison
Pony, *Powder House (Pony MRA)*, ½ mi. SE of Pony on Potosi Rd.
Pony, *Strawberry Mine Historic District (Pony MRA)*, Roughly bounded by Strawberry Ridge, Pony Rd., and Pony Creek

*Ravalli County*

Stevensville vicinity, *Cramer, Martin, House*, 326 Groff Lane

NEW YORK

*New York County*

New York, *Public School 9*, 466 W. End Ave.

OKLAHOMA

*Pawnee County*

Ralston, *Ralston Opera House*, 501–503 Main St.

PENNSYLVANIA

*Erie County*

Erie, *SS NIAGARA (freighter)*, Erie Sand and Gravel Co., foot of Sassafrass St.

[FR Doc. 87–15291 Filed 7–3–87; 8:45 am]

BILLING CODE 4310–10–M

## INTERSTATE COMMERCE COMMISSION

### Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275–6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Class I Quarterly & Annual Report Motor Carriers of Passengers
OMB Form No.: 3120–0021
Agency Form No.: MP–1
Frequency: Quarterly/Annually
Respondents: Class I Motor Carriers of Passengers
No. of Respondents: 45
Total Burden Hrs.: 675
Brief Description of the need and proposed use: This information is used to assess industry growth, company financial stability, traffic and etc. to identify industry changes that may affect transportation policy and to evaluate proposals for changes in ownership or control of transportation companies.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Uniform System of Accounts—Railroads
OMB Form No.: 3120–0107
Agency Form No.: N/A
Frequency: Annually
Respondents: Railroads with revenues over $50 million
No. of Respondents: 21
Total Burden Hrs.: 27,720
Brief Description of the need and proposed use: To assure comparability between carriers of a particular mode, they are required to report financial and statistical data based on a specific Uniform System of Accounts. This data is used to analyze cost evidence in rate adjustment proposals, determine the revenue need of carriers, develop financial oversight programs and etc.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87–15878 Filed 7–13–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30988]

### Correction of Notice of Exemption; Georgia Eastern Railroad Company—Acquisition and Operation Exemption—CSX Transportation, Inc.

Decided: July 6, 1987.

The notice of exemption, which was served and published in the **Federal Register** on February 27, 1987 (52 FR 6081), omitted the following footnote 1:

The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since this transaction involves an exemption from 49 U.S.C., only a showing of exceptional circumstances will justify the imposition of labor protective conditions. RLEA's request is denied, because the requisite showing has not been made. *See Class Exemption — Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985).

The footnote designation [1] should also be inserted at the end of the first paragraph in the notice of exemption.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87–15877 Filed 7–13–87; 8:45 am]

BILLING CODE 7035–01–M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Decree Pursuant to Clean Water Act; Cacy

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 15, 1987, a proposed consent decree in *United States* v. *Cacy*, Civil Action No. F86–074, was lodged with the United States District Court for the District of Alaska. The complaint filed by the United States alleged violations of the Clean Water Act by defendant due to discharges of pollutants from defendant's placer gold mine. The consent decree provides for payment of a civil penalty and for injunctive relief to restrain further violations of the Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to the *United States* v. *Cacy*, D.J. Ref. No. 90–5–1–1–2585. The proposed consent decree may be examined at the office of the United States Attorney, Federal Building and U.S. Courthouse, 701 C Street, Room C–252, Anchorage, Alaska 99513, and at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 payable to the Treasurer of the United States.

**Roger J. Marzulla,**

*Acting Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 87–15863 Filed 7–13–87; 8:45 am]

BILLING CODE 4410–01–M

### Lodging of Consent Decree Pursuant to the Clean Air Act; Hartman Garage

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 26, 1987, a proposed consent decree in *United States v. Ed Hartman d/b/a Hartman Garage*, Civil Action No. IP86138C, was lodged with the United States District Court for the Southern District of Indiana. The proposed consent decree resolves a judicial enforcement action brought by the United States against Ed Hartman d/b/a Hartman Garage for violations of the Clearn Air Act.

The proposed consent decree required ED Hartman to pay a civil penalty of $650. The civil penalty must be paid within 30 days of entry of the consent decree by the court.

The proposed consent decree may be examined at the office of the United States Attorney, 46 East Ohio Street, Indianapolis, Indiana and at the office of the Investigation and Enforcement Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $.40 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 87–15864 Filed 7–13–87; 8:45 am]

BILLING CODE 4410–01–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; A.P. Green Refractories et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 29, 1987–July 3, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W–19,652; A.P. Green Refractories, Pueblo, CO*

*TA–W–19,582; Dana Corp., Parish Division, Reading, PA*

*TA–W–19,649; Vulcan Patton International, Burleson, TX*

*TA–W–19,632; NI Industry Auto Trim Division, Mt Clemens, MI*

*TA–W–19,618; Champion International Corp., Silver City Mill, Helena, MT*

*TA–W–19,660; Burton Hawks, Inc., Casper, WY*

*TA–W–19,691; AnaMag, Inc., Summerville, KY*

*TA–W–19,614; A & E Products Group, Keasbey, NJ*

*TA–W–19,628; Honeywell, Inc., Solid State Electronics Div., Plymouth, MN*

Increased imports did not contribute importantly to workers separations at the firm.

*TA–W–19,615; Bailey Controls Co., Wickliffe, OH*

Increased imports did not contribute importantly to workers separations at the firm.

*TA–W–19,628; Grimmett Brothers, Inc., Snyder, TX*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–19,611; Walled Lake Door Co., Gilabend, AZ*

U.S. imports of softwood lumber declined absolutely and relative to domestic production in 1986 compared to 1985.

*TA–W–19,670; General Well Service, Duchesne, UT*

Increased imports did not contribute importantly to workers separations at the firm.

*TA-W-19,656; Arco Oil & Gas Company, Odessa, TX*

Increased imports did not contribute importantly to workers separations at the firm.

**Affirmative Determinations**

*TA-W-19,633; Omni-Duralite Co., South Grafton, MA*

A certification was issued covering all workers of the firm separated on or after April 21, 1986.

*TA-W-19,719; Wotan Machine Tools, Fairfield, NJ*

A certification was issued covering all workers of the firm separated on or after May 6, 1986.

*TA-W-19,645; Texas Instruments, Inc., HMOS III Front End, Houston, TX*

A certification was issued covering all workers of the firm separated on or after April 6, 1986.

*TA-W-19,419; A. Brandt Co., Fort Worth, TX*

A certification was issued covering all workers of the firm separated on or after March 9, 1986.

*TA-W-19,623; Enserch Exploration, Inc., Drilling Department, Dallas, TX*

A certification was issued covering all workers of the firm separated on or after April 23, 1986.

*TA-W-19,648; United Technologies, Hamilton Standard Controls, Inc., Flora, IN*

A certification was issued covering all workers of the firm separated on or after April 22, 1986.

I hereby certify that the aforementioned determinations were issued during the period June 29, 1987—July 3, 1987. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 7, 1987.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 87-15941 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-30-M

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**[TA-W-19,619]**

## Termination of Investigation; Champion International Corp., Bonner, MT

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on May 4, 1987 which was filed on behalf of workers producing softwood lumber at the Bonner Sawmill of Champion International Corporation, Bonner, Montana.

An active certification covering the petitioning group of workers remains in effect (TA-W-16,083). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 1st day of July 1987.

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 87-15942 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-30-M

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## Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Crescent Brick Co.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 24, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 24, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 6th day of July 1987.78

**Marvin M. Fooks,**

*Director, Office of Trade Adjustment Assistance.*

Appendix

| Petitioner (Union/workers/firm) | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| Crescent Brick Co., Blair Clay Products Div. (ABGWIU) | Altoona, PA | 7/6/87 | 6/24/87 | 19,870 | Fire brick. |
| Duna Products, Co. (workers) | Arlington, KY | 7/6/87 | 6/22/87 | 19,871 | Lamps. |
| Knickerbocker Co. (UAW) | Jackson, MI | 7/6/87 | 6/11/87 | 19,872 | Lift trucks and Masts. |
| McNally Pittsburg, Inc., Ohio Div. (workers) | Wellston, OH | 7/6/87 | 6/23/87 | 19,873 | Coal processing machinery. |
| Palm Beach Co. (workers) | Danville, KY | 7/6/87 | 6/27/87 | 19,874 | Men's dress coats. |
| Pool Co. (workers) | Midland, TX | 7/6/87 | 6/26/87 | 19,875 | Oil & gas production. |
| Rochester Button, Co. (workers) | Rochester, NY | 7/6/87 | 6/27/87 | 19,876 | Buttons. |
| RPI Texas, Inc. (workers) | Austin, TX | 7/6/87 | 6/22/87 | 19,877 | Exploration services. |
| Singer Co. (company) | Cherry Hill, NJ | 7/6/87 | 6/26/87 | 19,878 | Power plant simulators. |
| Park Ohio Industries, Park Drop Forge Div. (int'l DIE SINKERS). | Cleveland, OH | 7/6/87 | 6/22/87 | 19,879 | Crank shaft, landing gears connecting rod, cam shafts. |
| Plainville Casting, Co. (The) (IAMAW) | Westfield, MA | 7/6/87 | 6/25/87 | 19,880 | Rough iron casting. |
| U.S. Electrical Motor (company) | Prescott, AZ | 7/6/87 | 6/25/87 | 19,881 | Electrical motors. |
| Vickers, Inc. (workers) | Tulsa, OK | 7/6/87 | 6/22/87 | 19,882 | Oilfield machinery. |
| William S. Scully (Lath Hoisters Union) | Long Island City, NY | 7/6/87 | 6/6/87 | 19,883 | Construction services. |
| Wilsey Foods (UF&CWU) | Bayonne, NJ | 7/6/87 | 6/26/87 | 19,884 | Margarine. |
| WR Steel & Fabrication Inc./Maloney-Crawford Div. (workers). | New Iberia, LA | 7/6/87 | 6/18/87 | 19,885 | Oil field machinery. |

[FR Doc. 87-15943 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-30-M

## Job Training Partnership Act; Lower Living Standard Income Level

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of determination of lower living standard income level.

**SUMMARY:** The Job Training Partnership Act (JTPA) and the Internal Revenue Code of 1954, section 51(d)(11) provide that the term "economically disadvantaged" may be defined as 70 percent of the "lower living standard income level" (LLSIL). To provide the most accurate data possible, the Department of Labor is issuing revised figures for the LLSIL.

**EFFECTIVE DATE:** This notice is effective on July 29, 1987. Written comments on this notice will be accepted through July 29, 1987.

**ADDRESS:** Send written comments to: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4703, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert N. Colombo, Telephone: 202–535–0577.

**SUPPLEMENTARY INFORMATION:** It is a purpose of the Job Training Partnership Act (JTPA) "to afford job training to those *economically disadvantaged* individuals * * * who are in special need of such training to obtain productive employment." (Emphasis added.) JTPA Section 2; See 20 CFR 626.1(a)(2). JTPA Section 4(8) defines, for the purposes of JTPA eligibility, the term "economically disadvantaged" in part by reference to the "lower living standard income level" (LLSIL). See 20 CFR 626.4. Similar definitions of "economically disadvantaged," which also include references to the LLSIL, are provided at JTPA Sections 201(b)(3) and 202(a)(3) for JTPA Title II allotment and within State allocation purposes. See 20 CFR 629.39 and 630.1. Internal Revenue Code (I.R.C.) Sections 44B and 51 establish a Targeted Jobs Tax Credit Program for a portion of the wages paid by employers from "targeted" groups. Certain of the targeted groups require that the worker be a member of "an economically disadvantaged family". See e.g. I.R.C. Sections 51(d)(3)(A)(ii), (4)(C), (7)(B), (8)(A)(iv), and (12)(A)(iv).

The LLSIL figures published in this notice shall be used to determine whether an individual is economically disadvantaged for applicable JTPA purposes. JTPA Section 4(16) defines LLSIL as follows:

The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary (of Labor) based on the most recent "lower living family budget" issued by the Secretary.

The most recent lower living family budget was issued by the Secretary in the fall of 1981. Using those data, the 1981 LLSIL was determined for programs under the now-repealed Comprehensive Employment and Training Act, and for the TJTC program. The four-person urban family budget estimates previously published by the Bureau of Labor Statistics (BLS) provided the basis for the Secretary to determine the LLSIL for training and employment program operators. BLS terminated the four-person family budget series in 1982, after publication of the Fall 1981 estimates.

Under the JTPA, the Employment and Training Administration (ETA), published the 1986 updates to the LLSIL in the **Federal Register** of June 6, 1986. (51 FR 20720). ETA has again updated the LLSIL to reflect cost of living increases for 1986, by applying the percentage change in the December 1986 consumer price index (CPI), compared with the December 1985 CPI, to each of the June 6, 1986, LLSIL figures. Those updated figures for a family of four are listed in Table 1 below by region for both metropolitan and nonmetropolitan areas. Since eligibility is determined by family income at 70 percent of the LLSIL, pursuant to section 4(8) of JTPA, those figures are listed below as well.

TABLE 1.—LOWER LIVING STANDARD INCOME LEVEL BY REGION [1]

| Region | Updated 1987 LLSIL | 70 percent of LLSIL |
|---|---|---|
| Northeast: | | |
| Metropolitan | $18,810 | $13,170 |
| Nonmetropolitan | 18,290 | 12,800 |
| North Central: | | |
| Metropolitan | 18,060 | 12,640 |
| Nonmetropolitan | 17,370 | 12,160 |
| South: | | |
| Metropolitan | 17,250 | 12,080 |
| Nonmetropolitan | 16,240 | 11,370 |
| West: | | |
| Metropolitan | 18,920 | 13,240 |
| Nonmetropolitan | 19,030 | 13,320 |

[1] For ease of calculation, these figures have been rounded to the nearest ten.

Jurisdictions included in the various regions, based generally on Census Divisions of the U.S. Department of Commerce, are as follows:

*Northeast*

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont
Virgin Islands

*North Central*

Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
South Dakota
Wisconsin

*South*

Alabama
American Samoa
Arkansas
Delaware
District of Columbia
Florida
Georgia
Kentucky
Louisiana
Maryland
Mississippi
North Carolina
Northern Marianas
Oklahoma
Puerto Rico
South Carolina
Tennessee
Texas
Trust Territories
Virginia

*West*

Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming

Additionally, separate figures have been provided for Alaska, Hawaii and Guam as indicated in Table 2 below.

For Alaska, Hawaii and Guam, the PY 1985 figures were updated by creating a "State Index" based on the ratio of the urban change in the State (using Anchorage and Honolulu) compared to the West regional metropolitan change, and then applying that index to the West regional nonmetropolitan change.

TABLE 2.—LOWER LIVING STANDARD INCOME LEVEL—ALASKA, HAWAII AND GUAM [1]

| Region | Updated 1987 LLSIL | 70 percent of LLSIL |
|---|---|---|
| Alaska: | | |
| Metropolitan | $26,130 | $18,290 |
| Nonmetropolitan | 24,620 | 17,240 |
| Hawaii and Guam: | | |
| Metropolitan | 23,950 | 16,770 |
| Nonmetropolitan | 21,770 | 15,240 |

[1] Rounded to the nearest ten.

Data on 25 selected Metropolitan Statistical Areas (MSAs) are also available, although the timeframes used for the updated data are not exactly the same. Figures for 15 of the MSAs price indexes are for the time period December 1985 to December 1986. For the other 10 SMSA the time period from November 1985 to December 1986 was

used. The updated LLSIL figures for these MSAs, and 70 percent of the LLSIL, rounded to the nearest ten, are set forth in Table 3 below.

TABLE 3.—LOWER LIVING STANDARD INCOME LEVEL—25 MSA's

| MSA | Updated 1987 LLSIL | 70 percent of LLSIL |
|---|---|---|
| Anchorage, AK | $26,130 | $18,290 |
| Atlanta, GA | 17,540 | 12,280 |
| Baltimore, MD | 18,380 | 12,870 |
| Boston, MA | 19,820 | 13,870 |
| Buffalo, NY | 17,460 | 12,220 |
| Chicago, IL/ Northwestern, IN | 18,710 | 13,100 |
| Cincinnati, OH/KY/IN | 18,450 | 12,920 |
| Cleveland, OH | 18,890 | 13,220 |
| Dallas-Fort Worth, TX | 16,870 | 11,810 |
| Denver-Boulder, CO | 18,490 | 12,940 |
| Detroit, MI | 17,420 | 12,190 |
| Honolulu, HI | 23,950 | 16,770 |
| Houston, TX | 16,350 | 11,450 |
| Kansas City, MO/KS | 17,790 | 12,450 |
| Los Angeles/Long Beach/Anaheim, CA | 19,670 | 13,770 |
| Milwaukee, WI | 17,930 | 12,550 |
| Minneapolis-St. Paul, MN | 17,760 | 12,430 |
| New York, NY/ Northeastern, NJ | 19,310 | 13,520 |
| Philadelphia, PA/NJ | 18,460 | 12,920 |
| Pittsburgh, PA | 18,150 | 12,710 |
| San Diego, CA | 19,860 | 13,900 |
| San Francisco-Oakland, CA | 19,770 | 13,840 |
| Seattle-Everett, WA | 19,570 | 13,700 |
| St. Louis, MO/IL | 17,950 | 12,570 |
| Washington, DC/MD/ VA | 20,560 | 14,390 |

Table 4 below is a listing of each of the various figures at 70 percent of the updated 1987 LLSIL for family sizes of one to six persons. For families larger than six persons, an amount equal to the difference between the six and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding LLSIL figures, the figure is indicated in parentheses.

(Section 4(8) of JTPA defines "economically disadvantaged" as, among other things, an individual whose family income was not in excess of the higher of the poverty level or 70 percent of the LLSIL. Poverty level guidelines were transmitted to the States on April 6, 1987.)

TABLE 4.—SEVENTY PERCENT OF UPDATED 1987 LLSIL, BY FAMILY SIZE

| One | Two | Three | Four | Five | Six |
|---|---|---|---|---|---|
| ($4,090) | $6,710 | $9,210 | $11,370 | $13,420 | $15,690 |
| (4,120) | 6,760 | 9,270 | 11,450 | 13,510 | 15,800 |
| (4,250) | 6,970 | 9,570 | 11,810 | 13,940 | 16,300 |
| (4,350) | 7,130 | 9,780 | 12,080 | 14,250 | 16,670 |
| (4,380) | 7,170 | 9,850 | 12,160 | 14,350 | 16,780 |
| (4,390) | 7,190 | 9,870 | 12,190 | 14,380 | 16,820 |
| (4,400) | 7,220 | 9,910 | 12,230 | 14,430 | 16,880 |
| (4,420) | 7,250 | 9,950 | 12,280 | 14,490 | 16,950 |
| (4,480) | 7,340 | 10,080 | 12,440 | 14,680 | 17,170 |
| (4,480) | 7,350 | 10,080 | 12,450 | 14,690 | 17,180 |
| (4,520) | 7,400 | 10,170 | 12,550 | 14,810 | 17,320 |
| (4,530) | 7,420 | 10,180 | 12,570 | 14,830 | 17,350 |
| (4,550) | 7,460 | 10,240 | 12,640 | 14,920 | 17,440 |
| (4,580) | 7,500 | 10,300 | 12,710 | 15,000 | 17,540 |
| (4,610) | 7,550 | 10,370 | 12,800 | 15,100 | 17,660 |
| (4,630) | 7,590 | 10,420 | 12,870 | 15,190 | 17,760 |
| (4,650) | 7,620 | 10,470 | 12,920 | 15,250 | 17,830 |
| (4,660) | 7,630 | 10,480 | 12,940 | 15,270 | 17,860 |
| (4,720) | 7,730 | 10,610 | 13,100 | 15,460 | 18,080 |
| (4,740) | 7,770 | 10,670 | 13,170 | 15,540 | 18,170 |
| (4,760) | 7,800 | 10,710 | 13,220 | 15,600 | 18,240 |
| (4,770) | 7,810 | 10,720 | 13,240 | 15,620 | 18,270 |
| (4,800) | 7,860 | 10,790 | 13,320 | 15,720 | 18,380 |
| (4,870) | 7,980 | 10,950 | 13,520 | 15,950 | 18,660 |
| (4,930) | 8,080 | 11,100 | 13,700 | 16,170 | 18,910 |
| (4,960) | 8,120 | 11,150 | 13,770 | 16,250 | 19,000 |
| (4,980) | 8,170 | 11,210 | 13,840 | 16,330 | 19,100 |
| (5,000) | 8,190 | 11,240 | 13,880 | 16,380 | 19,150 |
| (5,000) | 8,200 | 11,260 | 13,900 | 16,400 | 19,180 |
| (5,180) | 8,490 | 11,660 | 14,390 | 16,980 | 19,860 |
| (5,490) | 8,990 | 12,340 | 15,240 | 17,980 | 21,030 |
| (6,040) | 9,890 | 13,580 | 16,770 | 19,790 | 23,140 |
| (6,210) | 10,170 | 13,960 | 17,240 | 20,340 | 23,790 |
| (6,580) | 10,790 | 14,810 | 18,290 | 21,580 | 25,240 |

*Figures provided in Tables 1–3 of this notice are for a family size of four persons. To use Table 4, the appropriate figure should be found in the family size of the *Four* column. Then one may read across the row for family sizes other than four in the appropriate columns.

**Use of These Data**

Based on these data, Governors should provide the appropriate figures to service delivery areas (SDAs), State Employment Security Agencies (SESAs) and employers in their States to use in determining eligibility for JTPA and TJTC programs. Information may be provided by disseminating information on MSAs and metropolitan and nonmetropolitan areas within the State, or it may involve further calculations. For example, the State of New Jersey may have four or more figures: Metropolitan, nonmetropolitan, for portions of the State in the New York City MSA, and for those in Philadelphia MSA. If an SDA includes areas that would be covered by more than one figure, the Governor may determine which is to be used. Pursuant to the JTPA regulation at 20 CFR 627.1, guidelines' interpretations, and definitions adopted by the Governor shall be accepted by the Secretary to the extent that they are consistent with the JTPA and the JTPA regulations.

**Disclaimer on Statistical Uses**

It should be noted that the publication of these figures is only for the purpose of determining eligibility for applicable JTPA and TJTC programs. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI adjustments used to update the LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL but are not in the CPI. Thus, these figures should not be used for any statistical purposes, and are valid only for eligiblity determination purposes under the JTPA and TJTC.

Signed at Washington, DC, this 2nd day of July, 1987.

**Roger D. Semerad,**

*Assistant Secretary of Labor.*

[FR Doc. 87-15944 Filed 7-13-87; 8:45 am]

BILLING CODE 4510-30-M

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## Job Training Partnership Act (JTPA); Revised Application of Selective Service Registration Requirements in Section 504 of JTPA to Individuals 26 Years of Age or Older

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice advises States and Service Delivery Areas (SDAs) of new requirements pertaining to the provisions of JTPA Section 504.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert N. Colombo, Director, Office of Employment and Training Programs, Room N4703, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 535-0577.

**EFFECTIVE DATE:** The policies described in the notice were sent out to the Governors by Training and Employment Guidance Letter No. 2-86, effective on March 19, 1987.

**SUPPLEMENTARY INFORMATION:** Section 504 of JTPA directs the Secretary of Labor to insure that each individual participating in any program established under the Act or receiving any assistance or benefit under the Act has not violated section 3 of the Military Selective Service Act, which requires all males to register for the draft upon their 18th birthday. In November 1986 the Military Selective Service Act was amended by section 1366 of the National Defense Authorization Act for Fiscal Year 1987. As a result of a new statutory requirement dealing with individuals now above the draft eligibility age limit of 26, it is necessary to issue revised procedures for determining the qualifications of otherwise eligible males, 26 years of age and older, to participate in programs funded under JTPA.

Earlier Department of Labor (DOL) issuances on Section 504 provisions have included:

A September 30, 1983 letter from Joyce A. Kaiser to JTPA Liaisons transmitting a technical assistance guide outlining options for developing procedures to implement section 504 of the JTPA;

An April 24, 1984 letter from Joyce A. Kaiser to JTPA Liaisons transmitting a Selective Service System (SSS) publication describing the JTPA/SSS Pilot Program and information guidelines; and Training and Employment Information Notice (TEIN) No. 15-86 of November 17, 1986.

1. *Background.* The National Defense Authorization Act for Fiscal Year 1987, which was signed into law on November 14, 1986, amended section 12 of the Military Selective Service Act to add a new subsection, as follows:

(g) A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3 if—

(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

(2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.

The accompanying Conference Report clarified "that a nonregistrant is not to be denied any Federal benefit if he can demonstrate that his failure to register was not knowing or willful." This provision was added "in order not to penalize an individual with an obvious disqualifying handicap, such as total paralysis of the limbs, or an individual who has been honorably discharged from the armed services."

As a result of this new statutory requirement, it is necessary to revise the procedures for determing the qualifications of otherwise eligible males, 26 years of age and older, to participate in programs funded under JTPA.

2. *Revised Policy.* Effective immediately, in determining the qualifications of males to participate in JTPA programs, the following steps should be followed:

a. For males who are at least 18 years of age but less than 26 years of age, the current procedures should continue to be used. That is, a determination should be made as to whether such males have complied with section 504 of JTPA.

b. For males 26 years of age and older a three-step process should be followed.

(1) A determination shall be made as to whether the male has complied with section 502 of JTPA and section 3 of the Military Selective Service Act. The same procedures as are used for making such a determination with respect to males 18 to 25 may be used.

If the male has complied with the above cited sections, no further action is necessary and an otherwise eligible male may participate in JTPA programs.

If the male has not complied, the following determination must be made.

(2) A determination shall be made as to whether the male has received an honorable discharge from the U.S. military services. If the male has received an honorable discharge from the military, no further action is necessary and an otherwise eligible male may participate in JTPA programs. Appropriate documentation would include making a copy of the individual's military discharge (Form DD-214) for the intake record.

If the male does not have an honorable discharge, the following determination must be made.

(3) A determination shall be made as to whether the male has a visible or obvious handicap that would permanently disqualify him from military service. If the male has such a handicap, no further action is necessary and an otherwise eligible male may participate in the JTPA program. Appropriate documentation would include a notation of the type of

handicap observed by the JTPA program in the individual's intake record.

If the male does not have a visible or obvious handicap that would permanently disqualify him from military service, nor an honorable discharge, and has not complied with Selective Service's Registration requirement, the procedures in 3. below shall be followed. The above determinations may be made in any order deemed appropriate by the JTPA program.

3. *Determination of Whether an Applicant Knowingly and Willfully Failed to Register.* The determination of whether a male applicant knowingly and willfully failed to register as required by the Military Selective Service Act shall be made by the Selective Service System. Where a JTPA program determines that a male applicant 26 year of age of older who was born on or after January 1, 1960 does not meet any of the qualifications contained in 2.b. above, the male should be advised that an advisory opinion is required from the Selective Service, before he may be determined eligible to participate in JTPA programs.

Males wishing to participate in JTPA programs who do not meet any of the qualifications in Part 2. b. are to be instructed to send information necessary for a determination to: The Office of General Counsel, Selective Service System, National Headquarters, Washington, DC 20435.

Necessary information consists of:

(1) The applicant's name;

(2) The applicant's current address;

(3) The applicant's date of birth;

(4) (optional) The applicant's Social Security number (Applicants may voluntarily provide this to the Selective Service to aid in differentiating among persons with identical names. The Selective Service does not, however, require this information.);

(5) A statement that the applicant is requesting an advisory opinion under Section 3. of the Military Selective Service Act; and

(6) The applicant's documentation regarding his reasons for not registering for the draft.

The Selective Service has agreed to respond to each individual with an advisory opinion within 30 days of receipt of each request. Where the Selective Service opinion advises that the male did knowingly and willfully fail to comply with the Military Selective Service Act, the male is ineligible for JTPA services and cannot be enrolled. Where the Selective Service opinion advises that the male did *not* knowingly and willfully fail to register, the applicant should promptly return to JTPA with this letter. Males with such a Selective Service advisory opinion may, if otherwise eligible, be determined eligible to participate in JTPA programs.

4. *Transition Procedures—Determination Whether a Current Participant Knowingly and Willfully Failed to Register.* Prior to July 31, 1987, the determinations called for in Part 2. b. above shall be made for all male participants currently enrolled in JTPA programs who were born on or after January 1, 1960 for whom no such determinations have previously been made.

Males who meet any of the conditions outlined in Part 2. b. shall be determined as eligible to continue to participate in JTPA.

Where a male does not meet any of the conditions outlined in 2. b. above, the male shall be notified that an advisory opinion will be requested by the Service Delivery Area (SDA) from the Selective Service in order to determine whether the male continue to participate in JTPA.

For current participants, SDAs are to send information necessary for a determination directly to the Office of General Counsel of the Selective Service System. The necessary information is identical to that listed in Part 3. above, for each current participant to be reviewed for an advisory opinion. SDAs and JTPA program operators are not responsible for offering advice or direction to individuals, when obtaining a statement from each participant of his reasons why he did not comply with the draft registration requirement.

The Selective Service shall respond within 30 days of receipt of each SDA request. If the Selective Service opinion advises that a current participant did *not* knowingly and willfully fail to register, the male may continue to participate. If the Selective Service opinion advises that any male did knowingly and willfully fail to register, that individual must be immediately terminated from the JTPA program.

5. *Allowable Costs for Current Male Participants.* Through July 31, 1987, all costs associated with males 26 years of age or older who were born after January 1, 1960, and who were determined eligible and enrolled into JTPA in accordance with the policy set forth in TEIN 15–86 shall be recognized as allowable costs, if otherwise allowable, unless the JTPA SDA has received the advisory opinion made by the Selective Service that the individual did knowingly and willfully fail to register. In such instances, the costs associated with such an individual will be recognized as allowable for no more than seven days following the SDA's receipt of the opinion from the Selective Service.

This seven-day action period shall apply to all Selective Service advisory opinions regarding current participants, both those opinions received by the JTPA program before July 31, 1987 as well as those received after July 31, 1987.

All costs associated with current participants who have been determined eligible under the conditions described in part 2. b. of this notice, or who are not found in the Selective Service's advisory opinion to have knowingly or willfully failed to register, shall continue to be allowable costs for the balance of these individuals' participation in JTPA.

6. *State Action.* States shall assure that all SDAs are promptly informed of these revised requirements.

Signed at Washington, DC, this 7th day of July 1987.

Roberts T. Jones,

*Deputy Assistance Secretary of Labor.*

[FR Doc. 87–15945 Filed 7–13–87; 8:45 am]

BILLING CODE 4510-30-M

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules

**AGENCY:** National Archives and Records Administration, Office of Records Administration.

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that: (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

**DATE:** Requests for copies must be received in writing on or before August 28, 1987. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

**ADDRESS:** Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

**SUPPLEMENTARY INFORMATION:** Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after the period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designed for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

**Schedules Pending**

1. Department of the Air Force (N1–AFU–86–37). Records pertaining to the maintenance of communications security equipment and related matters.

2. Department of the Air Force (N1–AFU–86–50). Records concerning approved requests for civil aircraft landing permits.

3. Department of the Air Force (N1–AFU–87–26). Loose medical outpatient records that cannot be matched up with health record folders.

4. Department of the Air Force (N1–AFU–87–27). Equipment Custodian logs.

5. Department of Agriculture, Cooperative State Research Service (N1–164–87–1). Background papers for terminated Regional Research Fund projects.

6. Central Intelligence Agency (N1–263–87–2). The CIA schedule is classified in the interest of national security pursuant to Executive Order 12356 and is further exempt from public disclosure pursuant to the National Security Act of 1947, 50 U.S.C. 403(d)(3), and the CIA Act of 1949, 50 U.S.C. 403g.

7. Federal Bureau of Investigation, Records Management Division (N1–65–87–10): Management Aptitude Program records.

8. General Services Administration, Office of Acquisition Policy (N1–269–87–2). Records pertaining to contract clearance, procurement training, life cycle costing program, procurement surveys and studies, and other procurement related materials.

9. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–87–11). Revision to General Records Schedule 4, Item 6, Surplus Property Case Files.

10. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–87–16). General Records Schedule for Information Collection Budget Files.

11. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–87–18). Revision to General Records Schedule 9, to include original vouchers and supporting documents covering freight and passenger transportation charges of settled fiscal accounts.

12. National Archives and Records Administration, Office of the National Archives, Military Archives Division (N2–393–87–1). Accessioned records of U.S. Army Continental Commands. Routine administrative and personnel files of Army posts, 1870–1940.

13. Department of State, Foreign Service Posts (N1–84–87–1). Records relating to routine administrative activities.

14. United States Information Agency (N1–306–87–2). Comprehensive schedule for all geographic area offices (provides for permanent retention of policy documentation of disposal of facilitative records and extra copies).

Dated: July 6, 1987.

**Frank G. Burke,**

*Acting Archivist of the United States.*

[FR Doc. 87–15883 Filed 7–13–87; 8:45 am]

BILLING CODE 7515–01–M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee on Auxiliary Systems; Meeting

The ACRS Subcommittee on Auxiliary Systems will hold a meeting on July 23, 1987, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Thursday, July 23, 1987—8:30 A.M. Until the Conclusion of Business*

The Subcommittee will discuss the progress of the "Scoping Study" being performed by the Sandia National Laboratories for NRC on the need for future research in the fire protection area.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS Staff member, Mr. Sam Duraiswamy (telephone 202/634–

3267) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 8, 1987.

**Morton W. Libarkin,**

*Assistant, Executive Director for Project Review.*

[FR Doc. 87-15947 Filed 7-13-87; 8:45 am]

BILLING CODE 7590-01-M

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### Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on July 24, 1987, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

*Friday, July 24, 1987—8:30 A.M. Until the Conclusion of Business*

The Subcommittee will review GDC-4 Amendment (leak-before break rule), research programs on dosimetry, irradiation effects on pressure vessel materials (Regulatory Guide 1.99, Revision 2), and other matters (e.g., drywell shell corrosion).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member identified below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with repesentatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: July 8, 1987.

**Morton W. Libarkin,**

*Assistant Executive Director for Project Review.*

[FR Doc 87-15948 Filed 7-13-87; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-445-CPA]**

### Reconstitution of Atomic Safety and Licensing Appeal Board; Texas Utilities Electric Co. et al., Comanche Peak Steam Electric Station, Unit 1

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit amendment proceeding. At the request of Dr. W. Reed Johnson to be replaced on the Board, the Chairman has assigned in his stead Howard A. Wilber. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Allan S. Rosenthal, Chairman
Thomas S. More
Howard A. Wilber

Dated: July 7, 1987.

**C. Jean Shoemaker,**

*Secretary of the Appeal Board.*

[FR Doc. 87-15949 Filed 7-13-87; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket Nos. 50-455-OL & 50-446-OL]**

### Reconstitution of Atomic Safety and Licensing Appeal Board; Texas Utilities Electric Co., et al., Comanche Peak Steam Electric Station, Units 1 and 2

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding. At the request of Dr. W. Reed Johnson to be replaced on the Board, the Chairman has assigned in his stead Howard A. Wilber. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Allan S. Rosenthal, Chairman
Thomas S. Moore
Howard A. Wilber

Dated: July 7, 1987.

**C. Jean Shoemaker,**

*Secretary of the Appeal Board.*

[FR Doc. 87-15950 Filed 7-13-87; 8:45 am]

BILLING CODE 7590-01-M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-24686; File No. SR-CBOE-87-21]**

### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc; Order Approving Proposed Rule Change

On May 7, 1987, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend CBOE Rule 18.33(a) relating to the schedule of fees to be deposited by claimants in connection with arbitration claims filed with the Exchange.

The proposed amendments to Rule 18.33(a) would increase the required deposit from $300 to $400 where the amount in controversy is between $10,000 and $20,000. Where the amount in controversy is between $20,000 and $50,000, the deposit fee would be decreased from the current $500 fee to $400. The current $500 fee would remain unchanged for amounts in controversy between $50,000 and $100,000.[3] The deposit fee for claims where the amount in controversy is between $100,000 and $500,000 would be $750.[4] The Exchange would impose a new $1,000 deposit fee for all cases exceeding $500,000.

The proposed rule change was noticed in Securities Exchange Act Release No. 24518 (May 27, 1987), 52 FR 20815 (June 3, 1987). No written comments were received by the Commission on the proposed rule change.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1986).

[3] Currently, CBOE Rule 18.33(a) provides that a $300 deposit is required where the amount in controversy is between $10,000 and $20,000; $500 where the amount in controversy is between $20,000 and $100,000; and $750 for all cases exceeding $100,000.

[4] We note that under the current rules, $750 is the maximum deposit fee required.

Section 6(b)(4) [5] of the Act requires that the rules of an exchange provide for the equitable allocations of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities. The Commission believes that the proposed revisions to the CBOE's schedule of deposit fees is reasonable. In those situations where the proposal would result in a fee increase, the Commission believes that the increase will help the CBOE defray a greater portion of the costs it incurs in providing an arbitration facility to its members and the public. In addition, the CBOE indicated in its filing that the proposed rule change will conform the CBOE's arbitration fee schedule to those adopted by other self-regulatory organizations.[6] Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations applicable to a national securities exchange, and, in particular, the requirements of section 6,[7] and the rules and regulations thereunder.

*It is Therefore Ordered,* pursuant to section 19(b)(2) of the Act,[8] That the rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Dated: July 8, 1987.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-15881 Filed 7-13-87; 8:45 am]

BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 8, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Ford Motor Credit Company
Currency Exchange Warrants
(expiring July 1, 1992) (7-0251)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 29, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-15879 Filed 7-13-87; 8:45 am]

BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 8, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Capital Cities/ABC, Inc.
Warrants (File No. 7-0246)
FMC Gold Company
Common Stock, $.01 Par Value (File No. 7-0247)
Meditrust
Shares of Beneficial Interest, No Par Value (File No. 7-0248)
TJX Companies, Inc.
Common Stock, $.01 Par Value (File No. 7-0249)
Parker Hannifin Corporation
Common Stock, No Par Value (File No. 7-0250)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 29, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-15880 Filed 7-13-87; 8:45 am]

BILLING CODE 8010-10-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area #6535]**

## Declaration of Disaster Loan Area; New Jersey

The City of Paterson, New Jersey, constitutes a disaster area because of a fire which occurred in a building complex at 120-128 Broadway on June 13, 1987. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on April 4, 1988, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410 or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9.5 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: July 2, 1987.

**James Abdnor,**

*Administrator.*

[FR Doc. 87-15872 Filed 7-13-87; 8:45 am]

BILLING CODE 8025-01-M

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[5] 15 U.S.C. 78f(b)(4) (1982).

[6] In this regard, we note that the Commission has received proposed rule changes providing for amendments similar to those proposed by the CBOE from the American Stock Exchange, Inc., approved in Securities Exchange Act Release No. 24379 (April 22, 1987); from the New York Stock Exchange, Inc., approved in Securities Exchange Act Release No. 24489 (June 20, 1987); from the Boston Stock Exchange, Inc., notice of which was given in Securities Exchange Act Release No. 24438 (May 8, 1987), 52 FR 18631 (May 18, 1987); and from the Pacific Stock Exchange, Inc. (File No. SR-PSE-87-14).

[7] 15 U.S.C. 78f (1982).

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3(a)(12) (1986).

[License No. 01/01-0341]

### Issuance of a Small Business Investment Company License; Mezzanine Capital Corp.

On February 25, 1987, a notice was published in the **Federal Register** (52 FR 5610) stating that an application has been filed by Mezzanine Capital Corporation, Boston, Massachusetts, with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR 107.102 (1987)) for a license as a small business investment company.

Interested parties were given until close of business March 27, 1987, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 01/01-0341 on May 28, 1987, to Mezzanine Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 6, 1987.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 87-15871 Filed 7-13-87; 8:45 am]

BILLING CODE 8025-01-M

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[License No. 09/09-0372]

### Issuance of a Small Business Investment Company License; Wilbur Venture Capital Corp.

On June 25, 1986, a notice was published in the **Federal Register** (51FR23177) stating that an application has been filed by Wilbur Venture Capital Corp, Tucson, Arizona with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business July 25, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09-0372 on May 11, 1987, to Wilbur Venture Capital Corp. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 6, 1987.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 87-15870 Filed 7-13-87; 8:45 am]

BILLING CODE 8025-01-M

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### Reporting and Recordkeeping Requirements Under OMB Review

**ACTION:** Notice of reporting requirements submitted for review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATE:** Comments should be submitted on or before August 13, 1987. If you intend to comment but cannot prepare comments promply, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83s), supporting statements, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

**FOR FURTHER INFORMATION CONTACT:**

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Questionnaire for Company doing business with a section 503 Development Company
Form No. SBA 1302
Frequency: On occasion
Description of Respondents: This information is completed by the small business receiving SBA assistance under section 503 to the Small Business Investment Act. It is used to confirm information supplied concerning amounts paid and owed and the nature of the financial arrangement.
Annual Responses: 720
Annual Burden Hours: 1440

Type of Request: Revision
Title: Score Counseling Evaluation
Frequency: On occasion
Description of Respondents: This information is obtained from client's receiving counseling provided by SCORE volunteers. Information is needed to monitor and measure the quality of counseling.
Annual Responses: 50,000
Annual Burden Hours: 8,333
Type of Request: New
Title: Annual Update of 8(a) Application and Business Plan
Form No. SBA 1450
Frequency: Annnually
Description of Respondents: Program participants are required to update their personal and business eligibility statements and business plan on an annual basis as a condition of program participation.
Annual Responses: 3,000
Annual Burden Hours: 30,000
Type of Request: Reinstatement
Title: Questionnaire for section 503 Development Company
Form No. SBA 1301 A&B
Frequency: On Occasion
Description of Respondents: This information is completed by the development companies and is used to assess their operations and financial condition and to identify any regulatory violations.
Annual Responses: 90
Annual Burden Hours: 180
Type of Request: Revision
Title: Application Forms for Participation in 8(a) Program
Form No. SBA 1010A-E&I
Frequency: On Occasion
Description of Respondents: The data submitted by small business concerns will be evaluated by SBA personnel to determine whether the business is owned and controlled by economically and socially disadvantaged individuals and meets other eligibility criteria.
Annual Responses: 3,000
Annual Burden Hours: 60,000
Type of Request: Extension

**William Cline,**

*Chief, Administrative Information Branch, Small Business Administration.*

July 9, 1987.

[FR Doc. 87-15869 Filed 7-13-87; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### FAA Approval of Noise Compatibility Program; Billings-Logan International Airport; Billings, MT

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** The Federal Aviation Administration (FAA) announced its findings on the noise compatibility program submitted by the city of Billings under the provisions of Title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On December 22, 1986, the FAA determined that the noise exposure maps submitted by the city under Part 150 were in compliance with applicable requirements. On June 18, 1987, the Administrator approved the Billings-Logan International Airport noise compatibility program.

**EFFECTIVE DATE:** The effective date of the FAA's approval of the Billings-Logan International Airport noise compatibility program is June 18, 1987.

**FOR FURTHER INFORMATION CONTACT:** Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region, Airports Division, ANM–611; 17900 Pacific Highway South; C–68966; Seattle, Washington 98168. Documents reflecting this FAA action may be obtained from the same individual.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA has given its overall approval to the noise compatibility program for Billings-Logan International Airport, effective June 18, 1987.

Under section 104(a) of the Aviation Safety and Noise Abatement Act (ASNA) of 1979, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with FAR Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Aviation Safety and Notice Abatement Act of 1979, and is limited to the following determinations:

The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government.

Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Helena, Montana.

The city submitted to the FAA the noise exposure maps, descriptions, and other documentation (including the November 12, 1986, Addendum) produced during the noise compatibility planning study conducted at Billings-Logan International Airport. The Billings-Logan International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on December 22, 1986. Notice of this determination was published in the **Federal Register** on January 8, 1987.

The Billings-Logan International Airport noise compatibility study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on December 22, 1986, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 19 proposed actions for noise mitigation on and off the airport and for review and monitoring of the program. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective June 18, 1987.

Outright approval was granted for 15 specific program elements.

Noise Abatement Measures A.4 and A.6 were disapproved. Measure A.4 was found to be not conducive to the safe and efficient movement of aircraft and did not contribute, in a quantifiable manner, to local noise reduction. Measure A.6 did not provide any apparent quantifiable reduction in noise; therefore, it is not appropriate to approve this measure. Measures A.7 and A.8 refer to the use of a potential new runway which is not yet built and would not be in operation within the 5-year timeframe of the Noise Compatibility Program. No action is required at this time as these items relate to proposed flight procedures associated with a future runway.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on June 18, 1987. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administration offices of the Billings-Logan International Airport.

Issued in Seattle, Washington, on June 24, 1987.

Frederick M. Isaac,

*Acting Director, Northwest Mountain Region.*

[FR Doc. 87-15855 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-13-M

## Federal Highway Administration

### Environmental Impact Statement; Beaufort County, South Carolina

**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 new location highway project on Hilton Head Island in Beaufort County, South Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mr. William H. Rice, District Engineer, Federal Highway Administration, Suite 758, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201, Telephone: (803) 765-5411.

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administration in the cooperation with the South Carolina Department of Highways and Public Transportation, will prepare an environmental impact statement on the proposed Cross Island Expressway on Hilton Head Island. The proposed Expressway will extend from U.S. 278 near Spanish Wells Road southerly across Broad Creek to Palmetto Bay Road, a distance of approximately 5.5 miles.

Four roadway alternatives will be considered in the EIS and will all generally be in the same project corridor. Each alternate will provide a limited access road with grade separations and interchanges.

A letter of intent inviting written comments and suggestions to ensure that the full range of environmental impacts associated with the project are considered will be sent to appropriate Federal, state and local agencies, and to private organizations and interested citizens. A public hearing will be conducted to further involve local citizens in the process. Public notice will be given of the time and place of the hearing. The environmental impact statement will be available for public and agency review and comment.

A formal scoping meeting will be held with federal, state and local agencies, and private interest groups for the purpose of identifying the significant environmental issues to be addressed in the EIS. The scoping meeting will be held on August 25, 1987 at 10:30 a.m. in the council chambers of the Hilton Head Island Town Hall located at 40 Palmetto Parkway.

To ensure that the full range of environmental issues are addressed and identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the supplemental 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 regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: July 7, 1987.

A. George Ostensen,

*Assistant Division Administrator, Columbia, South Carolina.*

[FR Doc. 87-15865 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-22-M

## Research and Special Programs Administration

### Hazardous Materials; Applications for Exceptions

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

**DATE:** Comments period closes August 13, 1987.

Address Comments To: Dockets Branch, Research and Special Program, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

| Application No. | Applicant | Renewal of exemption |
|---|---|---|
| 2582-X | Matheson Gas Products, Inc., Secaucus, NJ | 2582 |
| 3128-X | U.S. Department of Defense, Falls Church, VA | 3128 |
| 3415-X | U.S. Department of Defense, Falls Church, VA (See Footnote 1) | 3415 |
| 3415-X | U.S. Department of Defense, Falls Church, VA | 3415 |
| 4291-X | Kerr-McGee Chemical Corporation, Oklahoma City, OK | 4291 |
| 4291-X | Pacific Engineering & Production Company of Nevada, Henderson, NV | 4291 |
| 4291-X | United Technologies Corp./Chemical Systems Div., San Jose, CA | 4291 |
| 4354-X | Vanchem, Inc., Lockport, NY | 4354 |
| 4453-X | E. I. du Pont de Nemours & Company, Inc., Wilmington, DE | 4453 |
| 4453-X | Maynes Explosives Company, Lee's Summit, MO | 4453 |
| 4453-X | Wampum Hardware Company, New Galilee, PA | 4453 |
| 4453-X | Strawn Explosives, Inc., Dallas, TX | 4453 |
| 4453-X | A. M. Contracting, Grove City, PA | 4453 |
| 4734-X | General Electric Company, Waterford, NY (See Footnote 2) | 4734 |
| 5967-X | Rocket Research Company, Redmond, VA | 5967 |

| Application No. | Applicant | Renewal of exemption |
|---|---|---|
| 6769-X | E. I. du Pont de Nemours & Company, Inc., Wilington, DE | 6769 |
| 6816-X | U.S. Department of Defense, Falls Church, VA | 6816 |
| 6902-X | Great Lakes Chemical Corporation, El Dorado, AR | 6902 |
| 7052-X | Pointer, Inc., Tempe AZ | 7052 |
| 7052-X | Tadiran Electronic Industries, Inc., Woodland Hills, CA | 7052 |
| 7052-X | Honeywell Inc., Horsham, PA | 7052 |
| 7052-X | Hydril Production Technology Division, Houston, TX | 7052 |
| 7071-X | Olin Hunt Specialty Products Corporation, West Paterson, NJ | 7071 |
| 7087-X | UNITEK Corporation, Monrovia, CA | 7087 |
| 7235-X | Luxfer USA Limited, Riverside, CA | 7235 |
| 7269-X | U.S. Department of Energy, Washington, DC | 7269 |
| 7282-X | MarChem Corporation, Maryland Heights, MI | 7282 |
| 7458-X | Ekohwerks Company, Eastlake, OH | 7458 |
| 7616-X | Kansas City Southern Railway Co. and Subsidiaries, Kansas City, MO | 7616 |
| 7648-X | Sunsest Aviation, Ogden, UT | 7648 |
| 7716-X | Kinepak, Inc., Dallas, TX | 7716 |
| 7857-X | Makhteshim Darom (Ramat Hovav) Ltd., Beer Sheva, Israel | 7857 |
| 7907-X | Hercules Incorporated, Wilimgton, DE | 7907 |
| 8006-X | Bland Brothers Inc., New York, NY | 8006 |
| 8008-X | Wheaton Aerosols Company, Mays Landing, NJ | 8008 |
| 8065-X | U.S. Department of Energy, Washington, DC | 8065 |
| 8084-X | E. I. du Pont de Nemours & Company, Inc., Wilington, DE (See Footnote 3) | 8084 |
| 8141-X | Altus Corporation, San Jose, CA | 8141 |
| 8214-X | Mercedes-Benz of North America, Inc., Montvle, NJ | 8214 |
| 8230-X | Seastar Chemicals, Division of Seastar Instruments, Sidney, S.C., Canada | 8230 |
| 8244-X | Halliburton Services, Duncan, OK | 8244 |
| 8244-X | Vann Systems, A Division of Halliburton Company, Houston, TX | 8244 |
| 8248-X | AT&T Technologies, Inc., Greensboro, NC | 8248 |
| 8278-X | Maintenance Mechanical Corporation, Houston, TX | 8278 |
| 8307-X | U.S. Department of Defense, Falls Church, VA | 8307 |
| 8442-X | Texaco Trading and Transportation Inc., Denver, CO | 8442 |
| 8549-X | United Pumping Service, Inc., City of Industry, CA | 8549 |
| 8606-X | Makhteshim Darom (Ramat Hovav) Ltd., Beer Sheva, Israel | 8606 |
| 8645-X | A. M. Contracting, Grove City, PA | 8645 |
| 8693-X | Matheson Gas Products, Secaucus, NJ | 8693 |
| 8710-X | Akco Chemie America, Noury Chemicals, Chicago, IL | 8710 |
| 8735-X | Letica Corporation, Rochester, MI | 8735 |
| 8742-X | Cusco Fabricators Limited, Richmond Hill, Ont., Can. | 8742 |
| 8760-X | Barton Solvents, Inc., Des Moines, IA (See Footnote 4) | 8760 |
| 8772-X | Akzo Chemie America, Chicago, IL | 8772 |
| 8910-X | Canbar Inc., Waterloo, Ont., Canada | 8910 |
| 8960-X | Sunshine Aero Industries, Inc., Crestview, FL | 8960 |
| 9030-X | LND, Incorporated, Oceanside, NY | 9030 |
| 9059-X | Boeing Aerospace Company, Seattle, WA | 9059 |
| 9078-X | Monsanto Chemical Company, St. Louis, MO | 9078 |
| 9101-X | RCA Astro Electronics, Princeton, NJ | 9101 |
| 9110-X | KemaNord, Inc., Columbus, MS | 9110 |
| 9114-X | AT&T Technologies, Inc., Lee's Summit, MO | 9114 |
| 9116-X | Hoover Group, Inc., Beatrice, NE | 9116 |
| 9140-X | Crown Rotational Molded Products Inc., Marked Tree, AR | 9140 |
| 9149-X | Ethyl Corporation, Baton Rouge, LA | 9149 |
| 9174-X | National Aeronautics and Space Administration, Washington, DC | 9174 |
| 9181-X | Honeywell, Inc., Horsham, PA | 9181 |
| 9340-X | Pioneer Plastics & Services Company, Limited, Brampton, Ont., Canada (See Footnote 5) | 9340 |
| 9355-X | Eastman Kodak Company, Rochester, NY | 9355 |
| 9421-X | Taylor-Wharton, Division of Harsco Corporation, Harrisburg, PA | 9421 |
| 9506-X | Akzo Chemie America Armak Chemicals, Chicago, IL | 9506 |
| 9580-X | McDonnell Douglass Corporation, St. Louis, MO | 9580 |
| 9652-X | Western Atlas International, Inc., Houston, TX (See Footnote 6) | 9652 |
| 9704-X | Dresser Industries, Inc., Houston, TX | 9704 |
| 9785-X | Hapag-Lloyd (America) Inc., Staten Island, NY (See Footnote 7) | 9785 |

(1) To authorize alternative mounting and securing procedures for shipping rocket motors, classed as Class A explosive or Class B explosive, on flat-bed highway vehicles.

(2) Modification of the exemption to allow installation of additional air-operated safety valves in the dome of the authorized tanks.

(3) Approval for an alternative packaging; identified as "Tovex T-1 Coils", a 50 foot long, 7/8 inch diameter tube overpacked in outside packaging prescribed in 173.65 (a)(1) and (a)(2).

(4) Approval to ship additional materials, classed as ORM-A, in cargo tanks with a flammable placard when loaded with materials classed as flammable or combustible liquids.

(5) To authorize cargo vessel as an additional mode of transportation.

(6) To authorize an alternative packaging arrangement for the shipment of acceptor assemblies, described as Detonators, classed as Class C explosives.

(7) To authorize highway and rail as additional modes of transportation.

| Application No. | Applicant | Parties to exemption |
|---|---|---|
| 2462-P | ETI Explosives Technologies International Inc., Wilmington, DE | 2462 |
| 4453-P | Brandywine Explosives & Supply, Inc., Lexington, KY | 4453 |
| 4453-P | Ladshaw Explosives, Inc., New Braunfels, TX | 4453 |
| 4453-P | ETI Explosives Technologies International Inc., Wilmington, DE | 4453 |
| 7052-P | W. R. Grace & Co., Columbia, MD | 7052 |
| 7052-P | Proximity, Mountain View, CA | 7052 |
| 7252-P | ETI Explosives Technologies International Inc., Wilmington, DE | 7252 |
| 7454-P | ETI Explosives Technologies International Inc., Wilmington, DE | 7454 |
| 7455-P | ETI Explosives Technologies International Inc., Wilmington, DE | 7455 |
| 7972-P | ETI Explosives Technologies International Inc., Wilmington, DE | 7972 |
| 8084-P | ETI Explosives Technologies International Inc., Wilmington, DE | 8084 |
| 8099-P | Phone-Poulenc Inc., Monmouth Junction, NJ | 8099 |
| 8363-P | X-Plo, Inc., Plattsburgh, NY | 8363 |
| 8426-P | Southwest Pumping Services, Whittier, CA | 8426 |
| 8445-P | S & W Waste, Inc., South Kearny, NJ | 8445 |
| 8453-P | St. Lawrence Explosives Corporation, Adams Center, NY | 8453 |
| 8518-P | Unocal Corporation, Ventura, CA | 8518 |
| 8554-P | ETI Explosives Technologies International Inc., Wilmington, DE | 8554 |
| 8579-P | ETI Explosives Technologies International Inc., Wilmington, DE | 8579 |
| 8723-P | Winchester Building Supply Co., Inc., Winchester, VA | 8723 |
| 8723-P | Savage Brothers Inc., American Fork, UT | 8723 |
| 8723-P | Dama Incorporated, Roanoke, VA | 8723 |
| 8723-P | Explosives Engineers, Inc., Sparks, MD | 8723 |
| 8723-P | Cherokee Explosives, Inc., Plantsville, CT | 8723 |
| 9082-P | Rhone-Poulenc Inc., Monmouth Junction, NJ | 9082 |
| 9108-P | ETI Explosives Technologies International Inc., Wilmington, DE | 9108 |
| 9277-P | Rhone-Poulenc Inc., Monmouth Junction, NJ | 9277 |
| 9380-P | Brown Measurement Co. Inc., Kilgore, TX | 9380 |
| 9449-P | Rhone-Poulenc Inc., Monmouth Junction, NJ | 9449 |
| 9466-P | Rhone-Poulenc Inc., Monmouth Junction, NJ | 9466 |
| 9617-P | ETI Explosives Technologies International Inc., Wilmington, DE | 9617 |
| 9623-P | ETI Explosives Technologies International Inc., Wilmington, DE | 9623 |
| 9623-P | Woodard Explosives, Inc., Albuquerque, NM | 9623 |

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 8, 1987.

Joseph T. Horning,

*Chief Exemptions and Approvals Division, Office of Hazardous Materials Transportation.*

[FR Doc. 87-15894 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-60-M

## Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applications for renewal or modification of exemptions or application to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

**DATE:** Comment period closes July 29, 1987.

**ADDRESS COMMENTS TO:** Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

| Application No. | Applicant | Regulation(s) affected | Nature of exemption thereof |
|---|---|---|---|
| 9802-N | McNeely Charter Service, Inc., Earle, AR | 49 CFR 172.101, 172.204, 173.27, 175.30(a)(1), 175.320(b), Part 107, Subpart B, Appendix B. | To authorize carriage by cargo-only aircraft those Class A, B and C explosives that are not permitted or are in quantities greater than prescribed for air shipment. (Mode 4.) |
| 9803-N | Transcon Transport, Inc., Smithville, TN | 49 CFR Part 107, Subpart B, Appendix B, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b). | To authorize carriage by cargo-only aircraft those Class A, B and C explosives that are not permitted or are in quantities greater than prescribed for air shipment. (Mode 4.) |
| 9804-N | Rotational Molding, Inc., Gardena, CA | 49 CFR 178.19-3 | To authorize manufacture, mark and sale of non-DOT specification, polyethylene portable tank for shipping materials classed as corrosive or flammable liquid or a material classed as an oxidizer. (Modes 1, 2.) |
| 9805-N | Assmann Corporation of America, Garrett, IN. | 49 CFR 178.19-3 | To authorize manufacture, mark and sale of non-DOT specification 110 or 175 gallon polyethylene tanks, for shipping materials approved for shipment in DOT Specification 34 polyethylene drums. (Modes 1, 2.) |
| 9806-N | Stone Container Corporation, Schaumburg, IL. | 49 CFR 173.154, 173.182, 173.245b | To authorize shipment of materials classed as flammable solid, oxidizer, organic peroxide solid, or corrosive solid in flexible intermediate bulk containers (FIBC). (Modes 1, 2, 3.) |
| 9807-N | Slack Chemical Co., Inc., Carthage, NY | 49 CFR 173.245 | To authorize shipment of solutions of hydrofluoric acid or hydrofluosilicic acid, classed as corrosive, in non-DOT specification steel jacketed polyethylene tanks currently approved in DOT-E 8837. (Mode 1.) |
| 9808-N | Apache Powder Company, Benson, AZ | 49 CFR 173.182(a)(1) | To authorize shipment of a mixture of ammonium nitrate and potasium nitrate, identified as ANKN 90/10, classed as an oxidizer, in a moisture resistant, multi-ply paper bag. (Modes 1, 3, 4.) |
| 9809-N | Texas-New Mexico Pipe Line Company, San Angelo, TX. | 49 CFR 173.119 | To authorize shipment of a material classed as flammable liquid in a non-DOT specification container described as a truck mounted meter prover. (Mode 1.) |
| 9810-N | Martin Marietta Orlando Aerospace, Orlando, FL. | 49 CFR 172.101, 173.302, 172.407, 172.417, 172.448. | To authorize shipment of methane, classed as flammable gas, in a non-DOT specification container described as a laser device. (Mode 4.) |
| 9811-N | Container Products Corporation, Wilmington, NC. | 49 CFR 173.365 | To authorize shipment of material contaminated with poison B material in a non-DOT specification metal bulk-type container (Mode 1.) |
| 9812-N | Ihara Chemical Industry Co., Ltd., Brisbane, CA. | 49 CFR 178.270-3(a) | To authorize shipment of o-chlorobenzyl chloride, classed as poison B, in an IMO Type I tank constructed of a nickel alloy material. (Modes 1, 2, 3.) |
| 9813-N | Advanced Materials Laboratories, Inc., New York, NY. | 49 CFR 173.385 | To authorize shipment of tear gas grenades, classed as irritating material, in non-DOT specification metal containers meeting Military 32A metal ammunition box specifications. (Modes 1, 4, 5.) |

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on July 8, 1987.

**Joseph T. Horning,**

*Chief, Exemptions and Approvals Division, Office of Hazardous Materials Transportation.*

[FR Doc. 87-15895 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-60-M

## Grants; UMTA Sections 3 and 9 Grant Obligations; Bay Area Rapid Transit District

**AGENCY:** Urban Mass Transportation Administration (UMTA), DOT.

**ACTION:** Notice.

**SUMMARY:** Public Law 99-500 signed into law by President Reagan on October 18, 1986, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** each time a grant is obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property, receiving each grant. This notice provides the information as required by statute.

**FOR FURTHER INFORMATION CONTACT:** Edward R. Fleischman, Chief, Resource Management Division, (202) 366-2053, 400 Seventh Street SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to Pub. L. 99-500, UMTA reports the following grant information:

SECTION 3 GRANTS

| Transit property, urbanized area | Grant No. | Grant amount | Date obligated |
|---|---|---|---|
| Bay Area Rapid Transit District, San Francisco-Oakland, CA | CA-03-0325 | $8,029,200 | 6/25/87 |
| Kitsap Transit, Bremerton, WA | WA-03-0063 | 2,466,090 | 6/30/87 |

SECTION 9 GRANTS

| Transit property, urbanized area | Grant No. | Grant amount | Date obligated |
|---|---|---|---|
| Alabama Highway Department, Florence, AL | AL-90-X022 | $20,000 | 6/19/87 |
| Metroplan, Little Rock-North Little Rock, AR | AR-90-X008-01 | 358,000 | 6/19/87 |
| North County Transit District, San Diego, CA | CA-90-X243 | 3,804,548 | 6/19/87 |
| Omnitrans, San Bernardino-Riverside, CA | CA-90-X226 | 4,914,299 | 6/19/87 |

SECTION 9 GRANTS—Continued

| Transit property, urbanized area | Grant No. | Grant amount | Date obligated |
|---|---|---|---|
| Los Angeles County Department of Public Works, Lancaster, CA | CA-90-X242 | 283,500 | 6/19/87 |
| Sunline Transit Agency, Palm Springs, CA | CA-90-X244 | 501,790 | 6/19/87 |
| Monterey County DPW, Seaside-Monterey, CA | CA-90-X245 | 88,053 | 6/19/87 |
| Santa Cruz Metropolitan Transit District, Santa Cruz, CA | CA-90-X246 | 796,513 | 6/19/87 |
| City of Santa Barbara, Santa Barbara, CA | CA-90-X247 | 870,214 | 6/19/87 |
| Laguna Beach Municipal Bus Lines, Los Angeles-Long Beach, CA | CA-90-X249 | 206,000 | 6/19/87 |
| Redding, Area Bus Authority Redding, CA | CA-90-X248 | 857,600 | 6/19/87 |
| City of Roseville, Sacramento, CA | CA-90-X250 | 63,626 | 6/23/87 |
| San Diego Association of Governments, San Diego, CA | CA-90-X252 | 420,000 | 6/19/87 |
| City of Peublo, Pueblo, CO | CO-90-X023-02 | 14,400 | 6/19/87 |
| Town of Fairfield, Bridgeport, CT | CT-90-X089 | 800,000 | 6/19/87 |
| Central Connecticut Regional Planning Agency, Bristol, CT | CT-90-X095 | 11,680 | 6/19/87 |
| Southeastern Connecticut Regional Planning Agency, New London-Norwich, CT | CT-90-X094 | 12,400 | 6/19/87 |
| Greater Hartford Transit District, Hartford, CT | CT-90-X093-01 | 1,764,960 | 6/19/87 |
| Housatonic Valley Council of Elected Officials, Danbury, CT-NY | CT-90-X096 | 21,648 | 6/19/87 |
| Greater Bridgeport Regional Planning Agency, Bridgeport, CT | CT-90-X097 | 66,260 | 6/19/87 |
| Valley Regional Planning Agency, New Haven, CT | CT-90-X098 | 39,888 | 6/19/87 |
| Washington Metropolitan Area Transit Authority, Washington, DC-MD-VA | DC-90-X008-01 | 29,780,000 | 6/19/87 |
| Brevard County Board of County Commissioners, Melbourne-Cocoa, FL | FL-90-X093 | 1,391,241 | 6/19/87 |
| City of Gainsville, Gainesville, FL | FL-90-X090 | 2,001,500 | 6/19/87 |
| Lee County Board of County Commissioners, Ft. Myers, FL | FL-90-X091 | 1,259,677 | 6/19/87 |
| Manatee County Board of County Commissioners, Sarasota-Bradenton, FL | FL-90-X094 | 966,037 | 6/19/87 |
| Manatee County Board of County Commissioners, Sarasota-Bradenton, FL | FL-90-X066-01 | 15,657 | 6/19/87 |
| Jacksonville Transit Authority, Jacksonville, FL | FL-90-X095 | 3,463,015 | 6/19/87 |
| City of Tallahassee, Tallahassee, FL | FL-90-X089 | 1,029,808 | 6/19/67 |
| City of Winter Park, Orlando, FL | FL-90-X092 | 45,145 | 6/19/67 |
| Consolidated Government of Columbus, Columbus, GA-AL | GA-90-X036 | 2,511,005 | 6/19/87 |
| Metropolitan Atlanta Rapid Transit Authority, Atlanta, GA | GA-90-X035-01 | 1,761,220 | 6/19/87 |
| East Central Intergovernmental Association, Dubuque, IA-IL | IA-90-X076 | 22,000 | 6/19/87 |
| City of Cedar Rapids, Cedar Rapids, IA | IA-90-X071 | 705,987 | 6/19/87 |
| City of Davenport, Davenport-Rock Island-Moline, IA-IL | IA-90-X074 | 472,228 | 6/19/87 |
| City of Bettendorf, Davenport-Rock Island-Moline, IA-IL | IA-90-X073 | 208,738 | 6/19/87 |
| Des Moines Metropolitan Transit Authority, Des Moines, IA | IA-90-X075 | 836,440 | 6/19/87 |
| City of Dubuque/Keyline, Dubuque, IA-IL | IA-90-X072 | 234,122 | 6/19/87 |
| Boise Urban Stages, Boise City, ID | ID-90-X013-01 | 48,600 | 6/19/87 |
| Rockford Mass Transit District, Rockland, IL | IL-90-X092 | 1,284,438 | 6/19/87 |
| City of Indianapolis, Indianapolis, IN | IN-90-X031-03 | 1,529,150 | 6/19/87 |
| Metropolitan Evansville Transit System, Evansville, IN-KY | IN-90-X084-01 | 340,000 | 6/19/87 |
| Northwestern Indiana Regional Planning Commission, Chicago, IL-Northwestern IN | IN-90-X093 | 1,968,256 | 6/19/87 |
| Northern Indiana Commuter Transportation District, Chicago, IL-Northwestern IN | IN-90-X092 | 3,651,499 | 6/19/87 |
| Heart City Rider, Elkhart-Goshen, IN | IN-90-X075-01 | 5,000 | 6/19/87 |
| Topeka Metropolitan Transit Authority, Topeka, KS | KS-90-X022 | 782,940 | 6/19/87 |
| Wichita-Sedgwick County Metropolitan Area Planning, Wichita, KS | KS-90-X023 | 45,296 | 6/19/87 |
| Wichita Metropolitan Transit Authority, Wichita, KS | KS-90-X024 | 27,868 | 6/19/87 |
| Transit Authority of the Lexington-Fayette Urban County Government, Lexington-Fayette, KY | KY-90-X033 | 3,237,995 | 6/30/87 |
| City of Owensboro, Owensboro, KY | KY-90-X032 | 245,112 | 6/19/87 |
| Transit Authority of Northern Kentucky, Cincinnati, OH-KY | KY-90-X031 | 4,270,381 | 6/29/87 |
| Henderson Area Rapid Transit, Evansville, IN-KY | KY-90-X034 | 177,667 | 6/19/87 |
| City of Alexandria, Alexandria, LA | LA-90-X036-01 | 38,455 | 6/19/87 |
| City of Alexandria, Alexandria, LA | LA-90-X069 | 372,826 | 6/19/87 |
| Mississippi River Bridge Authority, New Orleans, LA | LA-90-X068 | 744,987 | 6/19/87 |
| Regional Planning Commission, New Orleans, LA | LA-90-X067 | 480,000 | 6/19/87 |
| Southeastern Regional Transit Authority, New Bedford, MA | MA-90-X069 | 2,533,360 | 6/19/87 |
| Lowell Regional Transit Authority, Lowell, MA-NH | MA-90-X070 | 1,305,250 | 6/19/87 |
| Cape Ann Transportation Authority, Boston, MA | MA-90-X068 | 161,400 | 6/19/87 |
| Worcester Regional Transit Authority, Worcester, MA | MA-90-X062-01 | 172,000 | 6/19/87 |
| Greater Attleboro-Taunton Regional Transit Authority, Taunton, MA | MA-90-X066-01 | 174,000 | 6/19/87 |
| State Railroad Administration, Baltimore, MD | MD-90-X026-01 | 1,579,119 | 6/19/87 |
| Mass Transit Administration, Baltimore, MD | MD-90-X027 | 20,874,877 | 6/19/87 |
| Mass Transit Administration, Annapolis/Hagerstown, MD | MD-90-X028 | 1,297,879 | 6/19/87 |
| Mass Transit Administration, Baltimore, MD | MD-90-X029 | 15,692 | 6/19/87 |
| Maine Department of Transportation, Bangor/Lewiston-Auburn/Portland/Portsmouth-Dover-Rochester, NH-ME. | ME-90-X031 | 100,562 | 6/19/87 |
| Southeastern Michigan Transportation Authority, Port Huron, MI | MI-90-X085 | 324,648 | 6/19/87 |
| Muskegon Area Transit System, Muskegon-Muskegon Heights, MI | MI-90-X050-01 | 41,561 | 6/19/87 |
| Capital Area Transportation Authority, Lansing, MI | MI-90-X079 | 4,125,904 | 6/23/87 |
| Battle Creek Transit, Battle Creek, MI | MI-90-X083 | 300,000 | 6/19/87 |
| Saginaw Transit System, Saginaw, MI | MI-90-X081 | 1,222,860 | 6/19/87 |
| Muskegon Area Transit System, Muskegon-Muskegon Heights, MI | MI-90-X082 | 594,302 | 6/19/87 |
| Mass Transportation Authority, Flint, MI | MI-90-X/76-01 | 2,202,674 | 6/19/87 |

SECTION 9 GRANTS—Continued

| Transit property, urbanized area | Grant No. | Grant amount | Date obligated |
|---|---|---|---|
| City of Rochester, Rochester, MN | MN-90-X027 | 1,169,132 | 6/19/87 |
| City of Moorhead, Fargo-Moorhead, ND-MN | MN-90-X025-01 | 482,040 | 6/19.87 |
| City of Moorhead, Fargo-Moorhead, ND-MN | MN-90-X019-01 | 32,612 | 6/19/87 |
| City of Jackson, Jackson, MS | MS-90-X015 | 1,000,480 | 6/19/87 |
| Capital District Transportation Authority, Albany-Schenectady-Troy, NY | NY-90-X107 | 6,443,600 | 6/19/87 |
| Broome County Department of Public Transportation, Binghamton, NY | NY-90-X116 | 940,315 | 6/19/87 |
| Rockland County Department of Public Transportation, New York, NY-Northeastern NJ | NY-90-X117 | 839,712 | 6/19/87 |
| Suffolk County Department of Transportation, New York, NY-Northeastern NJ | NY-90-X114 | 3,421,222 | 6/19/87 |
| New York City Department of Transportation, New York, NY-Northeastern NY | NY-90-X112 | 6,896,783 | 6/19/87 |
| Niagara Frontier Transportation Authority, Buffalo, NY | NY-90-X104-01 | 260,000 | 6/19/87 |
| Huntington Area Rapid Transit System, New York, NY-Northeastern NJ | NY-90-X115 | 396,509 | 6/19/87 |
| City of Long Beach, New York, NY-Northeastern NJ | NY-90-X113 | 45,107 | 6/19/87 |
| City of Rome, VIP Transportation System, Utica-Rome, NY | NY-90-X110 | 159,431 | 6/19/87 |
| Metropolitan Transportation Authority, New York, NY-Northeastern NJ | NY-90-X111 | 206,275,629 | 6/19/87 |
| Central Ohio Transit Authority, Columbus, OH | OH-90-X083 | 7,633,716 | 6/19/87 |
| Miami Valley Regional Transit Authority, Dayton, OH | OH-90-X075 | 10,735,417 | 6/19/87 |
| Portage Area Regional Transit Authority, Akron, OH | OH-90-X081 | 272,000 | 6/19/87 |
| Akron Metro Transit Authority, Akron, OH | OH-90-X084 | 3,062,400 | 6/19/87 |
| Western Reserve Transit Authority, Youngstown-Warren, OH | OH-90-X080 | 6,024,189 | 6/19/87 |
| Western Reserve Transit Authority, Youngstown-Warren, OH | OH-90-X049-1 | 116,000 | 6/19/87 |
| Central Oklahoma Transportation and Parking Authority, Oklahoma City, OK | OK-90-X018 | 2,917,715 | 6/19/87 |
| Missoula Urban Transporation District, Missoula, MT | MT-30-X018 | 325,927 | 6/19/87 |
| Great Falls Transit District, Great Falls, MT | MT-90-X017 | 529,105 | 6/19/87 |
| Asheville Transit Authority, Asheville, NC | NC-90-X046-01 | 56,000 | 6/19/87 |
| Asheville Transit System, Asheville, NC | NC-90-X062 | 608,413 | 6/19/87 |
| City of High Point, High Point, NC | NC-90-X061 | 589,037 | 6/19/87 |
| City of Raleigh, Raleigh, NC | NC-90-X060 | 1,443,702 | 6/19/87 |
| City of Grand Forks, Grand Forks, ND-MN | ND-90—X013 | 485,200 | 6/19/87 |
| City of Fargo, Fargo-Moorhead, ND-MN | ND-90-X014 | 30,400 | 6/19/87 |
| Transit Authority of the City of Omaha, Omaha, NE-IA | NE-90-X015 | 60,000 | 6/19/87 |
| Manchester Transit Authority, Manchester, NH | NH-90-X013 | 1,245,602 | 6/19/87 |
| New Jersey Transit Corportion, New York, NY-Northeastern, NJ | NJ-90-X021-02 | 8,131,200 | 6/19/87 |
| City of Las Cruces, Las Cruces, NM | NM-90-X012-01 | 30,400 | 6/19/87 |
| Herkimer-Oneida Counties Transportation, Utica-Rome, NY | NY-90-X072-01 | 3,545 | 6/19/87 |
| Central New York Regional Transportation Authority, Syracuse, NY | NY-90-X109 | 2,488,836 | 6/19/87 |
| Chemung County Transit System, Elmira, NY | NY-90-X118 | 543,980 | 6/19/87 |
| Lane Transit District, Eugene, OR | OR-90-X016-01 | 526,192 | 6/19/87 |
| Tri-County Metropolitan Transportation Dist. of Oregon, Portland, OR-WA | OR-90-X019-02 | 1,119,920 | 6/19/87 |
| Beaver County Transit Authority, Pittsburgh, PA | PA-90-X115 | 220,000 | 6/19/87 |
| Borough of Canonsburgh, Pittsburg, PA | PA-90-X122 | 50,292 | 6/19/87 |
| Port Authority of Allegheny County, Pittsburgh, PA | PA-90-X068-02 | 16,664,577 | 6/23/87 |
| Port Authority of Allegheny County, Pittsburgh, PA | PA-90-X114-01 | 16,200,910 | 6/23/87 |
| Port Authority of Allegheny County, Pittsburgh, PA | PA-90-X114 | 9,982,599 | 6/23/87 |
| Erie Metropolitan Area Transit Authority, Erie, PA | PA-90-X120 | 1,415,937 | 6/19/87 |
| Berks, Area Reading Transit Authority, Reading, PA | PA-90-X118 | 1,362,050 | 6/19/87 |
| Williamsport Bureau of Transportation, Williamsport, PA | PA-90-X124 | 340,000 | 6/19/87 |
| City of Washington, Pittsburgh, PA | PA-90-X121 | 151,459 | 6/19/87 |
| Lehigh and Northampton Transportation Authority, Allentown-Bethlehem-Easton, PA-NJ | PA-90-X119 | 5,179,750 | 6/19/87 |
| Southeastern Pennsylvania Transportation Authority, Philadelphia, PA-NJ | PA-90-X123 | 42,259,401 | 6/19/87 |
| Department of Transportation and Public Works, Mayaguez, PR | PR-90-X028 | 160,000 | 6/19/87 |
| Municipality of Catano, San Juan, PR | PR-90-X013 | 640,000 | 6/19/87 |
| Metropolitan Bus Authority, San Juan, PR | PR-90-X027-01 | 6,000,000 | 6/19/87 |
| Central Midlands Regional Planning Council, Columbia, SC | SC-90-X016 | 78,358 | 6/30/87 |
| Greenville Transit Authority, Greenville, SC | SC-90-X017 | 884,985 | 6/19/87 |
| Pee Dee Regional Transportation Authority Florence, SC | SC.90-X018 | 327,020 | 6/19/87 |
| City of Rapid City, Rapid City, SD | SD-90-X008-01 | 3,680 | 6/19/87 |
| City of Knoxville, Knoxville, TN | TN-90-X055 | 92,000 | 6/19/87 |
| Jackson Transit Authority, Jackson, TN | TN-90-X049 | 330,000 | 6/19/87 |
| Memphis Area Transportation Authority, Memphis, TN-AR-MS | TN-90-X054 | 2,202,728 | 6/19/87 |
| Johnson City Transit System, Johnson City, TN | TN-90-X053 | 509,600 | 6/19/87 |
| City of Port Arthur, Port Arthur, TX | TX-90-X097 | 393,250 | 6/19/87 |
| City of Wichita Falls, Wichita Falls, TX | TX-90-X096 | 413,778 | 6/19/87 |
| City of Arlington, Dallas-Fort Worth, TX | TX-90-X098 | 225,000 | 6/19/87 |
| City of Lubbock, Lubbock, TX | TX-90-X095 | 1,051,939 | 6/19/87 |
| City of Waco, Waco, TX | TX-90-X087 | 24,937 | 6/19/87 |
| Fort Worth Transit Authority, Dallas-Fort Worth, TX | TX-90-X092 | 2,810,352 | 6/19/87 |
| Via Metropolitan Transit, San Antonio, TX | TX-90-X094 | 12,613,624 | 6/19/87 |
| City of Dallas, Dallas-Fort Worth, TX | TX.90-X067-01 | 5,653,969 | 6/19/87 |
| Peninsula Transportation District Commission, Newport News-Hampton, VA | VA.90-X045 | 1,684,549 | 6/19/87 |
| Jaunt Charlottesville, VA | VA-90-X046 | 134,277 | 6/19/87 |

SECTION 9 GRANTS—Continued

| Transit property, urbanized area | Grant No. | Grant amount | Date obligated |
|---|---|---|---|
| Community Transit, Seattle-Everett, WA | WA-90-X075 | 616,220 | 6/19/87 |
| Seattle Metro, Seattle-Everett, WA | WA-90-X74 | 24,045,707 | 6/30/87 |
| Washington State Department of Transportation/Marine Division, Seattle-Everett, WA | WA-90-X072 | 4,494,528 | 6/19/87 |
| Whatcom Transportation Authority, Bellingham, WA | WA-90-X071 | 298,400 | 6/19/87 |
| Pierce Transit, Tacoma, WA | WA-90-X073 | 1,923,524 | 6/19/87 |
| Kitsap Transit, Bremerton, WA | WA-90-X070 | 650,000 | 6/19/87 |
| Green Bay Transit, Green Bay, WI | WI-90-X070-01 | 173-308 | 6/19/87 |
| Wausau Area Transit System, Wausau, WI | WI-90-X077 | 309,823 | 6/19/87 |
| Kenosha Transit Commission, Kenosha, WI | WI-90-X079 | 628,358 | 6/19/87 |
| Milwaukee County Transit System, Milwaukee, WI | WI-90-X081 | 13,935,548 | 6/19/87 |
| Beloit Transit System, Beloit, WI-IL | WI-90-X071 | 177,382 | 6/19/87 |
| Oshkosh Transit System, Oshkosh, WI | WI-90-X074 | 437,994 | 6/19/87 |
| Sheboygan, Transit System, Sheboygan, WI | WI-90-X078 | 755,507 | 6/19/87 |
| Janesville Transit System, Janesville, WI | WI-90-X072 | 273,092 | 6/19/87 |
| Waukesha Metro Transit, Milwaukee, WI | WI-90-X075 | 252,393 | 6/19/87 |
| Kanawha Valley Regional Transportation Authority Charleston, WV | WV-90-X022 | 990,082 | 6/19/87 |
| Tri-State Transit Authority, Huntington-Ashland, WV-KY-OH | WV-90-X023 | 725,000 | 6/19/87 |
| Mid Ohio Valley Regional Transit Authority, Parkersburg, WV-OH | WV-90-X021 | 343,089 | 6/19/87 |
| City of Casper, Casper, WY | WY-90-X003 | 231,629 | 6/19/87 |

SECTION 9 GRANTS READY FOR OBLIGATION; WAITING FOR 13(c) CERTIFICATION

| Transit property, urbanized area | Grant No. | Grant amount |
|---|---|---|
| Town of Stratford, Bridgeport, CT | CT-90-X083 | $640,000 |
| Boise Urban Stages, Boise City, ID | ID-90-X013-02 | 2,037,730 |
| Decatur Public Transit System, Decatur, IL | IL-90-X099 | 351,966 |
| Greater Peoria Mass Transit District, Peoria, IL | IL-90-X095 | 2,139,680 |
| North Carolina Department of Transportation, Raleigh, NC | NC-90-X058-01 | 181,500 |
| La Crosse Municipal Transit Utility, La Crosse, WI | WI-90-X076 | 482,995 |
| Waukesha County Express and Freeway Flyer, Milwaukee, WI | WI-90-X073 | 226,902 |

Issued on: July 9, 1987.

**Alfred A. DelliBovi,**

*Deputy Administrator.*

[FR Doc. 87-15937 Filed 7-13-87; 8:45 am]

BILLING CODE 4910-57-M

## Urban Mass Transportation Administration and the Southern California Rapid Transit District; To Prepare a Supplemental Environmental Impact Statement on Alternative Alignments for the Los Angeles Metro Rail Project

**SUMMARY:** The Urban Mass Transportation Administration (UMTA) and the Southern California Rapid Transit District (SCRTD) intend to prepare a Supplemental Environmental Impact Statement (SEIS) for the Los Angeles Rail Rapid Transit (Metro Rail) Project. This SEIS will augment the Final Environmental Impact Statement (FEIS) for the Metro Rail Project issued by UMTA on December 5, 1983. The SEIS is necessitated by new information regarding potential risks associated with underground gas deposits in the vicinity of the project; by consideration of alternative alignments which avoid the gas risk zone; and by the Congressional directives regarding funding for the next segment of the Metro Rail Project established by section 338 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carmen C. Clark, UMTA Region IX, 211 Main Street, Suite 1160, San Francisco, CA 94105; telephone (415) 974-7317 or Mr. Nadeem Tahir, SCRTD, 425 S. Main Street, Los Angeles, CA 90013; telephone (213) 972-6439.

**SUPPLEMENTARY INFORMATION:**

### Project Description

The Metro Rail Project is located in Los Angeles, California. It consists of the committed 4.4-mile rapid rail line now under construction between Union Station and the intersection of Wilshire and Alvarado Street and extensions of that line that will serve the corridor along Wilshire Boulevard, Hollywood, and the San Fernando Valley. The 18.6-mile subway alignment evaluated in the FEIS, and selected as the locally preferred alternative, penetrates the gas risk zone from the intersection of Wilshire and Rossmore to Fairfax and Oakwood in the Wilshire/Fairfax communities. To avoid tunneling in the risk zone, the SCRTD developed numerous alignment alternatives and held extensive public meetings and briefings in preparing a Draft Subsequent Environmental Impact Report (SEIR) pursuant to the California Environmental Quality Act. The SCRTD's goal in that analysis was to identify and evaluate extensions of the committee 4.4-mile line which serve the same areas as the originally proposed 18.6-mile project while avoiding tunneling in the risk zone. The California SEIR, which was released on February 13, 1987, narrowed the range of alternatives to five alignment alternatives.

### Alternatives

The alternatives proposed for consideration are the five alignment alternatives developed through the public process described above and the no-action alternative, with one modification. The Wilshire segment of the first alternative has been truncated at Western Avenue to avoid tunneling in

the risk zone. All alignment alternatives connect at Wilshire Boulevard and Alvarado Street with the committed 4.4-mile line. All alignment alternatives serve the San Fernando Valley in a subway along Lankershim Boulevard which terminates at Chandler Boulevard. The five alignment alternatives porposed for consideration are:

1. A 17.6-mile, all-subway line with 16 stations. From the Wilshire/Alvarado Station, this alignment continues west along Wilshire Boulevard to Vermont Avenue, where it branches. One branch continues west along Wilshire to Western Avenue. The other branch proceeds north along Vermont to Hollywood Boulevard, then west along Hollywood to Vine Street, and then north into the San Fernando Valley.

2. A 20.4-mile elevated and subway line with 19 stations. From the Wilshire/Alvarado Station, this alignment continues in subway west along Wilshire Boulevard to Vermont Avenue where it branches. One branch proceeds west along Wilshire to Fairfax Avenue. It transitions from subway to an elevated structure after Western Avenue and continues as elevated to Fairfax. The other branch proceeds north along Vermont Avenue to Hollywood Boulevard, west along Hollywood to Vine Street, and then north into the San Fernando Valley. It transitions to elevated structure south of Beverly Boulevard on Vermont and continues as elevated to Gower Street on Hollywood Boulevard. This alternative consists of 14.0 miles of subway and 6.4 miles of elevated guideway.

3. A 19.9-mile elevated and subway line with 18 stations. From the Wilshire/Alvarado Station, this alignment continues in subway west along Wilshire Boulevard to Vermont Avenue where it branches. One branch is entirely subway and proceeds along Wilshire to Crenshaw Boulevard, south on Crenshaw to Pico Boulevard, and west on Pico to San Vicente Boulevard. The other branch proceeds north along Vermont to Hollywood Boulevard, west on Hollywood to Vine Street, and then north into the San Fernando Valley. It transitions to an elevated structure just south of Beverly Boulevard on Vermont and continues as elevated to Gower Street of Hollywood Boulevard. This alternative consists of 16.2 miles of subway and 3.7 miles of elevated guideway.

4. A 20.5-mile elevated and subway line with 20 stations. From the Wilshire/Alvarado Station, this alignment continues in subway west along Wilshire Boulevard to Vermont Avenue where it branches. One branch proceeds west along Wilshire to Fairfax Avenue. It transitions from subway to an elevated structure after Western Avenue and continues as elevated to Fairfax. The other branch proceeds north along Vermont Avenue to Sunset Boulevard, west along Sunset to Vine Street, northwest to Hollywood Boulevard and Highland Avenue, and then north into the San Fernando Valley. It transitions to elevated just after turning north on Vermont and continues as elevated to Sunset and Gower Street. This alignment has 14.1 miles of subway and 6.4 miles of elevated guideway.

5. A 19.7-mile elevated and subway line with 17 stations. From the Wilshire/Alvarado Station, this alignment continues in subway west along Wilshire Boulevard to Normandie Avenue where it branches. One branch proceeds west along Wilshire to Fairfax Avenue. It transitions from subway to elevated structure after Western Avenue and continues as elevated to Fairfax. The other branch is entirely subway and proceeds north along Western to the Hollywood Freeway, northwest along the freeway to Sunset Boulevard, west along Sunset to Highland Avenue, and then north into the San Fernando Valley. This alignment has 16.9 miles of subway and 2.8 miles of elevated guideway.

In addition to the five alginment alternatives, the evaluation will include a no-action alternative which includes the committed 4.4-mile rail line and the changes in bus service necessary for operation of the 4.4-mile line.

**Probable Effects**

The impacts proposed for analysis include changes in land use and development, changes in traffic patterns, congestion, and parking, changes in accessibility and transit service, impacts on air quality, noice and vibration, economic impacts associated with the capital cost of the project and with operating and maintenance costs, community and business disruption, encounters with subsurface hazards, impacts on cultural resources, and the visual impacts of elevated structures. Impacts will be identified both for the construction period and for the long term operation of the alternatives. Mitigating measures will be explored for any adverse impacts that are identified. Multiple terminal points for each alignment will be identified and the impacts associated with terminating at these locations will be addressed.

**Scoping**

Written comments germane to the scope of the SEIS will be accepted by UMTA for a period of thirty (30) days from the date of this notice. Commentors may propose additional alternatives to be considered or additional social, economic, or environmental impacts to be evaluated. A commentor proposing a new alternative should describe the alternative and state specific reasons why it deserves consideration, such as the specific benefits expected. UMTA and SCRTD will not reconsider alternatives which have already been considered and eliminated for good cause. Commentors proposing additional impacts to be evaluated should indicate which alternatives are expected to generate these impacts and give specific reasons why the impacts may be significant. Comments may be sent to UMTA or SCRTD at the informational address given above.

Issued on: July 9, 1987.

**Brigid Hynes-Cherin,**

*Regional Administrator.*

[FR Doc. 87-15936 7-13-87; 8:45 am]

BILLING CODE 4910-57-M

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "BERTHE MORISOT—Impressionist" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about September 6, 1987 to on or about November 29, 1987, at the Kimbell Art Museum in Fort Worth, Texas, beginning on or about December 14, 1987 to on or about February 22, 1988, and at the Mount Holyoke College Art Museum, South Hadley, Massachusetts, beginning on or about

[1] A copy of the list of covered objects may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

March 14, 1988 to on or about May 9, 1988, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: July 8, 1987.

**C. Normand Poirier,**

*Acting General Counsel.*

[FR Doc. 87-15903 Filed 7-13-87; 8:45 am]

BILLING CODE 8230-01-M

## A Grants Program for Private Not-for-Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The program is designed to increase mutual understanding between the people of the United States and other countries and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116-0175, entitled "A Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

*Lusophone Africa: Working Journalism Project*

The Office of Private Sector Programs will assist in supporting a three-week study tour that will bring approximately ten working journalists from Mozambique, Cape Verde, and Guinea Bissau to the United States to gain a better understanding of the American press, its institutions and role within society. The Lusophone African participants will be selected by USIA representatives abroad. The project, slated for late fall or winter 1987, will emphasize print journalism and include a discussion of United States-African relations as reflected in the press. The project will be conceived and executed by a U.S. not-for-profit institution with expertise in the field of journalism and mass communications. The project design should include substantive meetings with reporters and editors from local and national newspapers and visits to several media outlets.

USIA is most interested in working with organizations that show promise for innovative and cost-effective programming; and with organizations that have potential for obtaining private-sector funding in addition to USIA support. Organizations must have the substantive expertise and logistical capability needed to successfully develop and conduct the above project and should also demonstrate a potential for designing programs which will have a lasting impact on their participants.

Interested organizations should submit a request for complete application materials—postmarked no later than fifteen days from the date of this notice—the the address listed below. The Office of Private Sector Programs will then forward a set of materials which contains proposal guidelines.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street SW., Washington, DC 20547.

Dated: July 2, 1987.

**Robet Francis Smith,**

*Director, Office of Private Sector Programs.*

[FR Doc. 87-15866 Filed 7-13-87; 8:45 am]

BILLING CODE 8230-01-M

## VETERANS ADMINISTRATION

### Agency Form Under OMB Review

**AGENCY:** Veterans Administration.

**ACTION:** Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

**ADDRESSES:** Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 9, 1987.

By direction of the Administrator.

**David A. Cox,**

*Associate Deputy Administrator for Management.*

**Revision**

1. Department of Veterans Benefits
2. Student Verification of Enrollment for a Course Leading to a Standard College Degree (Under Chapter 30, Title 38 U.S.C.)
3. VA Form 22-8979
4. This information is needed to verify student's enrollment prior to releasing benefits payment.
5. On occasion
6. Individuals or households
7. 7,500 responses
8. 625 hours
9. Not applicable

[FR Doc. 87-15901 Filed 7-13-87; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 52, No. 134
Tuesday, July 14, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL ENERGY REGULATORY COMMISSION

July 8, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94.409), 5 U.S.C. 552B:

**TIME AND DATE:** July 15, 1987, 10:00 a.m.

**PLACE:** 825 North Capitol Street, NE., Room 9306, Washington, 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

**Consent Power Agenda 860th Meeting—July 15, 1987, Regular Meeting (10:00 a.m.)**

CAP-1.
Docket No. EL84-11-001, Aquenergy Systems, Inc.
CAP-2.
Project No. 2934-013, New York State Electric & Gas Corp.
Project No. 4684-007, Long Lake Energy Corp.
CAP-3.
Project Nos. 8909-001 and 002, Idaho Renewable Resources, Bonneville Pacific Corp. and Big Wood Canal Co.
CAP-4.
Project Nos. 4940-002 and 7612-002, Eastern States Energy & Resources, Inc.
CAP-5.
Project No. 9997-001, Carol A. Sever
CAP-6.
Project No. 9660-001, St. Maries Naturalists, Ltd.
CAP-7.
Project No. 2142-002, Central Maine Power Co.
CAP-8.
Project No. 6329-002, Intermountain Power Corp.
CAP-9.
Project No. 9477-001, Pan Pacific Hydro, Inc.
CAP-10.
Project Nos. 233-008, 013 and 014, Pacific Gas and Electric Co.
CAP-11.
Omitted.
CAP-12.
Project No. 9338-002, Little Horn Water Group
CAP-13.
Docket No. ER87-86-001, Arizona Public Service Co.
Docket Nos. ER87-444-000 and ER87-461-000, Southwestern Public Service Co.
CAP-14.
Docket No. ER87-435-000, Wisconsin Power & Light Co.
CAP-15.
Docket No. ER87-279-001, Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)
CAP-16.
Docket No. QF87-84-001, StarMark Energy Systems, Inc.
CAP-17.
Docket Nos. ER86-504-002, 003, ER78-71-003 and 004, Pennsylvania Power & Light Co.
CAP-18.
Docket No. ER84-344-005, Maine Yankee Atomic Power Co.
Docket No. EL87-12-000, Connecticut Division of Consumer Counsel v. Connecticut Yankee Atomic Co., Yankee Atomic Electric Co., Maine Yankee Atomic Power Co. and Vermont Yankee Nuclear Power Corp.
CAP-19.
Docket No. EL87-30-004, Connecticut Light and Power Co., Western Massachusetts Electric Co., Holyoke Water Power Co. and Holyoke Power and Electric Co.
CAP-20.
Docket No. EF85-2011-010, United States Department of Energy—Bonneville Power Administration
CAP-21.
Docket No. ER87-432-000, Utah Power & Light Co.
CAP-22.
Docket Nos. ER84-579-011 and EL86-10-006, Appalachian Power Co., Columbus & Southern Ohio Electric Co., Indiana & Michigan Electric Co., Kentucky Power Co. and Ohio Power Co.
CAP-23.
Docket No. ER86-272-002, Pacific Gas and Electric Co.
CAP-24.
Docket Nos. ER86-558-002, EL86-48-000 and EL87-3-000, Gulf States Utilities Co.
CAP-25.
Docket No. ER87-180-001, Cincinnati Gas & Electric Co.
CAP-26.
Docket Nos. ER86-559-001 and 002, UNITIL Power Corp.
CAP-27.
Docket No. ER86-674-001, Duke Power Co.
CAP-28.
Docket No. EL86-28-001, UNITIL Power Corp., Concord Electric Co. and Exeter & Hampton Electric Co.
Docket No. ER86-565-001, Public Service Co. of New Hampshire
CAP-29.
Docket No. EL79-8-002, Central Power and Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Company and West Texas Utilities Co.

*Consent Miscellaneous Agenda*

CAM-1.
Docket No. RM86-12-000, Generic Determination of Rate of Return on Common Equity for Public Utilities
CAM-2.
Docket No. FA85-63-002, Long Island Lighting Co.
CAM-3.
Docket No. FA84-15-001, Minnesota Power & Light Co.
CAM-4.
Mississippi Public Service Commission
CAM-5.
Docket No. RM87-28-000, Repeal of Incremental Pricing Regulations
Docket No. RM86-11-000, Petition of Process Gas Consumers Group, *et al.*, for Rulemaking Suspending or Reducing Incremental Pricing for Industrial or Boiler Fuel Users or Exempting Such Users from the Phase I Incremental Pricing Program
Docket No. RM86-4-000, Petition for Rulemaking by Air Products and Chemicals, Inc., *et al.*, to Eliminate or Suspend Incremental Pricing
Docket No. RM81-9-000, Incremental Pricing; Rule Adopting Revised Alternative Fuel Price Ceilings for the State of Kentucky
Docket No. RM80-75-000, Incremental Pricing; Agricultural Uses; Interim Rule under the Natural Gas Policy Act of 1978
Docket No. RM80-28-000, Permanent Rule Defining Agricultural Uses Exempt from Incremental Pricing under the Natural Gas Policy Act of 1978
Docket No. RM79-21-000, Alternative Fuel Price Ceilings for Incremental Pricing under the Natural Gas Policy Act of 1978
CAM-6.
Docket No. RM79-27-001, Petition for Rulemaking in the Matter of Determinations Whether Wells Drilled in More Than 500-Foot Water Depth Should be Determined to be "High Cost Gas" Under section 107(c)(5) of the Natural Gas Policy Act of 1978
Docket Nos. RM79-76-253 and 254, Petition of Montana-Dakota Utilities Company to Reopen Order No. 99
Docket No. RM80-12-001, New Onshore Production Wells; Proposed Rulemaking Amending Final Regulations Implementing the Natural Gas Policy Act of 1978
Docket Nos. RM80-38-001 and 002, High-Cost Natural Gas Produced from Wells Drilled in Deep Water

Docket No. RM81–30–001, Petition for Rulemaking to Restrain Prices for Deregulated Gas
Docket No. RM81–35–001, Petition for Rulemaking for Implementation of the Commission's Rulemaking Authority to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82–8–001, High-Cost Natural Gas Produced from Intermediate Deep Drilling
Docket No. RM82–17–001, Petition for Rulemaking to Investigate and Establish Rules Mitigating Market Distortions Under the Natural Gas Policy Act
Docket No. RM82–19–001, Petition to Institute a Proceeding, Pursant to the Natural Gas Policy Act, sections 104(b) and 106(c), to Increase the Price of Flowing Interstate Natural Gas
Docket No. RM82–20–001, Petition for Rulemaking to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82–26–001, Impact of the Natural Gas Policy Act on Current and Projected Natural Gas Markets
Docket Nos. RM82–32–001 and 002, Limitation on Incentive Prices for High-Cost Gas to Commodity Values
Docket Nos. RM82–33–001 and 002, Comments in Opposition to Proposed Rulemaking in the Matter of High-Cost Gas Produced from Tight Formations.
Docket No. RM79–76 (Ohio–2)
Docket No. RM83–46–001, Petition for Rulemaking in the Matter of Take-or-Pay Clauses in Producer/Pipeline Contracts
Docket No. RM84–7–001, Impact of Special Marketing Programs and Natural Gas Companies and Consumers
Docket No. RM84–13–001, Petition for Rulemaking on the Effect of Price Escalator Clauses

CAM–7.
Docket Nos. RM87–3–002 through 019, Annual Charges Under the Omnibus Budget Reconciliation Act of 1986

CAM–8.
Docket Nos. CP80–41–036, 037 and 038, United Gas Pipe Line Company

CAM–9.
Docket No. RO85–9–001, Placid Oil Company

**Consent Gas Agenda**

CAG–1.
Docket No. TA87–3–53–000 (PGA87–2), K N Energy, Inc.

CAG–2.
Docket Nos. RP87–74–000, RP87–30–000 and 006, Colorado Interstate Gas Co.

CAG–3.
Docket No. RP79–57–000, Northwest Pipeline Corp.

CAG–4.
Omitted

CAG–5.
Docket Nos. RP87–7–013 through 018, Transcontinental Gas Pipe Line Corp.

CAG–6.
Docket Nos. RP86–33–004 through 007 and RP86–91–003 through 005, Midwestern Gas Transmission Co.

CAG–7.
Docket No. 87–59–001, Nothern Natural Gas Co., Division of Enron Corp.

CAG–8.
Docket Nos. TA85–2–37–015 through 020, Northwest Pipeline Corp.

CAG–9.
Docket Nos. TA81–1–21–022 through 027, Columbia Gas Transmission Corp.

CAG–10.
Docket No. RP82–80–025, ANR Pipeline Co.

CAG–11.
Docket Nos. RP87–52–002 through 007, United Gas Pipe Line Co.

CAG–12.
Docket No. RP87–7–001, 002 and 003, Transcontinental Gas Pipe Line Corp.

CAG–13.
Docket No. RP86–169–003, and 005 and RP86–105–005, ANR Pipeline Co.

CAG–14.
Docket No. RP84–109–001, Distrigas of Massachusetts Corp. and Distrigas Corp.

CAG–15.
Docket No. TA82–2–9–019, Tennessee Gas Pipeline Co. a Division of Tenneco Inc.

CAG–16.
Docket No. RP86–98–000, Michigan Gas Storage Co.

CAG–17.
Docket No. RP86–102–000, Equitable Gas Co., a Division of Equitable Resources, Inc.

CAG–18.
Docket Nos. RP86–69–000, TA86–2–15–000 *et al.*, RP82–51–000 *et al.*, RP86–138–000 and GP82–31–000, Mid Louisiana Gas Co.

CAG–19.
Docket No. ST87–1145–000, Sabine-DeSoto Pipeline Co. Inc.

CAG–20.
Docket Nos. ST87–1518–000 and ST84–773–000 *et al.*, Delhi Gas Pipeline Corp.

CAG–21.
Docket Nos. CI86–138–002 and CI86–295–002, Chevron U.S.A. Inc. and Tenneco Oil Co.

CAG–22.
Docket Nos. G–2621–001 and CI86–709–000, Phillips Petroleum Co.

CAG–23.
Docket No. G–2889–001, ARCO Oil and Gas Co. Division of Atlantic Richfield Co.

CAG–24.
Docket No. CI87–49–000, Alice-Sidney Oil Co.
Docket No. CI87–96–000, Anthony Oil & Gas Co.

CAG–25.
Docket Nos. CI87–401–and CI87–416–000, Consolidated Gas Transmission Corp.

CAG–26.
Docket No. CI87–386–000, American Central Gas Pipeline Corp.
Docket No. CI87–396–000, Tejas Power Corp.
Docket No. CI87–429–000, Vesta Energy Co.
Docket No. CI87–433–000, Texaco Gas Marketing Inc.
Docket No. CI87–476–000, TXG Gas Marketing Co.
Docket No. CI87–481–000, Colony Natural Gas Corp.
Docket No. CI87–497–000, Reliance Gas Marketing Co.
Docket No. CI87–493–00, People Service, Inc.

CAG–27.
Docket No. CI87–531–000, FMP Operating Co., a Limited Partnership
Docket No. CI85–692–003, Cities Service Oil and Gas Corp., CanadianOxy Offshore Production Co. and Oxy Cities Service NGL, Inc.

CAG–28.
Docket No. CP86–602–001, Colorado Interstate Gas Co.

CAG–29.
Docket No. CP86–678–001, Natural Gas Pipeline Co. of America

CAG–30.
Docket Nos. CP86–275–001 and 002, East Tennessee Natural Gas Co.

CAG–31.
Docket Nos. GP87–16–001 and 002, Yukon Pacific Corp.

CAG–32.
Docket Nos. CP85–116–007, CP86–345–003, CP86–381–001, CP86–707–002 and CP87–53–001 (Not Consolidated), Northwest Pipeline Corp.

CAG–33.
Docket Nos. CP74–138–006 through 010, CP74–139–002 and CP74–140–002, Trunkline LNG Company and Trunkline Gas Co.

CAG–34.
Docket No. CP87–218–000, Mid Louisiana Gas Co.

CAG–35.
Docket Nos. CP87–68–000 and 001, El Paso Natural Gas Co.

CAG–36.
Docket No. CP87–76–000, Trunkline Gas Co.
Docket No. CP87–124–000, Transcontinental Gas Pipeline Corp.
Docket No. CP87–149–000, Natural Gas Pipeline Co. of America

CAG–37.
Docket Nos. CP87–67–000 and CP87–84–000 (Not Consolidated), Pacific Gas Transmission Co.

CAG–38.
Docket No. CP87–102–000, Transcontinental Gas Pipe Line Corp.

CAG–39.
Docket No. CP87–191–000, Mississippi River Transmission Corp.

CAG–40.
Docket No. CP87–262–000, Panhandle Eastern Pipe Line Co.

CAG–41.
Docket No. CP84–183–004, Transcontinental Gas Pipe Line Corp.

CAG–42.
Docket No. CP86–35–000, Northern Natural Gas Co., Division of Enron Corp.

CAG–43.
Docket Nos. RP86–168–009 and 010, Columbia Gas Transmission Corp.

CAG–44.
Docket No. RP87–14–004, Algonquin Gas Transmission Co.

CAG–45.
Docket Nos. RP87–67–001 and 002, Trunkline Gas Co.

**I. Licensed Project Matters**

P–1.
Reserved

**II. Electric Rate Matters**

ER–1.
Docket No. ER84–560–000, Union Electric Co. Opinion and order establishing just and reasonable rates.

ER–2.
Docket No. EL87–19–000, Florida Power & Light Co. Order concerning petition for declaratory order with respect to terms and conditions of "wheeling" service.

*Miscellaneous Agenda*

M–1.
Reserved
M–2.
Reserved
M–3.
Docket No. GP87–40–000, Minerals Management Service, Louisiana section 102(d) NGPA Determination, Conoco, Inc., No. E–10 Well, Sidetrack No. 1 MMS Docket G4–4428. Order regarding NGPA section 102(d) well category determination.

**I. Pipeline Rate Matters**

RP–1.
(A) Docket No. TA87–2–51–003, Great Lakes Gas Transmission Co. Order on rehearing concerning flow-through of Canadian gas costs.
(B) Docket Nos. TA87–4–51–002 and 003, Great Lakes Gas Transmission Co. Order on rehearing concerning flow-through of Canadian gas costs.
(C) Docket No. TA87–5–51–002, Great Lakes Gas Transmission Co. Order on rehearing concerning flow-through of Canadian gas costs.
(D) Docket Nos. TA87–6–51–002 and 003, Great Lakes Gas Transmission Co. Order on rehearing concerning flow-through of Canadian gas costs.
(E) Docket Nos. TA87–1–51–002, 003, 004 and TA86–6–51–004, Great Lakes Gas Transmission Co. Order on rehearing concerning flow-through of Canadian gas costs.
(F) Docket No. RP87–77–000, Great Lakes Gas Transmission Co. Order concerning flow-through of Canadian gas costs.
RP–2.
Docket No. RP85–112–000, Boundary Gas, Inc. Order on initial decision concerning flow-through of Canadian gas costs.
RP–3.
Docket Nos. TA85–2–4–000, TA85–4–4–000, TA85–5–4–000, TA86–1–4–000, TA86–2–4–000, TA86–3–4–000, TA86–4–4–000, TA87–2–4–000 and TA87–4–4–000, Granite State Gas Transmission, Inc. Order concerning flow-through of Canadian gas costs.

**II. Producer Matters**

CI–1.
Reserved

**III. Pipeline Certificate Matters**

CP–1.
Notice Inviting Applications to Provide New Gas Service to the Northeast U.S. Notice with respect to applications to provide new gas service to the Northeast U.S.
CP–2.
Docket No. CP81–108–005, Boundary Gas, Inc.
Docket No. CP81–296–008, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
Docket Nos. CP86–677–000 and 001, National Fuel Gas Supply Corp.
Docket Nos. CP81–107–000, 001, 004, 009, 025, CP81–108–000, 001 and 002, Boundary Gas, Inc.
Docket Nos. G–1922, CP81–296–000, 001, 002, 003, CP81–298–000, 001, CP82–470–000, 001 and CP83–103–000, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
Docket No. CP83–403–002, Consolidated Gas Supply Corp.
Docket Nos. CP82–119–000, 003, 010 and 015, Algonquin Gas Transmission Co.
Docket Nos. CP82–420–000, 001, 002 and 003, ANR Storage Co.
Docket Nos. CP82–428–000, 001, 002, CP84–540–000 and 001, Great Lakes Gas Transmission Co.
Docket Nos. CP82–502–000, 001, 002 and 003, Michigan Consolidated Gas Co.
Docket Nos. CP82–326–000, 001, 002, CP82–423–000, 001, 002, CP82–446–000, 001 and CP85–895–000, Texas Eastern Transmission Corp.
Docket Nos. CP82–46–000, 001, 002 and 003, Transcontinental Gas Pipe Line Corporation and Algonquin Gas Transmission Co.
Docket Nos. CP82–385–000, 002, 003, 004, CP82–503–000, 001, 002, 003, CP83–314–000 and 001, Transcontinental Gas Pipe Line Corp.
Docket Nos. CP82–125–003, 004, 006 and CP82–469–000, Trans-Niagara Pipeline
Docket Nos. CP84–14–000, 001 and 002, Washington 28 Gas Storage Co.
Docket Nos. CP84–325–000, 001 and 002, Natural Gas Pipeline Co. of America
Docket Nos. CP84–407–000, 001 and 002, Northern Border Pipeline Co.
Docket No. CP84–50–002, Granite State Gas Transmission, Inc. Settlement regarding transportation and sale of gas imported from Canada, and construction of related facilities.
CP–3.
Docket No. CP86–513–000, Canadian Gateway Pipeline System. Request for section 7(c) authorization to construct and operate facilities to transport gas imported from Canada.
CP–4.
Docket Nos. CP86–523–000, 001 and 002, Iroquois Gas Transmission System. Request for optional certificate authorization to construct and operate facilities to transport gas imported from Canada.
CP–5.
Docket Nos. CP86–329–000, 001, CP86–330–000 and 001, Erie Pipeline System. Request for optional certificate authorization to construct and operate facilities to transport gas to the Northeastern United States.
CP–6.
Docket Nos. CP87–108–000 and 001, Columbia Gas Transmission Corp. Request for section 7(c) authorization to construct and operate facilities for sales to South Jersey and Delmarva.
CP–7.
Docket No. CP87–305–000, Northern Natural Gas Co., Division of Enron Corp. Request for section 7(c) authority for blanket off-system sales and blanket transportation for direct sales off-system.

**Kenneth F. Plumb,**
*Secretary.*
[FR Doc. 87–15994 Filed 7–10–87; 12:20 pm]
BILLING CODE 6717–01–M

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**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

July 8, 1987.

**TIME AND DATE:** 10:00 a.m., Thursday, July 16, 1987.

**PLACE:** Room 600, 1730 K Street, NW., Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. *Emery Mining Corporation,* Docket Nos. WEST 86–35–R, WEST 86–36–R. (Issues include consideration of whether the violations occurred as the result of the operator's unwarrantable failure.)
2. *Youghiogheny & Ohio Coal Company,* Docket No. LAKE 86–56. (Issues are same as above.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a) (3) and 2706.160(e).

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653–5629.

**Jean H. Ellen,**
*Agenda Clerk.*
[FR Doc. 87–15958 Filed 7–10–87; 10:05 am]
BILLING CODE 6735–01–M

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**INTERSTATE COMMERCE COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 52 FR 25686 July 8, 1987.

**CHANGE IN MEETING TIME:** 10:00 a.m. in lieu of 9:30 a.m.

**MEETING DATE:** July 14, 1987.

**PLACE:** Hearing Room A, Interstate Commerce Commission 12th and Constitution Avenue, NW., Washington, DC 20423.

**STATUS:** Open Special Conference.

**MATTERS TO BE DISCUSSED:** FY 1980 Budget.

**CONTACT PERSON FOR MORE INFORMATION:** Alvin H. Brown, Office of Government and Public Affairs, Telephone: (202) 275–7252.

**Noreta R. McGee,**
*Secretary.*
[FR Doc. 87–15988 Filed 7–10–87; 11:41 am]
BILLING CODE 7035–01–M

**NUCLEAR REGULATORY COMMISSION**

**DATE:** Weeks of July 13, 20, and 27, 1987 and August 3, 1987.

**PLACE:** Commissioners' Conference Room, 1717 H Street, NW., Washington, DC

**STATUS:** Open and Closed.

**MATTERS TO BE CONSIDERED:**

**Week of July 13**

*Wednesday, July 15*

10:00 a.m.
Briefing on Mark I Containments Status (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
(a) SECY–87–151—Request for Independent Task Force to Review South Texas Allegations and Motion to Quash Subpoena
(b) SECY–87–152—Revision to the General Statement of Policy and Procedures for Enforcement Action (Tentative)
(c) SECY–87–157—Revision of 10 CFR Part 1 and Conforming Amendments (Tentative)

**Week of July 20—Tentative**

*Tuesday, July 21*

10:00 a.m.
Briefing on Final Plan for NUREG–0956 Uncertainty Areas (Source Term) (Public Meeting)
2:00 p.m.
Briefing on Research Plan in Response to the National Academy of Sciences Recommendations on Research (Public Meeting)

*Thursday, July 23*

10:00 a.m.
Briefing on Status of High Level Waste Management Program (Public Meeting)
2:00 p.m.
Briefing on the Status of TVA (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (if needed) (Public Meeting)

**Week of July 27—Tentative**

*Wednesday, July 29*

10:00 a.m.
Briefing on Medical Use of Radioisotopes and the Medical Misadministration Rule (Public Meeting)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed Ex—2 & 6)
3:30 p.m.
Affirmation/Discussion and Vote (if needed) (Public Meeting)

*Friday, July 31*

10:00 a.m.
Discussion of Pending Investigations (Closed Ex. 5 & 7)

**Week of August 3—Tentative**

*Monday, August 3*

2:00 p.m.
Discussion of Standardization Policy Statement Development (Public Meeting)

*Tuesday, August 4*

9:30 a.m.
Briefing on Management of "Greater Than Class C Low Level Wastes" and the LLW Program (Public Meeting)
2:00 p.m.
Briefing on Performace of New Plants (Public Meeting)

*Wednesday, August 5*

10:00 a.m.
Briefing on Staff Response to Recommendations of the Materials Safety Review Group (Public Meeting)
2:00 p.m.
Briefing on the Status of B&W Reassessment (Public Meeting)

*Thursday, August 6*

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)

**TO VERIFY THE STATUS OF MEETING CALL (RECORDING)** (202) 634–1498.

**CONTACT PERSON FOR MORE INFORMATION:** Robert McOsker (202) 634–1410.

**Robert B. McOsker,**

*Office of the Secretary.*

July 9, 1987.

[FR Doc. 87–15946 Filed 7–9–87; 4:28 pm]

**BILLING CODE 7590–01–M**

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**PAROLE COMMISSION**

**DATE AND TIME:** July 21, 1987, 9:30 a.m.

**PLACE:** 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**STATUS:** Closed pursuant to a vote to be taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Appeals to the Commission of approximately 16 cases decided by the National Commissoners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release. In addition, one application for a certificate of exemption under 29 U.S.C. section 504 will be considered.

**CONTACT PERSON FOR MORE INFORMATION:** David J. Dorworth, Chief Analyst, National Appeals Board, United States Parole Commission, (302) 492–5987.

Dated: July 9, 1987.

Patrick J. Glynn,

*General Counsel U.S. Parole Commission.*

[FR Doc. 87–15984 Filed 7–10–87; 10:46 am]

**BILLING CODE 4410–01–M**

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**PAROL COMMISSION**

**PLACE:** 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**DATE AND TIME:**

Tuesday, July 21, 1987—2:00 p.m. to 5:30 p.m.
Wednesday, July 22, 1987—9:00 a.m. to 5:30 p.m.
Thursday, July 23, 1987—9:00 a.m. to 3:00 p.m.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of minutes of open business meeting of April 22 through April 23, 1987.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Management, and Administrative Section.
3. Fiscal Year 1989 Budget proposal.
4. Implementation of the DRAM/Codefendant tracking computer system (Discussion only).
5. Commission policy on AIDS.
6. Modification of the Curfew Parole Program to be more broadly applicable.
7. Proposal for Commission request Probation Officers to report drug use violations by parolees no later than third violation.
8. Proposal for increased usage of Superior Program Achievement and Principle of Parsimony (Discussion only).
9. Proposal that dollar thresholds in guidelines for property offenses be increased.
10. Proposal that unlawful entry into the United States as an alien be rated as Category One, and that transporting another illegally into the U.S. without remuneration be rated as Category One.
11. Approval of final rule on crime spree offenses published at 52 FR 22493 (June 12, 1987).
12. Proposal that rule on rewarding cooperation, 28 CFR 2.63, be modified such that ceiling from which credit for cooperation is subtracted is earlier of presumptive parole date not considering cooperation, or expiration (two-thirds) date.
13. Proposal that federal parole violators incarcerated in District of Columbia facilities be transferred to jurisdiction of the District of Columbia Board of Parole.
14. Discussion of alternative treatments of cases of state prisoners against whom the Commission has decided to let stand federal detainers.
15. Proposal that 28 CFR 2.37(b) be modified to permit disclosure of information concerning parolees pursuant to 18 U.S.C. 4203(e), and modification of procedure § 2.37–01(c) to section 4203(e) disclosable information.
16. Notification to the Office of Enforcement Operations (Discussion only).
17. Proposal that guidelines be modified such that (a) multiple separate offenses can result in a rating of Category Eight, (b)

Category Seven ranges have no upper limits, (c) reasons are no longer required for decisions more than 48 months above the bottom of the Category Seven and Eight ranges, and (d) parole release dates may be assigned more than 15 years from the date of the hearing.

18. Proposal that a prisoner's failure to make a conscientous and diligent effort to acquire functional literacy skills on an eighth grade level may be a basis for rescission of an effective parole date.

**CONSENT ITEMS:**

1. Deletion of an obsolete reference to former 28 CFR 2.25 in 28 CFR 2.50.

2. Approval of the Witness Protection Manual.

3. Approval of the Rules and Procedures Memorandum dated June 10, 1987.

**CONTACT PERSON FOR MORE INFORMATION:** James L. Beck, Director of Research, United States Parole Commission, (301) 492–5980.

Dated: July 9, 1987.

**Patrick J. Glynn,**

*General Counsel, U.S. Parole Commission.*

[FR Doc. 87–15985 Filed 7–10–87; 10:46 am]

BILLING CODE 4410-01-M

# Corrections

Federal Register
Vol. 52, No. 134
Tuesday, July 14, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 558

### Animal Drugs, Feeds, and Related Products; Mono-Alkyl ($C_8$-$C_{18}$) Trimethyl Ammonium Oxytetracycline

*Correction*

In rule document 87-14739 appearing on page 24293 in the issue of Tuesday, June 30, 1987, make the following correction:

**§ 558.450 [Corrected]**

In § 558.450(d)(1), in Table 3, in the heading of the table, the text that now appears under "Oxytetracycline combination" should appear under "Oxytetracycline" only and "Combination" should be a separate heading with no text appearing under it in the body of the table.

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AD-FRL-3141-9(c)]

### Regulations for Implementing Revised Particulate Matter Standards

*Correction*

In rule document 87-13709 beginning on page 24672 in the issue of Wednesday, July 1, 1987, make the following correction:

**§ 52.21 [Corrected]**

1. On page 24715, in the second column, in § 52.21(m)(1)(vii), in the fifth line, "August 1, 1988" should read, "August 1, 1989".

BILLING CODE 1505-01-D

### 40 CFR Part 50

[AD-FRL 3141-9(a)]

### Revisions to the National Ambient Air Quality Standards for Particulate Matter

*Correction*

In rule document 87-13707 beginning on page 24634 in the issue of Wednesday, July 1, 1987, make the following corrections:

1. On pages 24641 and 24642, "Table 1.-Updated Staff Assessment of Short-Term Epidemiological Studies (After Table 4-1, SPA)" and page 24662, "Table 1.-Updated Staff Assessment of Short-Term Epidemiological Studies" contained several errors. The text is identical in both tables and is correctly republished to read as follows:

| Effects/Study | Measured British Smoke Levels (as $\mu g/m^3$) (24-hr. avg.) | | | Measured TSP Levels ($\mu g/m^3$) (24-hr. avg.) | Equivalent $PM_{10}$ Levels ($\mu g/m^3$) |
|---|---|---|---|---|---|
| | Daily Mortality in London[1] | Aggravation of Bronchitis[2] | Combined Range | Small, reversible declines in lung function in children[3,4] | Combined Range[5] |
| Effects Likely | 1000 | 250*-500* | 250-500 | - | 350-600 |
| Effects Possible | ↓ ? | < 250* | <250 | 220*-420[3] 200-250[4] | 140-350 |
| No Significant Effects Noted | - | - | - | 125*[4]-160[3] | <125 |

*Indicates levels used for upper and lower bound of range.

[1]Various analyses of daily mortality encompassing the London winter of 1958-59, 14 winters from 1958-72, in aggregate and individually. Early winters dominated by high smoke and $SO_2$ from coal combustion with frequent fogs. From 1982 CD: Martin and Bradley (1960); Ware et al., (1981); Mazumdar et al. (1981). From 1986 CD Addendum: Mazumdar et al. (1982); Ostro (1984); Schwartz and Marcus (1986). Later studies show association across entire range of smoke, with no clear delineation of "likely" effects or threshold of response possible.

[2]Study of symptoms reported by bronchitis patients in London, mid-50's to early 70's; Lawther et al. (1970).

[3]Study of pollution "episodes" in Steubenville, Ohio, 1978-80; Dockery et al. (1982).

[4]Study of 1985 pollution episode in Ijmond, The Netherlands; Dassen et al. (1986).

[5]a) Conversion of BS readings to $PM_{10}$ levels: Assumes for London conditions and BS readings in the range 100-500 $\mu g/m^3$, BS <$PM_{10}$ < TSP. Precise conversions are not possible. Uncertainty in measurements of BS and conversion relationships preclude quantitative estimates of range for lower BS levels. The upper bound assumption ($PM_{10}$ = TSP = BS + 100 $\mu g/m^3$) overestimates $PM_{10}$ levels, while the lower bound assumption ($PM_{10}$ = BS) understates $PM_{10}$ levels.

b) Conversion of TSP to $PM_{10}$ for Dockery et al. results: Based on analysis of particle size fraction relationships in Steubenville (Spengler et al. 1986). The lower bound TSP of 220 $\mu g/m^3$ was the peak reported for the Spring 1980 study. A $PM_{15}$/TSP ratio of about 0.8 occurred at a nearby site on days surrounding this peak. Using lower bound of $PM_{10}$/$PM_{15}$ ratio from later year (0.8), the $PM_{10}$ to TSP ratio estimate used is 0.64. The 160 $\mu g/m^3$ reflects peak level in Fall 1980 from episode with no significant functional decline noted.

c) Conversion of Dassen et al. results to $PM_{10}$: Both PM indices (Respirable Suspended Particles [RSP] and TSP) reached similar levels. Results suggest TSP levels too low, but $PM_{10}$ levels unlikely to be much higher than RSP. Thus RSP = $PM_{10}$ assumed for conditions of higher concentrations in this study. The 125 $\mu g/m^3$ entry reflects an excursion occurring 2 days prior to date on which no decrements noted.

2. On page 24668, in the first column, in the 16th line "$PM_{10}$" should read "$PM_{10}$ data".

BILLING CODE 1505-01-D

Federal Register

Tuesday
July 14, 1987

Part II

# Environmental Protection Agency

40 CFR Parts 51, 52 and 81
Air Quality Implementation Plans and Planning Purposes; Proposed Rules

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 51 and 52**

**[OAR-FRL-3207-5]**

## State Implementation Plans for Nonattainment Areas for Ozone and Carbon Monoxide

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** General preamble and notice of future actions.

**SUMMARY:** Over the past year, EPA has been considering how it should deal under the Clean Air Act with the likely persistence in many urban areas of violations of the national ambient air quality standards (NAAQS) for ozone and carbon monoxide (CO) beyond December 31, 1987, the latest date for attainment in the Act. EPA solicited comment on a program of iterative planning under which (1) a state periodically would tighten its state implementation plan (SIP) to impose all reasonably available control measures until attainment occurred and (2) EPA would withhold the imposition of sanctions and the promulgation of federal implementation plans for so long as the planning efforts of the state remained reasonable. The general version of this program is called the "Sustained Progress Program," and a detailed version tailored to four California areas is called the "Reasonable Extra Efforts Program." After reviewing the comments on this program, EPA has concluded that it is not consistent with Congressional intent in certain respects. In this notice, EPA explains this conclusion and describes the steps it plans to take as a result of the conclusion. The first of these steps are proposals scheduled for publication at the same time as or shortly after this notice—to disapprove SIPs for certain urban areas and to impose bans on the construction of major new sources. This document, to which those proposals will refer, should be regarded as an integral element of the propsals by any prospective commenter. EPA will take final action after reviewing the comments it receives. EPA also plans, among other things, to propose a national policy for the correction of ozone and CO SIPs within the next few months and then to promulgate a final policy and issue calls for SIP revisions by early 1988.

**DATES:** Comments on the views expressed in this notice should be made in response to the individual proposals to disapprove. Each proposal will give a deadline and an address for filing comments.

**FOR FURTHER INFORMATION CONTACT:** G.T. Helms, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, 919-541-5526 or FTS-629-5526.

**SUPPLEMENTARY INFORMATION:**

### A. Background

*1. The Clean Air Act*

The Clean Air Act, 42 U.S.C. 7401 *et seq.*, uses SIPs as the chief mechanism for attaining and maintaining primary NAAQS, such as those for ozone and CO. The Act describes this mechanism in three sets of provisions.

The first set, which was enacted in 1970, specifies the basic rules for establishing SIPs. Section 110(a)(1) directs each state to submit a SIP for a NAAQS within nine months after promulgation of the NAAQS. Section 110(a)(2) directs EPA to approve or disapprove a SIP within four months after its submission. Each SIP must provide for attainment of the standard as expeditiously as practicable, but no later than three years (and, in some narrow cases, five years) from approval, through the use of emissions limitations for stationary sources and such other measures, including transportation controls, as may be necessary. Each SIP also must provide, according to section 110(a)(2)(H), for revision whenever EPA finds that the plan is substantially inadequate to achieve the NAAQS it implements or otherwise meet the requirements of the Act. Section 110(c) directs EPA, in the event it disapproves a submission or a state fails to submit a plan, to promulgate its own measures to fill the gap. Finally, under section 110(a)(3), a state may revise its plan at any time, but EPA may approve the change only if the SIP will continue to conform to that attainment and maintenance requirements of the Act.

The second set of provisions, which the 95th Congress passed in August 1977 to remedy the persistence of NAAQS violations beyond the original attainment deadlines, mirrors the basic SIP framework. Section 107(d) required EPA, by roughly March 1978, to identify those areas that in August 1977 were still experiencing NAAQS violations. The states were required by January 1, 1979, to adopt and submit such revisions to the SIPs for those areas as would meet the requirements of Part D of Title I of the Act and section 110(a)(2)(I). Under Part D, each revision was to provide for attainment of the relevant primary NAAQS as expeditiously as practicable, but in general no later than December 31, 1982. A revision could provide for attainment of the primary standards for ozone and CO as late as December 31, 1987, if the state demonstrated that attainment by the 1982 deadline was not possible despite the implementation of all reasonably available control measures (RACM).

In any event, each revision due in 1979 was to provide for the implementation of RACM and for "reasonable further progress" (RFP), that is, annual incremental reductions in emissions sufficient in EPA's judgment to provide for attainment by the applicable deadline. Each revision also was to have, among other things, a permit program for the preconstruction review of major new sources. As outlined by section 173 of the Act, this program would allow construction, even before attainment occurs, upon determinations that (1) the source would have state-of-the-art controls, (2) its emissions would be offset by greater than one-for-one reductions elsewhere, (3) the applicant's other sources in the state are in compliance with the SIP, and (4) the state is carrying out the SIP. In the case of the areas with 1987 deadlines (*i.e.*, "extension" areas), each revision due in 1979 had to identify any measures beyond RACM that would be necessary to assure timely attainment and had to contain commitments to adopt a motor vehicle inspection and maintenance program. In addition, each state with an extension area was to submit a supplemental revision before July 1, 1982, containing those additional measures necessary to assure attainment by the end of 1987.

As part of the 1977 amendments, section 110(a)(2)(I) required each SIP to contain a construction ban that would operate against major new sources in each nonattainment area after June 30, 1979, "unless, as of the time of application for a permit for such construction . . ., such plan meets the requirements of part D . . . ." As further incentive for timely submission of Part D SIP revisions, the 95th Congress added section 176(a). It bars the Department of Transportation from funding many highway projects, and EPA from making air program grants, in any ozone or CO nonattainment area upon a determination by EPA that the state has failed to make reasonable efforts to submit approvable SIP revisions in accordance with Part D.[1]

[1] The 95th Congress added other sanctions for failures to plan adequately under Part D, namely, the withholding of grants for sewage treatment works under section 316. It also added two funding sanctions for failures to implement a SIP. First, it extended the discretionary withholding of sewage

Continued

Finally, the third set of provisions defining the SIP system severely restricts the ability of the federal and state governments to temper the requirements of an approved SIP. Section 110(a) limits the means for such tempering to five: (1) Temporary emergency suspensions under sections 110 (f) and (g); (2) postponements of compliance for smelters under section 119; (3) delayed compliance orders (DCOs) under section 113(d); (4) Presidential waivers for certain federal facilities under section 118(b), and (5) SIP revisions under section 110(a)(3). The first three of these have tight temporal limitations. For example, DCOs may postpone compliance generally no more than three years (and in no event more than five years) beyond the original compliance deadline. A Presidential waiver requires a determination that the waiver is "in the paramount interest of the United States." And EPA may approve a SIP revision only if it will not interfere with timely attainment and maintenance of the NAAQS or otherwise offend any applicable requirements.

*2. History of Regulatory Development under Part D*

EPA began its administration of Part D with the promulgation in 1978 of attainment status designations under section 107(d). *See, e.g.*, 43 FR 8962 (March 3, 1978); 43 FR 40502 (September 12, 1978). Then, on July 2, 1979, EPA issued an interpretative rule establishing that the construction ban in section 110(a)(2)(I) would begin to operate immediately in any designated nonattainment area that was not yet covered by an approved Part D SIP. 44 FR 38471 (now codified at 40 CFR 52.24(a) (1986)). At the time, EPA had yet to approve a Part D SIP for any ozone or CO non-attainment area, so the ban came into effect in all of them. Gradually, the states submitted for most of these areas the first round of Part D SIP revisions that were due at the beginning of 1979, and EPA approved or conditionally approved these revisions. Thus, by the end of 1982, most ozone and CO nonattainment areas were free of the ban.

The passage of December 31, 1982, however, presented EPA with the dilemma of whether to reimpose the ban in those numerous nonextension areas where it appeared that violations of the ozone and CO NAAQS would persist. EPA initially proposed to disapprove the SIPs for those areas and impose the ban, on the theory that a SIP that had failed to produce attainment by the end of 1982 could not be said to "provide" for attainment by then, as required by Part D. *See* 48 FR 4972 (February 3, 1983). In response to almost universal opposition from all commenters, EPA reconsidered its position and, in November 1983, reversed itself. *See* 48 FR 50686. EPA took the position that Part D presents only one-time, not continuously applicable, planning obligations. EPA concluded that Congress expected Part D SIPs to provide for attainment by the end of 1982 only "in a prospective or planning sense." *Id.* at 50690–91. EPA put this conclusion into regulatory form by adding the following sentence to the 1979 interpretative rule embodying the ban (*i.e.*, 40 CFR 52.24(a)): "This section shall not apply to any nonattainment area once EPA has fully approved the State implementation plan for the area as meeting the requirements of Part D."

With respect to remedying the nonattainment problem, EPA stated:

> Where a fully approved Part D plan failed to bring about attainment by the end of 1982, EPA will treat the plan as "substantially inadequate" to assure attainment under Section 110(a)(2)(H) and call for a SIP revision. EPA will provide one year for the submittal of the new revision under Section 110(c)(1)(C). The revisions will have to provide for attainment as expeditiously as practicable . . . . [*Id.* at 50693 col. 1.]

EPA warned that, if a state failed to respond adequately to a call for a SIP revision, it would impose a ban on construction for failure to implement the SIP. *Id.* at 50693 col. 2. This failure would be premised on the SIP provision created under section 110(a)(2)(H) requiring the state to revise its SIP upon a call from EPA. The new source review provisions of Part D, specifically section 173(4), bar the issuance of permits to major new sources of the relevant pollutant locating in the nonattainment area, if the state is failing to carry out the SIP. *See* 40 CFR 52.24(b)(1986). EPA further advised that any nonextension area still lacking a fully approved plan would continue to be subject potentially to the ban in section 110(a)(2)(I), but that, in view of the passage of the 1982 deadline, it could obtain full approval and avoid the ban with a SIP that provided for attainment merely as expeditiously as practicable. 48 FR 50694 col. 2.

EPA subsequently issued calls for revisions of the ozone/CO SIPs for many nonextension areas with previously approved plans. As a result, EPA has received revisions from many states. It has yet, however, to take final action approving or disapproving any of them.

In the meantime, EPA also received the supplemental SIP revisions for extension areas that were due in mid-1982.[2] EPA has approved some of these submissions, in most cases fully and in a few cases conditionally. *See, e.g.*, 48 FR 51472 (November 9, 1983)(New Jersey, ozone); 50 FR 25073 (June 17, 1985)(New York City, ozone and CO). In the case of four California areas, EPA has approved the submitted measures as strengthening the SIP, but deferred action on whether the plan as a whole meets the requirements of Part D. *See* 49 FR 30300 (July 30, 1984) [South Coast Air Basin (ozone/CO); Ventura County (ozone); Fresno County (ozone/CO); and Sacramento (ozone)]. EPA has disapproved the SIPs for several extension areas and imposed the construction ban under section 110(a)(2)(I). *See, e.g.*, 51 FR 33748–49 (September 23, 1986)(Phoenix and Tucson, CO); 50 FR 8816 (March 4, 1985) (Albuquerque, CO). Finally, EPA has yet to act on several pending SIPs (*e.g.*, Chicago, ozone; Denver, CO).

*3. EPA Proposal of SPP and REEP*

Over the past year it has become increasingly apparent that violations of the NAAQS for ozone and CO are likely to persist after 1987 in many non-extension and extension areas, and that most probably these violations could be eliminated in the short-term (*e.g.*, by the early 1990's) only by the application of measures that would be severely

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treatment grants under section 316 to such failures. Second, it authorized EPA in section 176(b) to withhold air grants in any area in which the state is not implementing the applicable SIP. Beyond those funding sanctions, the requirement in section 173(4) for a determination that the state is carrying out its SIP operates in effect as a ban on the construction of major sources in the event that a state is not carrying out its SIP.

[2] In addition, in 1981, EPA had issued a policy on what these supplemental SIPs were to contain. See 46 FR 7182 (January 22, 1981). EPA acknowledged that the SIPs for a few large urban areas would prove to be inadequate to produce attainment by the end of 1987, even if those SIPs contained all of the measures that could possibly be implemented by then. EPA advised that it would consider approving such a SIP if the state showed that the SIP would produce attainment at the very soonest time possible after 1987. EPA explained that this approach:

> "is more in keeping with the spirit of the Clean Air Act than an approach which would accept "paper" demonstrations of attainment by 1987 which relied on measures which would be virtually impossible to implement. EPA will not approve a plan which relies on such unimplementable measures to demonstrate attainment, when it is clear that the state is not committed to implement and enforce those aspects of the plan." [*Id.* at 7188 col. 2]

EPA also acknowledged, however, that it may well lack authority to approve a SIP that provides for attainment after 1987. It therefore held open the question of whether it has the authority or not. *See id.* at 7182 col. 3, 7188 cols. 2–3. EPA in today's notice is addressing precisely the question left open in 1981.

disruptive. In June 1986, in a speech to the Air Pollution Control Association (APCA), the Administrator outlined a program for dealing with these severe nonattainment areas where the near-term cures would be draconian. Under this program, the relevant state periodically would search for new ways to tighten the existing SIP and then would adopt and implement any that were not unreasonable. As more control techniques became available, the SIP gradually would tighten to the point where it would produce attainment. EPA would supplement these state efforts by promulgating nationally-applicable control measures, by searching itself for new control techniques, and by auditing existing state programs to discover ways to make them more effective. EPA would enforce this "Sustained Progress Program" (SPP) with available sanctions, such as the construction ban in section 173(4).

In September 1986, EPA solicited comment on a similar program—called the "Reasonable Extra Efforts Program" (REEP)—for the four California extension areas whose SIPs were still pending with EPA. 51 FR 34428. While REEP includes the essential features of SPP, it embodies in addition the concept of committal SIPs. Under this idea, EPA would call upon the state to adopt and submit early in 1987 as a SIP revision a package of enforceable schedules and commitments to search for and adopt new control measures on two-to-three-year cycles. EPA then would approve the package to make it federally enforceable. EPA stated that it would continue to defer action on the SIP as a whole for so long as the state made reasonable efforts to follow REEP, but that, if the state failed to make such efforts, EPA would disapprove the SIP as failing to meet the requirements of Part D and impose the construction ban in section 110(a)(2)(I) and highway funding restrictions under section 176(a). EPA strongly suggested that a failure to submit an adequate committal SIP early in 1987 would be strong evidence that the state was failing to make reasonable efforts. EPA, however, did not define the level of SIP stringency it expected the state to achieve at each stage in the iterative REEP process in order to avoid disapprovals and sanctions. Thus, EPA left open not only the question of what measures are and are not reasonable, but also the questions of when attainment would occur and whether the state had to assure RFP in the interim.

In proposing REEP, EPA acknowledged that the program appeared to be foreclosed by the language of the Act, inasmuch as the Act on its face "requires states either to submit plans that provide for attainment by the end of 1987 or to face plan disapprovals, the imposition of sanctions, and federal plan promulgations." 51 FR 34430 col. 1. EPA explained, however, that:

> neither the Clean Air Act nor the legislative history expressly addresses the inability of all reasonably available control measures to bring about attainment in an area by the statutory deadline. Furthermore, the history of the 1977 Amendments reveals two themes that suggest that Congress would not have intended these areas to suffer sanctions for their failure to implement extraordinary measures needed to meet the 1987 date. First, the history reveals Congress' strong desire to achieve the Act's air quality goals without suppressing economic growth. Second, Congress created the sanctions to address the failures of states to plan seriously and diligently to bring about attainment and not to punish states that, despite good faith efforts, could not bring about attainment without imposing severely disruptive measures.
>
> This apparent conflict between the language of Part D and the legislative themes underlying that language leaves EPA without clear direction on how to achieve attainment of the CO and ozone standards in these California areas, as well as other areas in the country facing similar circumstances. . . . [*Id.*]

*4. Comments on REEP*

EPA received a large number of comments on REEP from environmental groups, state and local governments, and industry. The environmental groups supported substantial tightenings of the SIPs in the near-term, but they were fearful that REEP in time would become a vehicle for delay, not progress. They strongly doubted, moreover, that REEP was consistent with the Act.[3] In addition, they argued that the test for determining whether the state should adopt a particular measure—the test of reasonableness—should be stringent, focusing almost entirely on technological feasibility and excluding costs of compliance for the most part.

The state and local governments that commented favored REEP. In their view, the construction ban would be environmentally unproductive, economically disruptive, and unfair. California, in their view, had been unusually diligent and effective in controlling ozone and CO, so that the persistence of violations was due to the size of the problem, not to any lack of effort on their part. One commenter suggested that REEP was indeed consistent with the 1977 amendments: "The thrust of the sanctions was to force nonattainment areas to progress towards the standards in incremental steps. Nowhere did Congress indicate an intention to punish areas which used all the tools available to them but still failed to attain standards." [4] With respect to the test of reasonableness, these commenters urged EPA to take into account not only the costs of compliance, but also the resources of the governmental agency in question and the relative effectiveness of the control measure in question. One commenter argued, moreover, that what is reasonable necessarily varies from area to area:

> No measure should be assumed to be mandatory for any given area. The physical nature, economic base, social and political climate, as well the extent and type of air quality problem in each area, renders it unique, and possible solutions need to be examined on an individual basis. [Letter, dated November 11, 1986, from Mark A. Pisano, for the Southern California Association of Governments, to Judith Ayres, at p. 1.]

The industry commenters generally favored an iterative planning process such as REEP, but strongly opposed REEP as well as the alternative of SIP disapproval and imposition of the construction ban. Their main objection to REEP was that EPA had started to implement the program without first defining its elements, especially the test of reasonableness, through notice-and-comment rulemaking. In rough outline, their view was that: attainment in the near term in the four California areas is virtually impossible; Congress could not have intended EPA and the state to attempt to do the impossible; the Act therefore contains a gap in legislative intent; and EPA could fill this gap, if at all, only through rulemaking. One commenter went so far as to assert that this gap signified a complete lack of authority to disapprove the SIP and impose the ban or the other planning sanctions in such areas. All of the industry commenters argued that, in any event, the full range of costs had to be taken into account in deciding whether a

[3] For example, the American Lung Association stated:

> The Congress of the United States, in the Clean Air Act of 1970 and its 1977 Amendments, required states either to submit plans that provide for attainment of the carbon monoxide and/or ozone ambient air quality standards or face plan disapproval, imposition of sanctions and federal plan promulgations. Congress expressly did not make provisions in the Clean Air Act for post-1987 nonattainment because these areas had already been given almost two decades and two previous deadlines to meet air quality levels which protect public health. . . . [Letter, dated November 24, 1986, from Conrad Mason to Judith Ayres, Regional Administrator, Region IX.]

[4] Letter, dated December 24, 1986, James D. Boyd, for the California Air Resources Board, to Judith Ayres, at p. 3.

particular measure was reasonable. All were especially concerned that REEP could result in overcontrol of stationary sources inasmuch as the iterative planning process EPA already had set in motion appeared to be targetting such sources for extra controls ahead of transportation systems. They also complained that EPA seemed to be attempting to put the burden of proof as to reasonableness on the state, when it properly belonged with EPA.

**B. Assessment of SPP and REEP**

In light of the comments on REEP and a subsequent opinion of EPA's General Counsel,[5] EPA has concluded tentatively that key features of REEP and SPP are not consistent with Congressional intent. The central difficulty is that those schemes in effect give EPA the power to approve SIPs and thereby withhold sanctions if the Agency believes areas would suffer undue economic and social stress in the cause of achieving attainment of NAAQS, a judgment the Congress intended to reserve to itself. EPA thus shares the view of the industry commenters that EPA should not steer the SIP system without a pre-established map, but agrees with the environmental commenters that the map already exists in the Act.

*1. Legality of REEP and SPP in Areas Without Approved Part D SIPs*

The essential thrust of REEP and SPP with respect to an area that still lacks an approved Part D plan is to allow the area to avoid the construction ban in section 110(a)(2)(I) by committing to an iterative planning process aimed at producing progress toward attainment. EPA could allow such an area to escape the ban in this way either by deferring action on the plan as a whole indefinitely or by approving it as a whole as meeting the true requirements of the Act. Here, the first pathway is not open to EPA; section 110(a)(3) plainly requires EPA to complete rulemaking on pending Part D SIPs at some point. Thus, the basic issue is whether Part D in any way allows EPA to approve affirmatively a REEP approach under Part D for an extension area such as Sacramento, Los Angeles, and Chicago.

On its face, Part D does not allow EPA to do that. It contemplates an entirely different planning process, under which such an areas must develop within a set period a full plan to produce attainment by a fixed near-term deadline. Section 129(c) of the 1977 amendments provides:

> . . . for purposes of section 110(a)(2) of the Clean Air Act, each State in which there is any nonattainment area (as defined in subpart D of the Clean Air Act) shall adopt and submit an implementation plan revision which meets the requirements of section 110(a)(2)(I) and subpart D of the Clean Air Act not later than January 1, 1979. *In the case of any State for which a plan revision adopted and submitted before such date has made the demonstration required under section 172(a)(2) of the Clean Air Act (respecting impossibility of attainment before 1983), such State shall adopt and submit to the Administrator a plan revision before July 1, 1982, which meets the requirements of section 172(b) and (c) of such Act.* [Pub. L. No. 95–95, 91 Stat. 685, 750–51 (August 7, 1977) (uncodified) (emphasis added).]

Sections 172(b) and (c), together with section 172(a)(2), in turn require each plan for an extension area to contain such enforceable measures as will assure attainment by December 31, 1987, and RFP in the interim.

The only argument supporting REEP in the face of this statutory language is the one sketched by EPA in the REEP proposal and by industry in its comments, namely, that some extension areas could produce attainment by the end of 1987 only by the application of measures that would tear the economic and social fabric of the areas and that the 95th Congress could not really have intended the areas to put such draconian measures into enforceable form and actually begin to implement them. Nowhere, the argument goes, is there any evidence that the Congress specifically considered the effects of these measures, weighed their heavy costs, and affirmatively decided to accept that price of attainment.

This argument, of course, has considerable force, since there is indeed no such evidence and it is unlikely that the 95th Congress would have decided to accept the consequences of draconian measures if those consequences would have flowed directly and immediately from the enactment of Part D. After all, that Congress was motivated to create the Part D system largely by a desire to allow the permitting of new sources in nonattainment areas even though those sources arguably would be exacerbating the pollution problem.[6]

The argument, however, misses the point, for the Congress could have set up the Part D system without having affirmatively chosen to cause substantial economic and social disruption in the interest of attaining the NAAQS. In fact, the legislative history shows that the Congress set up the Part D system in order to force communities and industry to do their utmost to bring about attainment as rapidly as possible and expected that a future Congress would change the course it had set, if necessary, to avoid any unacceptable consequences.

First, the conference report shows that (1) the conferees understood that the supplemental SIP revisions due in mid-1982 for extension areas would contain some unreasonable, possibly draconian, measures and (2) they nevertheless wanted an area to adopt and submit such measures or else suffer the construction ban:

> *As a condition for permitting major new sources to locate in a nonattainment area, States are required to have approved revised implementation plans.* The plans must provide for attainment of primary ambient standards no later than December 31, 1982, except that with respect to especially severe oxidants and carbon monoxide problems, the deadline may be as late as December 31, 1987. Providing for attainment in the context of a 1987 deadline means a State must submit a plan in 1979 requiring implementation of all reasonably available control measures. *In addition, the plan must list other measures, if any, which may not be reasonably available but which would be needed to meet a 1987 deadline.* The State need not make a commitment in 1979 to implement these latter measures. *A second plan revision must be submitted by July 1, 1982, if implementation of all reasonable measures contained in the earlier revisions are not sufficient to meet the 1987 deadline. The plan revision submitted in 1982 must require implementation of enforceable measures needed to attain the primary standards by 1987.* [H.R. Rep. No. 95–564, 95th Cong., 1st Sess. at 157 (1977) (emphasis added.)] [7]

This approach obviously carried the potential for economic and social disruption. A statement of Senator Stafford during debates on the Senate bill that became the prototype for the conference bill [8] reveals that the 95th Congress accepted this potential in part because it seemed small, but in larger part because a subsequent Congress could act as a safety valve:

> These extensions are 7 and 12 years, respectively, beyond original deadline for most areas and should be attainable without economic disruption.

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[5] Memorandum, dated November 25, 1986, from General Counsel to Administrator (entitled "Legality of the Sustained Progress Program and REEP under the Clean Air Act") ("Our assessment at this point is that these programs, while defensible, present major legal problems and that the risk of adverse court decision is significant.").

[6] *See, e.g.*, 123 Cong. Rec. H8669 col. 3 (daily ed., August 4, 1977) (statement by Congressman Waxman during House debates on the conference bill).

[7] *See also* 123 Cong. Rec. 13702 col. 2, 13697 col. 2 (daily ed., August 4, 1977) (statements of Senator Muskie); Sen. Rep. No. 95–127, 95th Cong., 1st Sess. at 39 (1977).

[8] *See, e.g.*, 123 Cong. Rec. H8663–64 (daily ed., August 4, 1977) (Congressman Rogers: "In general, the conference agreement adopts much of the Senate's approach to the nonattainment problem.").

It should also be noted that these deadlines will not require adoption of "draconian" control measures. The bill provides that those areas with the most intractable oxidant problems commit themselves in 1979 plan revisions only to reasonable measures to meet the 1987 deadlines. A second round of planning must be completed by 1982, *providing plenty of time for legislative relief, should the 1987 date prove unattainable for a handful of areas.* [123 Cong. Rec. S9186 col. 3 (daily ed., June 8, 1977) (emphasis added).]

A statement by Senator Muskie on the same day as this statement by Senator Stafford also revealed that the Senate committee, in formulating the Senate bill, had actually considered and rejected the strategy of "simply assuring progress toward standards". *Id.* at S9165 col. 3. The transcript of those committee deliberations is illuminating. At issue were competing amendments by Senators Bentsen and Domenici to a staff draft that would have required sources locating in nonattainment areas to obtain case-by-case offsets. The effect of the Bentsen amendments, according to Senator Domenici, would have been to allow the adequacy of offsets to be gauged by whether they would work together with the rest of the SIP to produce, not attainment by the relevant fixed deadline, but instead progress toward attainment. This in turn, according to Senator Domenici, would have transformed the 1982 and 1987 deadlines into mere targets or goals.[9] He then said:

*Now, I understand that we may very well find ourselves at a point in time where these particular standards and the dates set for them cannot be met.* I understand that. But I think the legal effect of changing them to targets rather than ambient standards accompanied by dates, I think the effect is to severely weaken these dates as a mechanism to insure this maximum progress in cleaning up the air.

Perhaps there is some genuine concern about retaining those fixed attainment dates, but *it seems to me that the fixed deadlines for achieving these national standards are important because they are somewhat of a legal myth, but they provide a basis for obtaining maximum progress towards the clean air.*

* * * * *

. . . [My proposal] is intended to adopt my original concept of providing an alternative to offsets, but retaining fixed attainment dates. Rather than require that a State submit a program—and the significant word is "assures attainment of national ambient standards"—the new language requires a State program which "provides for".

So I am substituting for the words "assures," "provides for attainment by the specified date."

That may not seem like a big change, but the phrase "provides for" is used in the existing law where the word "assure" is not. It does not require a State to guarantee a program that will result in attainment.

A guarantee certainly is difficult to make, given all the knowledge and lack of knowledge that we have been *[sic]* the oxidant formation and other things. *But the language requires a State, with EPA approval, to set a strategy in motion that it currently believes will set the standards.* That is the first change.

In addition, my amendment proposes that the States that demonstrate they can't meet the 1982 deadline [for] attainment of the oxidant standards submit plans for attainment in two stages. One, in '79, the States would have to outline the reasonable measures it intends and proposes to implement. . . .

* * * * *

And then in 1982, the States would submit a plan providing for enforcement of whatever measures were needed to attain standards by '87. *I know that those who oppose this amendment will say we already know we can't do this; why go in two five-year stages? My answer is that this two-stage procedure will require maximum progress and it will not raise the specter in 1979 of unreasonable so-called "draconian" measures that we talked about that can't be achieved.*

*I clearly understand that the result of the five-year part may bring back issues to us in terms of attainment. But I believe this will give the opportunity for growth, yet assure that we are pushing with a maximum clean up during that interim, and previous to the expiration of the five years, only Congress could make some judgment to the next goal.*

*But we would at least be pushing very hard.*[10]

The committee eventually voted 13 to 1 in favor of the approach of Senator Domenici and against that of Senator Bentsen.[11] Plainly, the original intention of the committee, which evolved ultimately into the current Part D system, was to generate SIPs that would provide for attainment by a specific date, even if they contained draconian measures, and to leave the task of making adjustments to a future Congress. In effect, the committee wanted localities and polluters to feel a degree of pressure commensurate with what it would take to get a future Congress to provide relief legislatively.[12]

This was certainly the philosophy behind the three- and five-year limits on compliance date extensions under DCOs. In describing the seminal provisions on DCOs that it had formulated, the House committee stated:

The committee's purpose in establishing a statutory time limit on the extension authority under this section are several. First, the committee intends to demonstrate its adherence to the primary goal of reaching healthful levels of air quality by a date certain. . . .

* * * * *

*Fifth, and related to all of the foregoing, the committee seeks to retain a statutory deadline as an incentive for research, development, production, procurement, and use of the necessary cleanup technology or clean fuels.* Administrator Train has recognized this need for statutory deadlines. . . . So have the courts and legal commentators. . . .

*Statutory deadlines create incentives not only for the polluting source to solve the problem; they also create positive incentives for independent researchers and vendors to find such solutions. . . .*

* * * * *

*Seventh, the committee believes that any further extension beyond 5 years . . . should be granted . . . only if, after review of the act in 3 years, the Congress determines that further extensions are warranted and necessary. If such further extensions are warranted under the conditions at that time, Congress (and Congress alone) can and will authorize them to be granted.*[13]

Finally, Congressman Rogers, one of the primary sponsors of the conference bill on the House side, emphasized in his description of the major principles underlying the conference agreement that "this year's legislation retains and even strengthens the technology forcing and technology encouraging goals of the 1970 Act."[14]

In sum, REEP and SPP would frustrate the purposes of Part D by abandoning upfront, complete planning for attainment by a near-term fixed deadline in favor of iterative planning for progress alone. For primarily this reason,[15] EPA has concluded that (1) it

[9] Transcript, Mark-Up, Clean Air Act Amendments, at 11–12 (May 4, 1987).

[10] *Id.* at 13–15 (emphasis added).

[11] *Id.* at 48.

[12] *See also* 123 Cong. Rec. S9211 col. 2 (daily ed., June 8, 1977).

[13] H.R. Rep. No 95–294, 95th Cong., 1st Sess. at 64–65 (1977) (footnotes deleted; emphasis added). *See also id.* at 62, 66; 123 Cong. Rec. H5063–67, especially H5063 botton col. 2 and H5064 bottom col. 3 (daily ed., May 25, 1977).

[14] 123 Cong. Rec. H8663 col. 1 (daily ed., August 4, 1977). The 1970 Act called for complete SIPs that would produce attainment by fixed deadlines and hence was "technology forcing". *See, e.g., Union Electric Company v. EPA*, 96 S. Ct. 2518 (1976).

[15] Another reason is that the 95th Congress plainly wanted through the SIP system to generate at least some progress toward attainment, yet REEP would not necessarily produce that progress and indeed could allow regression. The program at its best would cause some tightening of the relevant, as yet incomplete SIPs over time. Those tightenings, however, may not be large enough to compensate for currently unrestricted increases in emissions from growth in the number of minor stationary sources and new motor vehicles.

lacks authority to follow REEP or SPP for those extension areas that have yet to show that their SIPs assure attainment by the end of 1987 (or at least within a short time thereafter) and (2) it has no choice but to disapprove the plans for those areas and impose the construction ban in section 110(a)(2)(I).

*2. Legality of SPP for Areas with Approved Part D SIPs*

SPP contemplates, for areas with fully approved Part D SIPs, that (1) EPA would call for a revision of the SIP under section 110(a)(2)(H); (2) the state would submit, not only any additional control measures that it then thought were reasonable, but also enforceable commitments to engage in two-to-three-year cycles of searching for and adopting even more measures with the aim of producing progress toward attainment; and (3) EPA would fully approve this new plan for achieving attainment under sections 110(a) (2) and (3). The only remaining major question that this arrangement presents is whether such a submission would comport with those sections.[16] EPA's tentative conclusion is that it would not, although sections 110(a) (2) and (3) are somewhat ambiguous.

Section 110(a)(3)(A) provides that "[t]he Administrator shall approve any revision of an implementation plan applicable to an air quality control region if he determines that it meets the requirements of [section 110(a)(2)] . . . ." It implies, conversely, that EPA is to disapprove a SIP revision if it thinks that the revision does not meet the requirements of section 110(a)(2). That section, in turn, provides that:

> The Administrator shall, within four months after the date required for submission of a plan under paragraph (1) [*i.e.*, the foundational plan to implement a new NAAQS], approve or disapprove such plan or each portion thereof, if he determines . . . that—
>
> (A) except as may be provided in subparagraph (I), (i) in the case of a plan implementing a national primary ambient air quality standard, it provides for the attainment of such primary standard as expeditiously as practicable but (subject to subsection (e) of this section [allowing a two-year extension in narrow circumstances]) in no case later than three years from the date of approval of such plan . . . .

The natural reading of this section is that EPA must disapprove a SIP revision submitted by a state in response to a call by EPA under section 110(a)(2)(H) if the revision does not provide for attainment within three (in some cases five) years from the time EPA completes rulemaking on the revision. Under this reading, EPA would have to disapprove any iterative planning approach, including SPP.

This natural reading is clouded, however, by the fact that section 110(a)(2) seems to focus entirely on original SIPs, as opposed to revisions to pre-existing SIPs. Hence, one might argue, Congress did not necessarily intend submissions in response to a section 110(a)(2)(H) determination to be measured against the yardstick of whether they provide for attainment within such a short period. For cases where only draconian measures could produce attainment that quickly, arguably Congress would have given a stronger signal had it really intended such measures to become operational through state adoption and EPA approval.

EPA, however, is reluctant to attempt to transform the gap in precise interconnection between section 110(a)(3) and section 110(a)(2) into an expression of authority to embrace SPP. There is no such authority on the face of the statute, and the legislative history evidences Congress's consistent intent to require a SIP planning process that focuses on near-term attainment.[17] Furthermore, the iterative planning under that program would require EPA ultimately to make choices between health and economic values that are essentially legislative in character and magnitude. It is not properly EPA's role as an administrative agency to take on the task of making such choices without a considerably stronger indication of Congressional delegation than now exists. Therefore, although as a matter of policy it may make little sense to impose sanctions in areas where near-term attainment is a practical impossibility, EPA has concluded tentatively that it lacks legal authority to implement SPP as originally envisioned in areas with fully approved Part D SIPs.

**C. Rulemakings to Disapprove SIPs and Impose Construction Bans**

In light of these conclusions, EPA is beginning immediately two sets of rulemakings to disapprove SIPs and impose construction bans. First, EPA is proposing in notices that accompany or will soon follow this notice (1) to disapprove those pending "1982" submissions for extension areas that do not contain a demonstration of attainment by a fixed near-term deadline and (2) to impose the band under section 110(a)(2)(I) in the relevant areas.[18] In most of these cases, EPA is also proposing to approve some of the submitted measures on the ground that they strengthen the SIP individually, although they are not adequate as a whole to satisfy Part D. EPA is not proposing at this stage to impose any funding restrictions under section 176(a) (with the exception of Cleveland as to CO), nor to adopt any control measures of its own under section 110(c). EPA's present intention is not to begin any proceeding under section 176(a) for so long as the state is making reasonable efforts to adopt and submit a plan that meets the requirements of Part D. EPA

[16] The only other major question is whether a call for a SIP revision would trigger the ban in section 110(a)(2)(I) for areas with fully approved Part D plans. EPA, however, decided that question in the negative in 1983 and continues to stand by that decision. *See* 40 CFR 52.24(a) (1986).

[17] During debates on the 1977 Senate bill, Senator Muskie recounted the basic terms of the 1970 Act as follows:

> The 1970 amendments required attainment of the standards as expeditiously as practicable but not later than 3 years after the date of approval of the State implementation plan. For most States, that deadline was May 31, 1975.
>
> When the Administrator obtains information that the plan is inadequate to achieve the standards, he must require its revision, *and that revision must call for a new attainment date, no later than 3 years after the date the revision is approved.*
>
> The pieces of this policy fit together smoothly in the 1970 amendments. *There is little room for ambiguity . . . .* [123 Cong. Rec. S9165 col. 1 (daily ed., June 8, 1977) *(emphasis added).]*

[18] EPA's regulations for implementation of section 110(a)(2)(I) prevent construction or modification of any major stationary source "if the emissions from such facility will cause or contribute to concentrations of any pollution for which a national ambient air quality standard is exceeded in such area, unless, *as of the time of application for a permit for such construction*, such plan meets the requirements of Part D. . . ." 40 CFR 52.24(a) (emphasis added). In carrying out these regulations, EPA historically has exempted sources whose "complete" application, rather than initial application, predates the effective date of the disapproval triggering the construction ban. EPA is now clarifying the major criteria which it will use in determining whether an application is "complete."

In addition to general information on the project and a complete description of the facility, process, equipment, and control systems, the application must include: (1) All information necessary to determine the location, amount and release characteristics of all emissions of and precursors to the relevant criteria pollutants; (2) detailed information on fuel burning equipment and fuel; (3) complete information required for the air quality impact analysis, including any data measured at monitoring stations installed by the applicant, topographical data, and concentration impact analysis, with full identification of modeling assumptions and documentation of all results; (4) identification of all sources within the same state that are owned or operated by the applicant and the compliance status of each; (5) complete information to determine whether all required offsets are provided, including name and location of offset sources and how the reduction will be accomplished, copies of contractual agreements to purchase each offset, source test data or other information to document actual historical emissions from the offset source; and (6) an analysis for "lowest achievable emission rate" control technology. Significant revisions to the design of a project occurring after a determination by EPA that the permit application is complete may vitiate that determination.

currently regards adherence to REEP or SPP as constituting such reasonable efforts. Similarly, EPA intends currently to defer any rulemaking under section 110(c) for so long as sanctions have a reasonable chance of stimulating the state into making reasonable progress toward producing an adequate Part D plan. EPA plans, however, to address its views of sections 176(a) and 110(c) in more depth in connection with the development of a general policy, as described below.

Second, EPA is also proposing in notices that accompany or will soon follow this notice (1) to disapprove those SIP revisions submitted by nonextension areas in response to earlier SIP calls that do not contain a demonstration of attainment by a fixed near-term deadline and (2) to impose the ban under section 173(4) in the relevant areas. Again, in most of these cases, EPA is also proposing to approve some or all of the submitted measures on the ground that they strengthen the SIP individually. EPA is not proposing at this stage to impose any restrictions on air program grants under section 176(b) (with the exception of Cleveland as to CO), nor to adopt any control measures under section 110(c). EPA regards both of those steps as last resorts. It is only when there is no longer a reasonable prospect that the state will progress at a satisfactory pace toward producing an adequate plan under section 110 that it makes sense to withdraw financial support from the state and begin a federal effort to produce such a plan. Again, EPA plans to address these questions in more depth in the general policy described below.

**D. Future Steps**

EPA in the next several months will be taking other steps to address the persistence of ozone and CO violations beyond 1987 in both extension and nonextension areas. Specifically, EPA plans to audit the administration by each relevant state of its current SIP and to begin proceedings to remedy any failures to implement, including any failures to fulfill those commitments to study and adopt additional measures upon which EPA may have relied in approving the SIP; to call upon states to satisfy any outstanding, still germane conditions of past conditional approvals and, in the case of any default, to begin rulemaking to disapprove the plan and impose sanctions; [19] to begin rulemaking to disapprove the SIP and impose sanctions for nonimplementation in the case of any nonextension area that has failed to respond at all to a SIP call; to begin rulemaking to establish other control measures, such as restrictions on gasoline vapor pressure; and to propose a comprehensive policy on the correction of ozone and CO plans. This proposed policy will address a wide range of issues, such as:

—What is the period after 1987 within which a SIP revision must assure attainment in order to warrant full approval under Part D or section 110(a)(3) [three years? five years? seven years?];
—When sanctions, such as the construction ban in section 110(a)(2)(I) and highway funding restrictions, would lift once EPA has imposed them;
—What "reasonable efforts" means for purposes of section 176(a) (*e.g.*, whether adherence to REEP constitutes "reasonable efforts");
—When section 316 sanctions would be appropriate;
—How much time EPA should give states to respond to a SIP call;
—When a state is not carrying out or implementing its SIP for purposes of imposing the sanctions in sections 173(4) and 176(b);
—Whether and in what circumstances EPA may impose the ban in 173(4) without simultaneously triggering the funding restrictions under 176(b);
—When EPA must act under section 110(c) to create a federal implementation plan; what the content of such a plan must be;
—How states should deal with interstate transport;
—What degree of control of sources of nitrogen oxides is appropriate for purposes of attaining the ozone standard;
—What constitutes RACM in the post-1987 era;
—How states should treat rural nonattainment areas;
—How much credit states may take in their attainment demonstations for proposed and promulgated national control measures;
—What dispersion models are appropriate for which nonattainment situations;
—What the appropriate geographic scope of the planning area is for addressing ozone and precursor transport;
—What that scope is for addressing CO violations;
—Whether and in what circumstances states may withdraw already approved but not yet implemented control measures and substitute new ones;
—What programs a SIP must contain for tracking implementation and RFP.

EPA expects to publish a final policy by early 1988, and then shortly thereafter to take final action on its proposals to disapprove the various pending SIPs and issue calls for SIP revision. EPA may publish notices soliciting comment on possible SIP calls during the Summer and Fall of 1987. EPA, however, regards the development of guidance on how to revise SIPs into approvable form to be a critical step before issuing formal SIP calls. The rulemakings on national control measures will proceed on their own independent schedules.

**E. Miscellaneous**

This notice does *not* reflect a final decision of any sort. It expresses merely EPA's tentative views of the Act and its plans for implementing it in the future. The notice is to function in part as a general preamble for the proposals to disapprove the pending SIP submissions described above. Comments on the legal conclusions expressed in this notice should be submitted in response to those specific proposals. This notice has been submitted to the Office of Management and Budget in connection with those proposals. Any written comments from that office are available for public inspection as part of the dockets for the individual rulemakings. The status of this notice as part of those rulemakings for purposes of Executive Order 12291 and the Regulatory Flexibility Act is addressed in the individual proposal notices, not here. (Authority: Clean Air Act sections 101, 110, 172, and 301, 42 U.S.C. 7401, 7410, 7502, and 7601.)

Dated: June 29,1987.

**Lee M. Thomas,**

*Administrator.*

[FR Doc. 87-15371 Filed 7-13-87; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 81**

**[A-5-FRC-3229-2]**

## Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Ohio

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

[19] EPA estimates that about 16 States have outstanding conditions of approval requiring the submissions of SIP supplements. These include control measures (RACM) for stationary sources of VOC, additional provision for motor vehicle inspection and maintenance, and other measures. EPA strongly urges States that have to satisfy conditions of approval to do so as soon as possible.

**ACTION:** Proposed Rule.

**SUMMARY:** On May 31, 1985, the State of Ohio requested that Cuyahoga County be redesignated from nonattainment to attainment for the Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS). Additional technical support was submitted by the State on September 10, 1985. USEPA has reviewed this technical information and determined that it does not meet USEPA's redesignation policy. Therefore, USEPA proposes to disapprove the redesignation request for CO.

**DATE.** Comments on this redesignation request and on the proposed USEPA action must be received by August 13, 1987.

**ADDRESSES:** Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Comments on this proposed revision should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

**FOR FURTHER INFORMATION CONTACT:** Anne E. Tenner (312) 886–6036.

**SUPPLEMENTARY INFORMATION:** Under section 107(d) of the Clean Air Act (Act) the Administrator of USEPA has promulgated the NAAQS attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

The primary NAAQS for carbon monoxide (CO) is violated if, more than once in a calendar year, maxium CO concentrations exceed either: (1) The maximum allowable 8–hour concentration of 10 milligrams per cubic meter of air (10 $mg/m^3$), or (2) the maximum allowable 1–hour concentration of 40 $mg/m^3$.

USEPA's criteria for a supportable redesignation request, as they pertain to CO, are discussed in the following USEPA memoranda:

1. June 12, 1979, from Richard G. Rhoads to the Directors of Air and Hazardous Materials Divisions, Regions I–X, Subject: Section 107 Redesignation Criteria.

2. April 21, 1983, from Sheldon Meyers to Directors of Air Management Divisions, Subject: Section 107 Designation Summary Policy.

3. December 23, 1983, from G.T. Helms to Chiefs of Air Programs Branches, Region I–X, Subject: Section 107 Questions and Answers.

4. February 24, 1985, from Darryl D. Tyler to Air Division Directors, Region I–X, Subject: Redesignations That Would Change the SIP.

The USEPA policy relevant to CO redesignations is summarized as follows:

1. Generally, the most recent 2 years (8 consecutive quarters) of quality assured, representative air quality data are examined to ensure that it is violations free. Data are considered on a site-by-site basis.

2. Evidence must be provided to show that a control strategy fully approved by USEPA has been implemented. This is needed to explain the observed improvement in air quality data.

3. Supplemental data, such as air quality modeling data, emissions data, etc., should be used to determine if the monitoring data characterize the worst-case air quality in the area.

4. An entire urban core area should be designated as nonattainment if NAAQS violations or the potential for such violations exist in the area.

On March 3, 1978 (43 FR 9006), USEPA designated Cuyahoga County (Cleveland) as nonattainment for CO. On May 31, 1985, the State of Ohio submitted a redesignation request to USEPA requesting that Cuyahoga County be redesignated from nonattainment to attainment for CO. Additional technical support was submitted by the State on September 10, 1985. According to the State submittal, CO was monitored at three sites during the period April 1983 through March 1985. These sites are: 8907 Carnegie Avenue; 3500 E. 147th Street; and 1925 St. Clair Avenue. The monitoring at 8907 Carnegie Avenue was terminated in early 1984. The monitor was moved from this site to the 1925 St. Clair Avenue site.

The State of Ohio's redesignation request incorporated technical materials from the City of Cleveland Division of Air Pollution Control. These incorporated materials conclude that the CO air quality improvement in Cuyahoga County is primarily due to the Federal Motor Vehicle Emissions Control Program (FMVCP). The City of Cleveland also believes that the 1977 closing of a U.S. Steel Corporation plant contributed to the observed decrease in ambient CO concentrations. In addition, the City of Cleveland notes that violations of the CO NAAQS have not been monitored in Cuyahoga County since 1980, with the exception of a violation monitored in March 1983, which it believes to be the result of a tire-fire.

The City of Cleveland believes that attainment of the CO NAAQS should be maintained in the future for the following reasons:

1. Fleet emissions will continue to be decreased through the FMVCP as newer vehicles replace older vehicles.

2. The traffic density and total number of vehicles will decrease in the future.

3. CO emissions from industrial processes will decrease in the future.

### Cleveland Transportation Control Plan

The State of Ohio submitted to USEPA consistency determinations for its mobile source control program for 1981 through 1985 that show which Transportation Improvement Program (TIP) elements have been programmed for the coming years. TIP elements are the Transportation Control Measures (TCMs) scheduled for actual implementation each year. The consistency determinations show that the TCMs contained in the State Implementation Plan (SIP) have been or are being implemented. The consistency determinations also show that the implemented TCMs produce CO emission reductions exceeding the emission reductions claimed for the TCMs in the SIP. Although extra emission reductions have been achieved from TCMs beyond the SIP levels, it is not apparent that these extra reductions contributed significantly to lower monitored CO concentrations. Additionally, the State of Ohio submitted traffic system maps giving Average Daily Traffic (ADT) levels for major roadways. These ADT levels provide a crude indication of the areas in Cuyahoga County where the highest concentrations of CO are likely to occur.

### Cleveland Air Quality Data

The City of Cleveland states that there are no violations of the CO standard which have occurred in the Cleveland area since 1980. However, the CO data submitted to USEPA since 1980 show that there were several violations of the standard at the 8907 Carnegie Avenue monitoring site in 1981 and 1983.

USEPA's review of the redesignation request indicates that the State of Ohio and the City of Cleveland have treated the CO data from the two sites, 8907 Carnegie Avenue and 1925 St. Clair Avenue, as if the data had come from a

single site. It was assumed that the two sites would have similar concentrations due to a similarity in average daily traffic levels near the monitors. The two sites are five kilometers apart and are designated as microscale sites. Microscale CO concentrations are very sensitive to local differences in the siting of the monitors relative to the nearby traffic and to local differences in traffic patterns, such as differences in hourly traffic distribution, vehicle speeds, and traffic-monitor geometry. Such sensitivity and site-to-site differences makes the combination of CO concentrations from two microscale sites scientifically unacceptable. Because a violation of the CO standard was recorded at the 8907 Carnegie Avenue site in 1983 and operation of this monitor was terminated in early 1984, it must be concluded that two years of violation-free CO concentrations have not been recorded at all monitoring sites in the Cleveland area.

Concerning the violation of the CO NAAQS which was recorded in the most recent eight quarters of monitoring data for the 8907 Carnegie Avenue site, there is no demonstration that this violation has been eliminated by the implementation of control measures after the occurrence of the monitored violation. It must be noted that the City of Cleveland believes that the most recent CO standard violation was due to a tire-fire and should be discredited. USEPA does not believe that the tire-fire produced sufficient CO concentrations at the monitoring site to explain the observed CO standard violation. This conclusion is based on a gaussian modeling analysis which USEPA performed. USEPA conducted a screening analysis using the guassian model PTDIS. In making this analysis, USEPA made a number of assumptions concerning the source emissions characteristics, receptor-source placement, and meteorology. To the extent possible and technically reasonable, USEPA made conservative assumptions which should lead to relative high CO concentration impact estimates. Despite the conservative assumptions, the maximum concentration impact of the tire-fire on CO concentrations at the 8907 Carnegie Avenue site was found to be in the range of 0–0.64 mg/m$^3$, well below the 1.8 mg/m$^3$ difference between the second-high eight-hour CO concentration (11.8 mg/m$^3$) monitored at this site in 1983 and the standard (10 mg/m$^3$). USEPA believes that the monitored violation at the monitoring site is valid and may be representative of violations which may be occuring elsewhere in Cuyahoga County because other intersections in the City should have similar or higher traffic levels.

**Status of Cleveland SIP**

In Ohio's 1979 CO plan, the State requested an extension of the CO standard attainment date to December 31, 1987, and committed to implement a vehicle inspection/maintenance (I/M) program as part of the control strategy. This 1979 plan was approved as a revision to the Ohio CO SIP on October 31, 1980 (45 FR 72122). The SIP demonstrated that the CO NAAQS could not be attained until 1986 even with the implementation of an I/M program.

The State has not implemented an I/M program. Therefore, the State has not fully implemented the most recent USEPA approved control strategy. It should be noted, however, that as discussed in the March 26, 1986, notice of final rulemaking disapproving a Cleveland CO SIP Revision (51 FR 10387), Ohio attempted to demonstrate attainment of the CO NAAQS by December 31, 1982, without the implementation of an I/M program. USEPA disaproved the most recent 1982 SIP based on the monitored CO standard violation in 1983 at the 8907 Carnegie Avenue site.

**Analysis of CO Emissions**

One of USEPA's tests is to determine whether or not the monitoring data are representative of the areas in the County with the highest CO concentrations. This is best accomplished by hotspot modeling. The Cleveland area does not, at this time, have such modeling data.[1] Instead, USEPA has Average Daily Traffic (ADT) data for the major roadways. These data represent the 1982–1984 period and were prepared by the Northeast Ohio Area-wide Coordinating Agency.

USEPA's review of ADT distribution maps show that the 8907 Carnegie Avenue monitor was located next to an intersection with an ADT of approximately 30,000 vehicles. The 1925 St. Clair Avenue site is located near an intersection with an ADT of less than 20,000 vehicles. USEPA has reviewed these ADT maps and has concluded that the monitory sites (including 8907 Carnegie Avenue) may not be representative of the area with the highest ambient CO concentration. It should be noted that for the past several years, USEPA has requested the city of Cleveland to locate a CO monitor in an area with a significantly higher CO potential. The City of Cleveland had not sited such a monitor because of difficulties in locating an acceptable site.[2]

The State of Ohio submitted supplemental technical information on September 12, 1985, on the siting of a monitor at 1925 St. Clair Avenue. The supplemental information points out that USEPA approved the new site as meeting siting criteria and that the new site is closer than the old 8907 Carnegie Avenue site to downtown Cleveland, where USEPA hjad previously requested the siting of a monitor. In addition, the supplemental submittal also stated that the traffic levels in the vicinity of the new site are comparable to those in the vicinity of 8907 Carnegie Avenue. USEPA's review of the ADT maps shows that the traffic levels are significantly lower at the 1925 St. Clair Avenue site than at the 8907 Carnegie Avenue site (and elsewhere in Cuyahoga County).

**Conclusion**

USEPA has reviewed both the May 31, 1985 and September 12, 1985, submittals, and is proposing to deny Ohio's request to designate Cuyahoga County to attainment of CO for the following reasons:

1. Two years of violation free CO data are not available for the 8907 Carnegie Avenue site. The quality assured data for this site shows multiple exceedances for the CO standard for 1983. The State of Ohio and the City of Cleveland attempted to prove that these exceedances were due to a temporary tire-fire in North Bloomfield, Ohio. Based on a conservative dispersion modeling analysis, USEPA does not believe that the State has substantiated this assertion and believes that the tire-fire did not significantly contribute to violations at the 8907 Carnegie Avenue site.

2. In the September 12, 1985, submittal, the State of Ohio stated that USEPA approved the relocation of the 8907 Carnegie Avenue monitor to the 1925 St. Clair Avenue site. The State of Ohio had recommended that all previous date from the Carnegie Avenue site should not be considered.

Although monitors may be relocated from time-to-time for various reasons,

[1] Following the selection of potential hotspots and modeling guidance of USEPA, the State of Ohio is preparing for the CO modeling of selected major intersections in the Cleveland area. This modeling will ultimately provide a clearer picture of the extent of the CO nonattainment problem in the Cleveland area.

[2] Cleveland now has tentatively identified a suitable site for the CO monitor, as well as several alternative sites. The monitor is expected to be operational by October 1, 1986

USEPA does not agree that valid data from the older sites can be discounted. This data can be discounted only if a demonstration is made that the monitor malfunctioned, causing all the data to be non-quality assured. The State of Ohio has not made such a demonstration for the 1983 data at the Carnegie Avenue site. The State has not modeled the impacts of mobile source emissions in the vicinity of the Carnegie Avenue site to demonstrate that the 1983 exceedances could not have been caused by these emissions. As a result, USEPA must consider the 1983 Carnegie Avenue CO data to be valid for purposes of denying a redesignation.

3. The analysis of average daily traffic (ADT) from throughout Cuyahoga County shows that the monitors (including the Carnegie Avenue site) may not be in the areas of the highest CO concentrations. Microscale modeling is necessary to evaluate possible worst-case CO concentrations at other potential hotspots.

The St. Clair site has a significantly lower associated traffic level than the Carnegie Avenue site, It is reasonable to infer from the available traffic data (based on CO concentrations at the Carnegie Avenue site and its associated traffic level) that some hotspot modeling should be done to refine the area that is nonattainment for CO.

4. The State has not fully implemented the control strategy approved by the USEPA. USEPA's April 21, 1983, redesignation policy memorandum from Sheldon Meyers to USEPA Air Management Directors states that one prerequisite to approving a redesignation request is a demonstration that an air pollution control plan fully approved by USEPA has been implemented. The most recent approved CO control plan for Cleveland is the 1979 SIP (October 31, 1980; 45 FR 72122). The 1979 Cleveland CO SIP committed the State of Ohio to implement an I/M program in the Cleveland urban area and this program has not been implemented (nor has the I/M requirement been deleted from the plan).

Based on all of the above, USEPA proposes to disapprove the Cuyahoga County redesignation for CO. All interested persons are invited to submit written comment on the proposed redesignation disapproval. Written comments received by the date specified above will be considered in USEPA's final action on this request. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the redesignation.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642.
Dated: March 31, 1986.

**Valdas V. Adamkus,**
*Regional Administrator*

[FR Doc. 87–15372 Filed 7–13–87; 8:45 am]
BILLING CODE 6560–50–M

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**40 CFR Part 52**

**[A–5–FRL 3227–9]**

## Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Proposed Rulemaking.

**SUMMARY:** USEPA is proposing to find that Ohio's carbon monoxide (CO) State Implementation Plan (SIP) for Cuyahoga County does not meet the requirements of Part D of the Clean Air Act (CAA) because it lacks a vehicle inspection and maintenance program (I/M) which will achieve the minimum emission reduction requirement for CO. Final disapproval of such plan will result in the imposition of Clean Air Act section 110(a)(2)(I) constuction restrictions for CO. USEPA is proposing also to find that the State has failed to adequately implement the I/M portion of its conditionally approved Part D CO SIP and has not submitted, nor made reasonable efforts to submit, a SIP revision which considers each of the elements of section 172 of the Clean Air Act (CAA). A final nonimplementation finding will result in the cutoff of Clean Air Act grants and imposition of a construction moratorium. See section 176(b) and 173(4) of the Clean Air Act. The final finding of a lack of reasonable efforts will result in the cutoff of Clean Air Act grants as well as funding for certain highway construction projects. See section 176(a) of the Clean Air Act.

USEPA is taking no action on the I/M portion of Ohio's Part D Ozone SIP for Cincinnati and Cleveland because the State has taken concrete steps to implement an I/M program to achieve minimum required emission reduction levels for hydrocarbons and to meet the requirements of the CAA. This notice does not address the Kentucky portion of the Cincinnati area (Boone, Campbell, and Kenton Counties)

**DATES:** A public hearing on the proposed action to impose the Federal funding and construction restrictions under sections 176(a), 176(b), and 173(4) of the CAA will be held on the date and at the location listed below. The date of public hearing will be on September 1, 1987 (10 am to 2 pm) at the following location: Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room B–1, Cleveland, Ohio 44199.

All testimony provided at the public hearing will be considered. Additionally, USEPA is keeping the public comment period open until October 1, 1987, to provide an opportunity for submission of rebuttal and supplementary information.

**ADDRESSES:** Comments on this proposed rule should be sent to: (Please submit an original and five copies, if possible.) Garry Gulezian, Chief, U.S. Environmental Protection Agency, Regulatory Analysis Section, Air and Radiation Branch, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604.

Copies of materials to USEPA's proposed action may be inspected during normal business hours at the above address or at the following location: (It is recommended that you telephone Debra Marcantonio, at (312) 886–6088, before visiting the Region V Office.) Ohio Environmental Protection Agency (OEPA), Air Pollution Control Division, 361 E. Broad St., Columbus, Ohio 43216–1049.

**FOR FURTHER INFORMATION CONTACT:** Debra Marcantonio, (Regarding SIPs) at (312) 886–6088, Jay Bortzer, (Regarding I/M) at (312) 886–1430.

**SUPPLEMENTARY INFORMATION:**

### A. Statutory Requirements

The 1970 Amendments to the CAA require each State to submit a SIP to provide for attainment and maintenance of each of the National Ambient Air Quality Standards (NAAQS). The CAA Amendments of 1977 added a new Part D to the Act, which required States to revise SIPs for any area which had not yet attained the NAAQS. The revised plans were required to be submitted by January 1, 1979, to meet specific requirements outlined in Sections 172 and 173 of the CAA, and generally to provide for attainment of the primary NAAQS by December 31, 1982.

For areas where a state demonstrated that it could not attain the primary ozone or CO NAAQS by 1982, section 172(a)(2) authorized an extension of the attainment deadline to an expeditious date, not later than the end of 1987. If an extension was granted, the State had to

meet additional statutory requirements, including submittal of a second SIP revision before July 1, 1982, under sections 129(c) and 172 of the Clean Air Act. The SIP revision is to provide for attainment by the approved attainment extension date and comply with all Part D requirements, including those of section 172(b)(11). Section 172(b)(11) requires the establishment of a legally enforceable specific schedule for the implementation of an I/M program, including a commitment to comply with the schedule by the State, in the area with the extended attainment deadline.

Based on the legislative history of the Clean Air Act Amendments of 1977, EPA used the New Jersey I/M program that was in existence in 1977 as the basis for establishing the minimum performance standards for I/M programs generally. Consequently, I/M programs were required to achieve at least the emission reductions achievable by a program similar to the New Jersey tailpipe inspection program.[1] EPA originally determined through an evaluation using the MOBILE 1 computer model, the then available emission factor model, that New Jersey's program would achieve a 25% reduction in CO emissions using national averages for all vehicle fleet descriptors (registration distributions, vehicle miles traveled (VMT), etc.) and the ambient conditions used in the Federal Test Procedure (FTP). EPA continued to update its emission factor computer models based on the latest available data from Emission Factor (EF) programs. As a consequence of that process, EPA has been able to evaluate the effects of control strategies with greater accuracy and has periodically reassessed the amount of emissions reduction I/M programs can achieve.

The first major reassessment occurred in 1980, with the advent of the MOBILE 2 emission factor model. When the New Jersey I/M program design and national averages were run with this model, the model determined that the requirement for CO should be close to 35% (33.1%). (EPA Memorandum of January 19, 1981, from Michael Walsh, Deputy Assistant Administrator to Air and Hazardous Materials Division Directors, entitled "Questions on Inspection/Maintenance" and also in an April 18, 1985, memorandum for Charles Gray, Emissions Control Technology Division Director to the Air Management Division Directors, Region I–X, titled "Current Requirements for Minimum Emission Reduction from I/M Programs—What's RACT?")

A similar process was followed in 1984 when the MOBILE 3 model was introduced. This model differed from previous models in that it could quantitatively evaluate anti-tampering and anti-misfueling I/M programs,[2] as well as tailpipe I/M programs. When national averages (including national average tampering rates) and the New Jersey I/M program characteristics were used in MOBILE 3, the model indicated the requirement for CO would be a 34.3% reduction requirement.

Under USEPA policy, all required I/M programs were to have been implemented no later than December 31, 1982. The I/M implementation schedule must include the milestones listed in a July 17, 1978, memorandum entitled "Inspection/Maintenance Policy" from the Assistant Administrator for Air and Waste Management to the Regional Administrators. The 1982 SIP revision must also include all rules, regulations, and procedures needed to implement and enforce an I/M program. USEPA's final policy on the approval of an I/M program is specified in the January 22, 1981, **Federal Register** notice (46 FR 7182) entitled, "State Implementation Plans; Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension".

If USEPA disapproves a Part D Ozone or CO SIP for failure to meet the section 172 requirements for an I/M program, this disapproval would also result in the automatic imposition of a construction moratorium on major stationary sources and modifications to major sources in the subject nonattainment area in accordance with the requirements of section 110(a)(2)(I) of the CAA, 40 CFR 52.24(a).

Congress also requires, under section 176(a), the withholding of certain Federal assistance funds for highway construction and air quality planning grants, if the USEPA Administrator finds that a State has failed to submit, or is not making reasonable efforts to submit, a SIP which considers each of the elements of section 172 of the Act. One of the elements of section 172 is the I/M requirement described above. On April 10, 1980, after notice and public comment, USEPA and the Department of Transportation (DOT) published final policies and procedures for imposing funding restrictions under section 176(a), (45 FR 24692). The April 10, 1980, notice should be used as a reference in reviewing today's notice.

Section 176(b) prohibits USEPA from making any grants under the CAA in any area in which a State, local government, or regional agency is not implementing any requirement of an approved or promulgated SIP, including any requirement for a revised SIP. Additionally, section 173(4) provides that, for a pollutant(s) in question, a construction moratorium for major stationary sources and major modifications shall be imposed in any nonattainment area where a State is not carrying out an approved plan. [40 CFR 54.24(b).]

**B. Background of Ohio I/M Program**

On July 27, 1979, and September 13, 1979, the State of Ohio submitted revisions to its SIP for ozone and CO. Amendments were subsequently submitted in December 1979 and January 1980. The July 27, 1979, submittal contained attainment demonstrations for the Cleveland and Cincinnati urban carbon monoxide and ozone nonattainment areas. Attainment of the ozone NAAQS was not demonstrated for the Cleveland area (Cuyahoga, Lake, Lorain, Geauga, and Medina Counties) and for the Cincinnati area (Hamilton, Butler, Clermont, and Warren Counties) by December 31, 1982. In addition, the submittal did not demonstrate attainment of the CO NAAQS for the Cleveland area (Cuyahoga County) and the Cincinnati area (Hamilton County) by December 31, 1982.

The State of Ohio requested the 5-year extension to December 31, 1987, pursuant to section 172(a)(2) of the CAA, to attain the ozone NAAQS in the Cleveland area (Cuyahoga, Lake, Lorain, Medina, and Geauga Counties) and in the Cincinnati area (Hamilton, Butler, Clermont, and Warren Counties); and to attain the CO NAAQS in the Cleveland area (Cuyahoga County) and in the Cincinnati area (Hamilton County). The plan consisted of amended Substitute Senate Bill 240, a schedule for the implementation of an emissions inspection program, and commitment to achieve reductions consistent with EPA Policy. USEPA approved the extension request as part of Ohio's Part D Ozone/CO SIP on October 31, 1980 (45 FR 72122). On June 18, 1981 (46 FR 31881), USEPA conditionally approved Ohio's I/M program.

On June 18, USEPA approved the vehicle I/M program submitted for the Counties of Cuyahoga, Lake, Lorain, Geauga, Medina, Hamilton, Butler, Clermont, and Warren, on the condition

[1] A tailpipe I/M program is one where emissions are monitored at the tailpipe to determine if the vehicle is in compliance.

[2] An anti-tampering I/M program is one where a visual inspection is made of a vehicle's emission control elements to determine if tampering has occurred.

that the State submit by January 8, 1982, the following items:

1. An identification of the staff and financial resources necessary to carry out the enforce the program and a more specific commitment to obtain those resources;

2. A detailed schedule which satisfies the requirements of the July 17, 1978, I/M policy memorandum; and

3. Detailed programmatic information relating to the specific geographic coverage of the program, the enforcement mechanisms and procedures to be used, those vehicle categories to be included in the inspection program, and other factors which aid in determining the effectiveness of an I/M program. (46 FR 31881)

This information was necessary to demonstrate that Ohio had fulfilled the requirements for an approval 1979 SIP revision for extension areas. OEPA submitted SIP revisions on September 23, 1982 (Cincinnati), and November 9, 1982 (Cleveland), which were intended to demonstrate that the ozone and CO standards would be attained in the Cleveland and Cincinnati urban areas by December 31, 1982. Ohio also requested that the 5-year extension request be rescinded for these areas. USEPA reviewed the State's submittals and preliminarily determined that all of the modeling and emission inventory requirements discussed in the 1982 SIP policy published on January 22, 1981, had been met. Therefore, on February 3, 1983 (48 FR 5118), USEPA proposed to approve the ozone and CO attainment demonstrations and to rescind the 1987 extension. (Rescinding the extension would mean that an I/M program would not have to be implemented.) However, after USEPA received Ohio's submittal and after USEPA had published its proposed rulemaking, exceedances of the ozone standard were recorded at several sites in both the Cincinnati and Cleveland areas. Exceedances of the carbon monoxide standard were also recorded in the Cleveland area (Cuyahoga County). These exceedances occurred in 1983 and 1984 and, thus, indicate that attainment did not actually occur by the end of 1982.

On July 25, 1984 (49 FR 29973), USEPA proposed to disapprove the ozone demonstration of attainment for the Cleveland and Cincinnati areas and to disapprove the State's request to rescind the 5-year extension for meeting the ozone NAAQS. On March 13, 1985 (50 FR 10076), USEPA proposed to disapprove the CO demonstration of attainment for the Cleveland area (Cuyahoga County) and to disapprove the State's request to rescind the 5-year extension for meeting the CO NAAQS. USEPA took final action to disapprove the Cleveland and Cincinnati ozone demonstration of attainment on March 25, 1986 (51 CFR 10198), and to disapprove the Cleveland area CO attainment demonstration on March 26, 1986 (51 FR 10387). (USEPA took final action approving the Cincinnati CO attainment demonstration on February 23, 1984 (49 FR 6724), and in the same notice, rescinded the CO attainment date extension for Cincinnati.

Because of the attainment demonstration disapprovals of March 25, and 26, 1986, the extension of the ozone attainment date to 1987 remained in effect for the Cleveland area (Cuyahoga, Geauga, Lake, Lorain and Medina Counties) and for ozone in the Cincinnati area (Hamilton, Butler, Clermont, and Warren Counties[3]); the extension of the CO attainment date to 1987 remained in effect for the Cleveland area (Cuyahoga County); and, conditions on approval of the I/M portion of Ohio's 1979 Ozone and CO SIPs remained in effect. Therefore, the State of Ohio had to proceed to implement an I/M program in the Cleveland area for ozone and CO and in the Cincinnati area for ozone to avoid imposition of Federal funding and construction restrictions in these areas.

In a March 28, 1984, letter to Richard F. Celeste, Governor of Ohio, USEPA informed the State that it must implement an I/M program, and requested that the State provide a reasonable and expeditious schedule for implementing an I/M program, ensuring that the outstanding conditions on the 1979 ozone/CO SIP are addressed within the context of the schedule.

In response to this request, OEPA established a State/Local Government I/M Working Group to develop a program design. USEPA participated in two work group meetings on May 21 and June 13, 1984. On June 29, 1984, OEPA submitted an I/M implementation schedule which presented a January 1, 1987, target date for implementation of the I/M program. In a July 20, 1984, letter to OEPA, USEPA's Assistant Administrator for Air and Radiation informed the State that the proposed start date of January 1, 1987, was not expeditious.

In a September 11, 1984, letter to OEPA, USEPA reiterated its position that the schedule was not reasonable and expeditious because the timeframe for implementing the program was 30 months, while other States implemented decentralized programs in as little as 8 months, and centralized programs in as little as 14 months. USEPA stated that taking into consideration circumstances particular to Ohio, the I/M program could be implemented by early 1986.

In response to USEPA's September 11, 1984, letter, on November 5, 1984, Ohio sent a draft revised schedule which targeted May 1, 1986, as the program's implementation date. OEPA indicated that public hearings would be held in November 1984. In testimony provided at the November 20, 1984, hearing at Middleburg Heights, Ohio, USEPA stated that it found the May 1, 1986, implementation date to be reasonable and expeditious.

On January 18, 1985, OEPA submitted the latest draft schedule for designing and implementing an I/M program. In a January 30, 1985, letter to the Acting Director of the OEPA from the Director of Region V's Air Management Division, USEPA informed the State of what needed to be submitted to have an approvable Part D Ozone/CO SIP, including the I/M portion. USEPA pointed out that the requirements were specified in detail in the January 22, 1981, **Federal Register** notice, (46 FR 7182).

On March 14, 1985, USEPA informed OEPA by letter that, while it found the I/M program implementation schedule submitted on January 18, 1985, to be reasonable and expeditious, the Agency was concerned that the January 31, 1985, date for introduction of additional enabling legislation had not been met. USEPA stated that this legislation must be passed with sufficient time available to allow I/M regulations to be proposed by the May 15, 1985, date provided for in the January 18, 1985, schedule. The State was informed that, if it failed to meet the I/M implementation schedule, then USEPA would have to give consideration to the imposition of Federal funding and construction restrictions as required by the CAA.

In a letter dated May 23, 1985, from the Region V Regional Administrator to the Director of OEPA, USEPA told the State that, due to the fact that major milestones were missed, the imposition of CAA Federal funding and construction restrictions could result in the Cleveland and Cincinnati areas. USEPA asked the State to submit, by June 15, 1985, an outline of the steps the State would take to ensure that the I/M program development schedule would be met. The State did not respond to the request.

On May 30, 1985, the Region V Regional Administrator and the Region

[3] Although the Cincinnati area also includes the Kentucky Counties of Boone, Campbell, and Kenton, this notice addresses only counties within the State of Ohio.

V Director of the Air Management Division, along with officials from the OEPA, met with Ohio Legislators in two separate meetings. The meetings were with several members of the Ohio House and Senate, or their legislative aides. Items discussed included the CAA requirement for I/M program implementation; the status of Ohio's I/M program implementation efforts; and the potential for Federal funding and construction restrictions, if an I/M program were not expeditiously implemented.

On June 10, 1985, USEPA provided comments to OEPA on House Bill 500, regarding the establishment of an I/M program. USEPA stated that House Bill 500 was very well constructed and contained adequate provisions which, if implemented, should provide for a very good I/M program. On June 18, 1985, the Directors of USEPA's Office of Mobile Sources and Region V's Air Management Division provided testimony on House Bill 500 which included: the Clean Air Act requirement for I/M; the reasons why an I/M program needed to be implemented; the health effects of high levels of ambient ozone and carbon monoxide; the importance of enacting enabling legislation; and the need for expeditious implementation of the program. Further, USEPA informed the State that it would begin the process to impose the Federal highway funding restrictions required by section 176(a) of the CAA if the State did not approve the required I/M program. The State Legislature did not pass the necessary legislation during that session.

On June 18, 1985, the Region V Office of USEPA provided to OEPA a letter identifying various I/M program design options which, if implemented, could meet the emission reduction requirements. USEPA confirmed that a Part D ozone SIP I/M program consisting of only an anti-tampering inspection of all emission control components would be an acceptable program for the Cincinnati area. Such an anti-tampering I/M program, if properly designed and implemented, could meet the hydrocarbon emission reduction requirement. USEPA further stated that an anti-tampering only I/M program would not be acceptable for the Cleveland area because the Cleveland area is also an extension area for carbon monoxide. As explained below, an anti-tampering only I/M program cannot meet the minimum emission reduction requirement for CO.

On June 25, 1985, the USEPA Region V Regional Administrator notified the Federal Highway Regional Administrator (FHWA) by letter that, because the State may not be making reasonable efforts to implement an approvable I/M program in the Counties of Cuyahoga, Lorain, Lake, Medina, and Geauga, in the Cleveland area, and Hamilton, Butler, Clermont, and Warren, in the Cincinnati area, these counties appear to meet the conditions requiring the imposition of Federal highway funding restrictions under Section 176(a) In this letter, USEPA initiated the 30-day consultation period outlined in the April 10, 1980, **Federal Register** (45 FR 24692) guidelines for the Section 176(a) process.

On July 23, 1985, the USEPA Regional staff, FHWA Regional staff, and representatives from the Ohio Department of Transportation and OEPA met to discuss the reasons for the failure of the State to make reasonable and expeditious progress to implement an I/M program, and to provide the State with the opportunity to present any solutions the State may be implementing so that Federal funding and construction restrictions would not have to be imposed. The OEPA representative indicated that the issue of passage of enabling legislation still needed to be addressed by the State Legislature before any further steps could be taken by the OEPA.

On August 14, 1985, the Directors of USEPA's Office of Mobile Sources and Region V's Air Management Division provided testimony on Senate Bill 203. Comments made were similar to those made on House Bill 500, including a discussion of the importance of enacting enabling legislation and the potential for CAA Federal funding and construction restrictions. On September 18, 1985, the Senate Energy, Natural Resources, and Environment Committee voted this Bill out of Committee.

In November 1985, the Ohio State Legislature subsequently adjourned without taking final action on the legislation authorizing implementation of a vehicle inspection and maintenance program.

Governor Celeste and USEPA Administrator Lee Thomas met on February 25, 1986, to discuss the need for an inspection and maintenance program in the Cleveland and Cincinnati areas. In a March 7, 1986, follow-up letter, the Administrator reiterated the need for an I/M program in the Cleveland area that would meet the emission reduction requirement for CO and that an anti-tampering I/M program alone would be insufficient to obtain the required reductions in CO emissions. It was emphasized that there are several I/M program design options which could satisfy CAA requirements for both HC and CO, but that they all include a combination of a tailpipe inspection program and an anti-tampering program. He also pointed out that it did not appear that USEPA could propose to redesignate Cleveland to attainment for CO for the following reasons:

1) There were monitored violations during the most recent 2 years of monitoring data at one of the sites;

2) There is a lack of ambient air quality data reflecting CO concentrations in the most heavily traveled areas of the City; and

3) The State has not fully implemented the approved 1979 SIP (e.g., I/M).

These issues will be discussed in more detail in a separate **Federal Register** notice addressing the State's redesignation request.

The Administrator indicated that USEPA would accept legislation that provides that the State could discontinue work on imlementation of a tailpipe I/M program for Cleveland if, at any time, the State can show to USEPA's satisfaction, through monitoring or modeling that Cleveland is in, and will remain in attainment for CO absent a tailpipe I/M program. To accomplish this, the State would have to provide sufficient technical documentation to allow USEPA to approve a revision to the SIP to remove the tailpipe I/M requirement for CO and redesignate the area to attainment. Therefore, the technical documentation would have to meet USEPA's SIP revision and redesignation policy guidance. The letter further emphasized that the modeling/monitoring must be done concurrently with adoption and implementation of a tailpipe I/M program for CO. USEPA stated given that I/M programs were required to be implemented by December 31, 1982, and Ohio is the only extension area that has yet to adopt an I/M program, it is not acceptable to allow further delays in implementation.

In a March 7, 1986, letter, in response to a request for OEPA, the Regional Administrator of Region V sent a letter to the Director of OEPA describing program options and specifications for an acceptable I/M program for Cleveland. This letter included a statement of the need for development of a program to achieve minimum required performance levels for both HC and CO.

In a letter dated March 11, 1986, Governor Celeste responded to the Administrator's March 7, 1986, letter stating the Governor's support for an anti-tampering program in Butler, Cuyahoga, Hamilton, Lake, and Lorain Counties and a modeling study for

carbon monoxide in the Cuyahoga County (Cleveland) area. The Governor indicated that he would work with legislators to ensure an appropriate control strategy will take effect, if OEPA determines that there are violations of the air quality standards.

In response to the Governor's March 11, 1986, letter, Administrator Thomas, in a letter dated March 25, 1986, stated that an anti-tampering program will fall short of providing the reductions needed for CO in the Cleveland area and reiterated the need for some form of tailpipe I/M program. The State was informed that, if it failed to adopt the necessary legislation by the end of March 1986, USEPA would proceed to propose highway and air grant funding and construction restrictions as required by sections 176(a), 176(b), 173(4), and 110(a)(2)(I) of the CAA.

On March 26, 1986, the Region V Deputy Regional Administrator presented a statement before the full Committee on Energy, Natural Resources, and the Environment of the Ohio State Senate. The testimony repeated the need for the expeditious implementation of an I/M program to meet CAA requirements and to achieve required levels of emission reduction for HC and CO. The committee was informed that, if the State failed to adopt acceptable legislation, the USEPA must proceed with the proposal to impose highway and air grant funding restrictions, as well as the construction restrictions, as required by the CAA.

On March 27, 1986, the Legislature adopted legislation authorizing an anti-tampering program in Cuyahoga, Lake, Lorain, Hamilton, and Butler Counties. The legislation was approved by the Governor of Ohio on May 6, 1986. The adopted program is a decentralized, anti-tampering I/M program for 1980 and later vehicles. The legislation prohibits tampering with specified emissions control elements, including the catalytic converter. The legislation also requires a test to determine if leaded gasoline has been used in vehicles requiring the use of unleaded gasoline.

Because the use of leaded gasoline in a vehicle designed to use unleaded can impair the functioning of the catalytic converter, and can cause increased emissions of hydrocarbon and carbon monoxide, failure of this test requires replacement of the catalytic converter.

The legislation did not authorize the implementation of a tailpipe I/M program or other I/M program meeting the emission reduction requirement for CO. The legislation provided that no longer than 9 months after the effective date of the Act, the OEPA shall complete a study of the carbon monoxide air quality situation in Cuyahoga County; and no later than 3 months after the completion of the study, the Director of the Agency is to determine if an ongoing carbon monoxide air quality problem exists in Cuyahoga County and report the findings to the General Assembly.

The legislation specifies that the anti-tampering I/M progam for Cuyahoga, Lake, Lorain, Hamilton, and Butler Counties is to commence within 9 months of the effective date of the legislation. The effective date of the legislation is May 6, 1986.[4]

To meet the CAA requirements, the Part D CO SIP revision must not only address the outstanding conditional approval items (see 46 FR 31881, June 18, 1981); but must also include rules, regulations, and all other I/M elements which could affect the ability of the I/M program to achieve the requirement for carbon monoxide. More specifically, the submittal must include all the elements identified in footnote 4 for approval of the I/M portion of the Ozone SIP with the following additional items: (1) authorizing legislation (2) emission standards; (3) emission analyzer specifications and maintenance/calibration requirements; (4) a mechanic training program, if additional emission reduction credits are being claimed for mechanic training; and, (5) a demonstration that the required emission reduction levels for carbon monoxide will be achieved through implementation of the program. When EPA conditionally approved Ohio's commitment to an I/M program on June 18, 1981, as part of the Cleveland CO SIP, it was with the understanding that the final I/M program would meet the minimum emission reduction requirements described above in connection with section 172(b)(11). As stated previously, the subsequent plan proposed here for disapproval does not meet the State's earlier commitment or the minimum emission reduction requirement for CO. MOBILE 3 was used to evaluate Ohio's anti-tampering program design with local tampering rates. These tampering rates reduced the required CO target to 34.1% for Ohio. The MOBILE 3 model predicted that the Ohio anti-tampering program design, however, will achieve only a 17.0% reduction in CO emissions, which falls below the CO target.

### C. USEPA Analysis

Ohio's I/M program for the Cleveland area will not achieve the CO emissions reductions achievable by the I/M program Congress contemplated when it enacted Section 172(b)(11) of the Act. For that reason, USEPA believes that the Ohio CO plan for that area does not meet the requirements of Part D of the Act. Furthermore, USEPA believes that the state has not made reasonable efforts, within the meaning of section 176(a), to enact and implement an I/M program meeting the requirements of section 172(b)(11). USEPA has consistently informed the state of what type of I/M program would satisfy those requirements and, despite the passage of several years, the state has not come forward with such a program. Finally, the state's failure to enact and implement the I/M program that USEPA policy and section 172(b)(11) require amounts to a failure by the state to implement the commitment contained in its initial part D SIP to implement an I/M program meeting the requirements of USEPA policy. Based on these preliminary conclusions, USEPA proposes to take the actions described below.

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[4] USEPA is not taking any action today on the I/M portion of Ohio's Part D Ozone SIP. The Ohio Legislature adopted legislation which authorizes establishment of an anti-tampering I/M program as part of Ohio's Part D Ozone SIP for the Cleveland area (Cuyahoga, Lake and Lorain Countries) and the Cincinnati area (Hamilton and Butler Counties). The legislation was signed by the Governor of Ohio on May 6, 1986. This program, properly designed and implemented, can expeditiously achieve the minimum HC emission reductions required to comply with the CAA and Ohio's Part D Ozone SIP. The action by the Legislature to adopt authorizing legislation is a major, concrete step toward implementation of an adequate ozone I/M program. USEPA is encouraged by this progress. This is a significant first step in a series of events which must occur for an ozone I/M program to be operational. The legislation requires the program to commence within 9 months from the effective date of the legislation. USEPA will monitor the State's progress toward the expeditious implementation of the anti-tampering program. Because the program envisioned by the anti-tampering legislation may be adequate to meet the Ozone SIP requirements, USEPA is not proposing actions of Federal funding and construction restrictions for the I/M portion of the Ozone SIP today. Before USEPA will be able to give approval to the I/M portion of the Part D Ozone SIP, the SIP must meet the requirements specified in the Januray 22, 1981 **Federal Register**, notice. The Part D Ozone SIP revision must address the outstanding conditional approval items and also must include rules, regulations, and all other I/M elements which could affect the ability of the I/M program to achieve minimum emission reduction requirements for HC. More specifically the submittal must include: (1) inspection test procedures; (2) inspection station licensing requirements; (3) recordkeeping and record submittal requirements; (4) quality control, audit, and surveillance procedures; (5) procedures to assure that noncomplying vehicles are not operated on the public roads; (6) any other official program rules, regulations and procedures; (7) a public awareness plan; (8) a demonstration that the required emission reduction levels for HC will be achieved through implementation of the program.

**D. Proposed Findings and Actions**

USEPA is proposing to find that Ohio's CO SIP for Cuyahoga County does not meet the requirements of Part D of the Clean Air Act, that the State has failed to implement its commitment to adopt the required I/M program for CO, and that the State has failed to submit, and to make reasonable efforts to submit, a Part D SIP revision which considers each of the elements of section 172 of the CAA. Furthermore, USEPA is proposing to impose Federal funding and construction restrictions under sections 110(a)(2)(I), 176(a), 176(b), and 173(4), for Cuyahoga County. During the public comment period, USEPA will consider any comments on this issue.

Pursuant to sections 176(a) of the CAA, if USEPA makes these proposed findings final, the Secretary of Transportation may not approve any projects or award any grants in Cuyahoga County under Title 23 of the United States Code, except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Pursuant to sections 176(a) and 176(b), if USEPA makes these proposed findings final, the USEPA will not approve any projects or award any grants authorized by the CAA unless they qualify for exemptions. See the April 10, 1980, policy notice, 45 FR 24692.

Pursuant to section 173(4) of the CAA, if USEPA makes this proposal final no major stationary source of CO could be constructed and no major modification of a CO source could occur in Cuyahoga County.

If USEPA takes final action to disapprove Ohio's Part D CO SIP, the moratorium on new major CO source construction, and major modifications to sources of carbon monoxide, pursuant to section 110(a)(2)(I) of the CAA, would apply to Cuyahoga County.

Although USEPA has discretion to withhold certain grants, pursuant to section 316 of the CAA, for construction of sewage treatment works available under section 201(g) of the Clean Water Act (33 U.S.C. 1251 et. seq.), USEPA is not proposing these restrictions on Cuyahoga County at this time.

USEPA will publish a separate notice of proposed rulemaking and will provide an opportunity for comment before imposing these additional funding restrictions on such sewage treatment works. For more information on the scope and procedures for these restrictions, see 45 FR 24692 (April 10, 1980) and 45 FR 53382 (August 11, 1980).

USEPA policy, which has been provided to the State, specifies that the lastest date for implementation of a mandatory I/M program will be 1981 for a decentralized program, and 1982 for a centralized program. (Inspection and Maintenance Policy dated February 21, 1979, from the Assistance Administrator for Air, Noise, and Radiation to the Regional Administrators). Since these implementation deadlines have passed, and the State has taken no concrete steps to implement an I/M program in the Cleveland area that will satisfy the requirements of the CAA for the Part D CO SIP, USEPA proposes to impose the Federal funding and construction restrictions under sections 176(a), 176(b), and 173(4). USEPA solicits comments on what action the State would have to take before USEPA should lift these restrictions. In this regard, USEPA believes that even absent State action to implement a tailpipe I/M program, the Federal funding and construction restrictions could be removed if USEPA approves a revised CO plan or a redesignation request for Cuyahoga County which as described earlier demonstrates that the county has already attained and will maintain the CO NAAQS without a tailpipe I/M program. However, submittal of the redesignation request must not delay adoption and submittal of a tailpipe I/M program for CO in Cuyahoga County.

On August 3, 1983, USEPA discussed the formulas for withholding CAA funds if such became necessary for any particular State, 48 FR 35312. The formula USEPA proposed as the preferred formula, would add all CAA funds which would normally be awarded to all levels of government in the State, and would withhold from that total a percentage which is equal to the percentage of the State's population residing in the nonimplementation I/M urbanized areas. Direct grants made to local government agencies responsible for I/M implementation would be affected first, with any remaining restrictions to be applied against State funds. If the State is the only level of government responsible for I/M implementation, which USEPA believes is the case for Cuyahoga County, USEPA would subtract from the amount to be withheld from the State any funds that are granted directly to local government agencies in the urbanized area, because USEPA believes these local funds are exempt from the funding restrictions. This is the formula which will be used for Ohio. The U.S. Court of Appeals for the Tenth Circuit recently upheld this approach in *New Mexico Environmental Improvement Division v. Thomas*, No. 85–1628 (April 23, 1986).

**E. Opportunity for Public Hearing**

USEPA is announcing a public hearing on its proposed actions to impose CAA Federal funding and construction restrictions, pursuant to section 176(a), 176(b), and 173(4), on Cuyahoga County as discussed in this notice. The hearing will be held on September 1, 1987 (10 am to 2 pm) at the following location: Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room B–1, Cleveland, Ohio 44199.

**F. Request for Comments**

Interested parties are invited to comment on all aspect of the proposed findings regarding the I/M portion of Ohio's Part D CO SIP and USEPA's proposed action to impose CAA Federal funding and construction restrictions. USEPA will consider all testimony provided at the public hearing. Additionally, USEPA is keeping the public comment period open until October 1, 1987 to provide an opportunity for submission of rebuttal information and supplementary information.

**G. Regulatory Impact**

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule an small entities. Under 5 U.S.C. 605(6), this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities

A major stationary source for this purpose is any source which emits, or has the potential to emit, 100 tons per year or more of the relevant pollutant. See 40 CFR 52.24(f)(4). The moratorium would also prohibit major modifications to CO sources. See 40 CFR 52.24(f)(4) and (10).

USEPA has, in the past, made efforts to quantify the impacts of the CAA rules on the construction and modification of sources, but has been unable to do so. USEPA's lack of success is due, in part, to the need to obtain information on future plans for business growth. This information is difficult to obtain, as businesses are understandably reluctant to make their plans public. Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities from today's proposal.

Final action on today's proposal could result in withholding of portions of CAA Section 105 funds from certain areas. However, since today's proposals do not affect any areas with populations of less than 50,000, the governmental entities

affected by any funding limitations do not fall within the definition of "small entities".

Final action on today's proposal could also result in certain highway construction funds under Title 23 of the United States Code, and air quality planning funds under section 105 of the CAA, being withheld pursuant to Sections 176(a) and 176(b), respectively. Thus, some small entities probably will be affected by final USEPA action. USEPA cannot predict the impacts of the CAA restrictions under section 176(a) because of the exemptions authorized for certain highway and air quality planning projects. Careful review and evaluation of each project is necessary to detemine whether or not a project is exempt. Consequently, USEPA is making no quantified assessment of the potential economic impact on small entities that may result from today's proposal.

Although USEPA believes that a final action on the Federal funding and construction restrictions under sections 110(a)(2)(I), 176(a), 176(b), and 173(4) might have some impact on small entities, this impact cannot affect the Agency's actions.

Under the CAA, the imposition of the Sections 110(a)(2)(I), 176(a), 176(b), and 173(4) funding and construction restrictions are mandatory, whenever the Agency makes the factual findings discussed in this notice.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401–7642.

Dated: April 18, 1986

**Valdas V. Adamkus,**

*Regional Administrator.*

**Editorial Note.**—This document was received at the Office of the Federal Register on July 1, 1987.

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**40 CFR Part 52**

**[A-8-FRL-3205-8]**

## Approval and Promulgation of Air Quality Implementation Plans, Colorado; Carbon Monoxide Plan for the Denver Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice announces EPA's proposed actions under the Clean Air Act (CAA) on certain revisions to the carbon monoxide (CO) State Implementation Plan (SIP) of the State of Colorado for the Denver metropolitan area. First, EPA proposes to approve the Better Air Campaign (BAC) emission reduction measure contained in the Colorado plan submittal because it strengthens the existing SIP. Second, EPA proposes to disapprove the Denver area CO SIP for failing to demonstrate attainment of the CO standard by December 31, 1987. Based on that proposed finding, EPA also proposes to impose a construction ban on major new stationary sources and major modifications of stationary sources of CO in the Denver nonattainment area. Today's proposal is based on this notice and the accompanying General Preamble appearing elsewhere in today's **Federal Register.**

EPA also notes that Colorado is currently revising the Denver area CO SIP to include additional control measures. A revised SIP is expected to be submitted in September 1987. After these new additional control measures are submitted to EPA, EPA will re-examine the State's efforts to plan for timely attainment of the CO standard.

**DATES:** Comments due on or before September 14, 1987.

**ADDRESSES:** Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Copies of the State submittal are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following office: Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405.

**FOR FURTHER INFORMATION CONTACT:** Dale M. Wells, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202–2405, (303) 293–1773.

**SUPPLEMENTARY INFORMATION:** This notice contains the following sections: "Background," "Current Plan Evaluation," "Expected Plan Revision" and "Proposed Actions". The "Background" section briefly summarizes the history of the development of the SIP for the Denver area. The "Current Plan Evaluation" section discusses EPA's review of the State's current Part D SIP submittal for the Denver area. The "Expected Plan Revision" section describes the efforts the State of Colorado has been making in improving the curent Plan. The "Proposed Actions" section describes EPA's proposal to approve the BAC measure as an emission reduction measure. It also describes EPA's proposal to (1) find that the plan as a whole does not meet the requirements of Part D of the CAA (because it does not demonstrate attainment by December 31, 1987 or any fixed near term date thereafter) and (2) impose a construction ban on major new CO sources and major modifications of existing CO source in the area until the State submits and EPA approves a new attainment demonstration (including but not limited to an air quality analysis and updated emission inventory) and the necessary control measures for the area.

### Background

A comprehensive description of the requirements of the CAA and EPA's policies under the Act is set forth in the General Preamble cited above. The Denver area was designated nonattainment for CO on March 3, 1978 (43 FR 8964). On October 5, 1979 (44 FR 57401), EPA approved the State request for an extension of the attainment data for the Denver area until December 31, 1987.

The State submitted various elements of its 1982 CO nonattainment area plan for the Denver area on June 24, 1982. That plan purported to demonstrate attainment of the CO standard by December 31, 1987 through implementation of the following measures:

(1) Motor vehicle exhaust emission inspection and maintenance (I/M),

(2) Various transportation control measures including increased mass transit,

(3) The episodic share-a-ride program (a voluntary program to reduce vehicle use by not driving one day a week).

EPA originally proposed to disapprove the Denver area CO plan on February 3, 1983 (48 FR 5030), because the emission reductions provided by the plan did not appear to be sufficient to ensure attainment of the ambient CO standard by the end of 1987. Specifically, the 15% reduction in driving claimed for the episodic share-a-ride strategy appeared too high.

Following a new evaluation, EPA proposed to approve the Colorado CO plan for Denver on March 5, 1984 (49 FR8049), and concluded that the share-a-ride program, now known as the "Better Air Campaign" (BAC), would be capable of providing substantial reductions in vehicle miles traveled (VMT). However, the lack of experience with ridesharing strategies of this type and magnitude would not allow an accurate prediction of the actual emission reductions. To establish greater certainty, EPA requested the formal submittal of the Metro Area Episodic Share-A-Ride Task

Force Report as well as submittals of a demonstration that poor air quality potential could be predicted; a detailed monitoring plan for determination of the effectiveness of the program; a commitment to review the program after the first year of operation; and more detailed contingency measures which would be implemented if the original program was not successful.

No adverse or critical comments were received in response to the March 5, 1984 proposed approval, but a final rule was never promulgated.

### Current Plan Evaluation

The BAC consists of two voluntary components, both of which are in effect between November 15 and January 15, the high CO season. The first component requests that drivers leave their cars home one week-day per week. The specified "no drive day" is based on the car's license plate number. The second component requests that everyone curtail non-essential driving when a high pollution day is forecast.

The State's current analysis of the first three years of the BAC program indicates that the planned "no drive day" portion of the BAC resulted in a VMT reduction of about 8%. In 1986–87 this 8% VMT reduction was estimated to result in a 9% decrease in ambient CO levels. The episodic portion related to high pollution days had no impact on VMT. However, the third year of the BAC also included a voluntary (mandatory in Denver, Boulder and Lakewood) ban on woodburning on high pollution days, resulting in an additional 3% reduction in ambient CO levels.

On January 23, 1986, EPA staff met with the Colorado Department of Health to discuss the SIP. The State's latest assessment, based on EPA's Mobile 3 emission factors and the SAI Urban Airshed dispersion model, indicated that the CO Standard will not be attained by the end of 1987. The State has estimated that the present I/M program is only achieving 55% of the designed reduction due to high waivers, improper inspections and a low compliance rate due to poor sticker enforcement. The State estimated that under the current SIP, January 1988 CO levels will be 16.1 ppm while the standard is 9 ppm.

For this reason, EPA cannot now conclude that the control strategy that the State has already submitted will produce attainment of the CO standard in the Denver area by the end of 1987. Nor has the State demonstrated that the measures it has already submitted to EPA will produce attainment of the standard by a fixed near term date after 1987. Therefore, EPA proposes to find in this notice that the submittal does not meet Part D requirements.

### Expected Plan Revision

EPA Region VIII asked the State Department of Health on February 24, 1986, to submit a revised plan by July 31, 1987. The revised plan should incorporate any new legislative authority and regulations on I/M and any other measures, and an analysis of whether those measures will achieve attainment by a fixed near term date. EPA is aware that State and local agencies are considering a wide range of new control measures, including enhancements to the I/M program, new alternative fuel measure, and a number of other innovative measures.

Legislation to correct the current I/M program deficiencies, HB 1289, was adopted in 1986; regulations were promulgated by the AQCC on January 15, 1987. The new I/M law provides for a decentralized "BAR 84" computerized analyzer program with testing to begin July 1, 1987. Increased waiver cost limits, increased enforcement of the waiver program, registration enforcement, and increased anti-tampering will also begin July 1, 1987. The new regulation includes the addition of all pre-1968 vehicles without antique license plates into the program.

The State is also considering additional new measures for inclusion in the SIP. These measures include a proposed oxygenated fuels regulation, additional mass transit, employer incentives for ridesharing, year-round daylight saving time, additional I/M program enhancements, additional woodburing controls, and other transportation controls (including traffic light synchronization and parking management). The AQCC is expected to hold a public hearing on these new measures in September, 1987.

The revisions should also contain a revised and updated data base, control strategy analysis, and additional control measures. EPA will evaluate the revised SIP when it is submitted next fall. If EPA finds that this new submittal persuasively demonstrates attainment and reasonable further progress by a fixed near term date, it may withdraw today's proposed disapproval and contruction ban and propose approval of the new submittal.

### Proposed Action

Based on the foregoing discussion, EPA proposes to: (1) approve the BAC control measure and (2) find that the SIP as a whole does not adequately demonstrate attainment of the NAAQS by the end of 1987 or a fixed near term date thereafter and therefore does not meet all of the requirements of Part D of the CAA.

Consistent with section 110(a)(2)(I) of the CAA, EPA also proposes that, if after consideration of public comments it concludes that the plan does not meet the requirements of Part D, the Agency will at that time impose a ban on the construction of major sources and major modifications of sources of CO in the nonattainment area. Once that ban is in place, EPA would lift it only upon final approval of a corrective plan revision demonstrating attainment by a fixed near term date. The issue of how long the ban remains in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above, provides further discussion on this issue.

Today's proposal is based on this notice and the accompanying General Preamble appearing elsewhere in today's **Federal Register**.

Interested parties are invited to comment on all aspects of these proposed actions.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under the Regulatory Flexibility Act 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in the nonattainment areas of the State affected. The EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the CAA, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the CAA.

### List of Subjects in 40 CFR Part 52

Air polution control, Intergovernmental relations, Carbon monoxide.

Authority: 42 USC 7401–7642.

**James J. Scherer,**

*Regional Administrator.*

[FR Doc. 87–15374 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[A-6-FRL-3205-9]

## Approval and Promulgation of Implementation Plans, Texas

**ACTION:** Proposed Rule.

**SUMMARY:** EPA today proposes the following actions for the Texas State Implementation Plan (SIP) under the Clean Air Act (the Act):

- Disapproval of the ozone (03) SIP revision for Dallas and Tarrant Counties because in its SIP revision submittal the State did not demonstrate attainment of the national ambient air quality standard (NAAQS) for $O_3$ by a near-term fixed date.
- A finding for purposes of section 173(4) of the Act only that Texas is not carrying out its approved 1979 $O_3$ SIP because it did not adequately revise that SIP to demonstrate attainment of the NAAQS for $O_3$ for Dallas and Tarrant Counties after EPA called for a SIP revision under section 110(a)(2)(H) of the Act for these areas.
- A ban pursuant to section 173(4) of the Act on the construction of major new sources and major modifications to existing sources of volatile organic compound (VOC) emissions (which react to form $O_3$) in these areas because the State is not carrying out its SIP.
- Approval of the vehicle inspection/maintenance (I/M) program, and certain transportation control measures (TCMs) that the State submitted as part of its SIP revision, provided certain information is submitted prior to final rulemaking. These regulations will assist in further control of VOC emissions.
- A finding that Texas must revise its SIP to demonstrate attainment of the NAAQS for $O_3$ for Dallas, Tarrant, and Denton Counties and to provide control strategies to reduce VOC emissions in these and most likely other neighboring counties.

Today's proposal is based on the discussion in this notice and the accompanying "General Preamble" appearing elsewhere in today's Federal Register.

**DATES:** Comments must be received on or before September 14, 1987.

**ADDRESSES:** Written comments should be submitted to Jack Divita, Chief, Air Programs Branch; U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue; Dallas, Texas 75202. Copies of the State submittals and EPA's evaluation report (*EPA Review of the Texas SIP Revisions for Ozone in Dallas and Tarrant Counties*, May 1987) are contained in SIP file TX-86-03 and are available for public inspection during normal business hours at the above address and the following location: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

**FOR FURTHER INFORMATION CONTACT:** Jim Yarbrough, SIP/NSR Section, Air Programs Branch, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-7214.

**SUPPLEMENTARY INFORMATION:** A comprehensive description of the requirements of the Clean Air Act and EPA's policies under the Act is set forth in the General Preamble cited above.

### Calls for SIP Revisions

Many of those areas for which EPA had approved or conditionally approved Part D SIP's but that did not request an attainment date extension to December 31, 1987, continued to experience NAAQS violations after the December 31, 1982, deadline. Under the 1977 amendments, EPA retained the authority under section 110(a)(2)(H) to issue notices of SIP deficiency and call for revisions to the SIPs to correct the deficiencies.

On November 2, 1983 (48 FR 50686), EPA published a final rule to clarify that sanctions under Section 110(a)(2)(I) do not apply—at least immediately at that time—in nonattainment, nonextension areas with approved Part D plans that failed to bring about attainment by December 31, 1982. In the preamble to the November 2, 1983, rulemaking, EPA indicated its intent to call for SIP revisions in such areas. EPA also indicated its intent to (a) propose to find that a State has failed to carry out its SIP if the State fails to meet the deadline for submittal of its plan revisions or fails to adequately correct deficiencies and (b) based on such a finding, propose construction restrictions under Section 173(4) of the Act.

On February 24, 1984, the EPA Regional Administrators sent formal notices to the Governors of 15 States that their SIP's for specific nonattainment areas were substantially inadequate to ensure attainment of the NAAQS and called on those States to submit corrective SIP revisions to EPA for approval. Twenty-seven calls, involving 38 counties, were made in six EPA Regions. Dallas and Tarrant Counties, Texas, received a call for revision of the $O_3$ SIP. The Agency's goal was to have approvable SIP's within a year after those areas received the calls for SIP revisions. Those areas that had approved or conditionally approved SIP's but that did not attain the NAAQS by December 31, 1982, were given 60 days to submit a schedule for revision activities and one year to submit the revision.

An additional ten calls for SIP revisions were sent to the Governors of nine States in five EPA Regions in September and October 1984 and February 1985. These calls were based on a review and analysis of the air quality monitoring data of all areas (nonattainment and attainment) through December 1983. Denton County, Texas, which is adjacent to Dallas County, received at that time a call to revise its $O_3$ SIP. As in the February 1984 calls for SIP revisions, Denton County and the other September–October 1984 SIP call areas were given one year to submit the required SIP revision.

### Description of Findings and Proposal

Texas submitted a revision to the $O_3$ SIP for Dallas and Tarrant Counties in several parts. Revisions were submitted October 11, 1985, December 13, 1985, and May 9, 1986, and a draft I/M plan was submitted July 29, 1986. The submittals contain measures that would reduce emissions of volatile organic compounds (VOC); reduction of VOC emissions is necessary to reduce $O_3$ concentrations. The SIP revision, however, does not demonstrate that the amount of VOC emissions reductions provided in the SIP is sufficient to attain the $O_3$ NAAQS by any near-term fixed date. In fact, it shows that there is a major shortfall.

Therefore, consistent with the reasoning set forth in EPA's General Preamble cited above, EPA proposes to disapprove the revision to the $O_3$ SIP for Dallas and Tarrant Counties.

EPA had previously approved the 1979 ozone SIP for Dallas and Tarrant Counties on March 25, 1980, and May 3, 1982. EPA now proposes to find that Texas did not adequately carry out the requirement of its SIP to revise the SIP to demonstrate attainment of the $O_3$ NAAQS after EPA called for a SIP revision under section 110(a)(2)(H) of the Act. Based on this finding, EPA also proposes to impose a ban on the construction of new VOC sources, and on major modifications of existing VOC sources, under section 171(4) of the Act.

EPA also has authority under the Act to impose other sanctions and requirements, including the withholding of funding for construction of sewage treatment facilities under section 316 of the Act. For additional information on these other potential consequences and on EPA's proposed rulemaking action on this and other $O_3$ and CO SIPs, the reader may refer to the General Preamble. In addition, EPA intends to provide further guidance in late summer

of 1987 on how States can correct their SIPs to meet the Act's requirements.

**Measures proposed for Approval**

EPA proposes to approve certain measures in the State's submittal for Dallas and Tarrant Counties as part of the $O_3$ SIP under section 110(a)(3) of the Act on the grounds that they would strengthen the SIP and thereby produce progress toward attainment of the $O_3$ NAAQS. These measures are described below.

**Vehicle Inspection and Maintenance**

The TACB estimates that, taken together, the mobile source measures will contribute a 19.5% VOC reduction in Dallas County between 1983 and 1987. Vehicle I/M, a subset of this, is estimated by TACB to reduce the total by 4.6%. In Tarrant County TACB estimates that mobile source measures will contribute a 17.3% VOC reduction between 1983 and 1987. Vehicle I/M is estimated by TACB to reduce the total by 4.0%.

The TACB proposes a decentralized, parameter-type I/M program similar to that of the approved Harris County, Texas, I/M program, which includes an annual, visual inspection of components of the emission control system to determine if they are present and connected properly. It also includes a check for lead compounds in the tailpipe, using activated paper strips.

New vehicles also receive an inspection and a compliance sticker. However, this sticker is valid for a two year period. Texas Senate Bill 321 provides for the two year delay after the initial inspection. The TACB must submit the bill prior to EPA's final notice so that EPA can review the approvability of this two-year inspection system. According to a TACB memo, the inspection of new vehicles does not conflict with section 209(a) of the Clean Air Act since it is an inspection of components only and not a standard to control emissions. This will be reviewed by EPA when the copy of the bill is received.

The Texas Department of Public Safety (DPS) is charged with administering the I/M program. The properly installed and connected emission control equipment is covered by the inspection procedures. The DPS rules in the draft July 29, 1986, submittal include procedures to inspect positive crankcase ventilation (PCV), air injection system, evaporative system, thermostatic air intake system and choke system on all 1968 and newer vehicles: to inspect catalytic converter, fuel inlet restrictor and a test for lead in the tailpipe on 1980 and newer vehicles. Additionally, the DPS Regulations and Texas Motor Vehicle Statutes provide strict requirements for licensing of inspection stations and inspectors.

Vehicles failing inspection are required to be repaired and retested within two weeks to receive a compliance sticker. Vehicles failing the first inspection requiring catalyst replacement are allowed up to one year to get the catalyst repaired, except 1984 and newer vehicles have only two weeks for all repairs, including the catalyst/fuel inlet restrictor replacement.

The sticker system enforced by local and state police will be used to assure compliance with the annual inspection. The Texas statute prohibits operations of vehicles without displaying valid State Inspection stickers and provides up to a $200 fine for noncompliance. DPS rule TAC 23.91 further prohibits the operation on highways in Dallas, Tarrant and other participating counties of 1968 or newer model year vehicles registered in those counties which do not display a valid inspection certificate with red numeral insert. This rule is based on Texas Senate Bills 1205 and 725.

The proposed program is estimated to reduce VOC emissions from light duty vehicles (LDVs) and light duty trucks (LDTs) in each county by an amount exceeding EPA's minimum emission reduction requirements.

In April 1987, EPA conducted an audit of the I/M program inspection stations and conducted a tampering survey of the vehicles in operation on the streets. The results of the audit will be considered by EPA before final action is taken.

The draft SIP submittal, among other things, committed to submit letters of commitment from local enforcement agencies to enforce the I/M program. EPA has not received copies of these commitments. These commitments must be submitted prior to the final rulemaking on the I/M plan. EPA is proposing to approve the I/M program if submitted before EPA's final notice and if when submitted it is identical to the October 11, 1985, December 13, 1985, May 9, 1986, submittals and the July 29, 1986, draft submittal and includes adequate letters of commitment. Although Texas failed to submit detailed infeasibility information as to why a tailpipe I/M program and other mobile source programs are not currently being adopted by the State, EPA proposes to approve the above described I/M program since it would strengthen the SIP.

**Transportation Control Measures**

The TACB has submitted several TCMs for Dallas and Tarrant Counties. According to TACB, for Dallas County these will reduce VOC emissions by 1541 tons/year (1.6%) between 1983 and 1987. For Tarrant County these measures translate into a 815 tons/year VOC emissions reduction (1.3%).

For Dallas County the TCMs include signal timing improvements at 500 intersections, computer controlled signal coordination/signal progression at 350 intersections, countywide staggered work hours, a 30% reduction in public transit fares, completing 150 low cost intersection improvements, a countywide carpool/vanpool program, and transit improvements including increased frequency of transit service on existing routes, additional bus service, and preferential bus lanes. For Tarrant County the planned TCMs include signal timing improvements at 250 intersections, computer controlled signal coordination/signal progression at 350 interesections, countywide staggered work hours, low cost intersection improvements to 100 intersections, a countywide carpool/vanpool program, and transit improvements including increased frequency of transit service on existing routes, additional bus services, preferential bus lanes, and Central Business District (CBD) peripheral parking.

Although the above TCMs do not include all those that may be practicable and are specified in section 108(f) of the Federal Clean Air Act, EPA proposes to approve these transportation measures that Texas does offer since they would strengthen the SIP.

**Lack of Demonstration of Attainment**

Monitored ozone design values have remained in the .16 ppm —.17 ppm range for Dallas and Tarrant Counties in the 1983–1986 period. The VOC emission reductions proposed by Texas amount to 23.0% between 1983 and 1987 in Dallas County and 26.5% between 1983 and 1987 in Tarrant County. The VOC reductions needed to demonstrate attainment were determined by Texas through the use of the Empirical Kinetic Modeling Approach (EKMA) to be 52.8% for Dallas County and 51.5% for Tarrant County. Clearly, the Dallas and Tarrant Counties SIP revision fails to demonstrate attainment with the $0_3$ NAAQS by any fixed near-term date. In fact, no attainment date is stated by Texas for Dallas and Tarrant Counties.

Moreover, EPA has identified several discrepancies in the Dallas and Tarrant Counties package that would have to be

corrected prior to approval of any demonstration of attainment. These discrepancies are significantly contributing to the shortfall in attainment. These discrepancies and EPA's associated correspondence with Texas are thoroughly discussed in the above-mentioned EPA evaluation report. The discrepancies are summarized below.

**Emission Data**

Texas used a 1983 base emissions inventory survey as the primary information. The EPA finds the use of a 1983 base inventory acceptable but, as discussed below, finds the annual VOC totals to be questionable. The annual emissions for nitrogen oxides ($NO_x$) are not stated in tons/year for 1983, although the revision projects emissions in units of tons/year for 1987. These annual emissions must be stated in tons/year. The EPA has determined that a 1983 base year is appropriate but notes that no post-1987 $NO_x$ inventory projection or post-1992 VOC inventory projection is made by TACB. According to EPA's guidance, projections should be at least 5 to 10 years beyond the attainment year, but not less than 3 years. No attainment year is forecast by TACB, and therefore the projections are not acceptable. In addition, an attainment year must be demonstrated. Emission inventories in order to be comprehensive and accurate should include all major stationary source emissions (with names and addresses of all major sources supplied), minor stationary sources, area sources, and mobile sources. There is no such detailed inventory for Dallas and Tarrant Counties in the SIP submittal.

Another concern with the TACB annual emissions inventory is the use of stationary source totals based upon artificial periods of operations, that is, 365 days per year. EPA requires that for every urban area the State use a data base sufficient to support at least a Level III (city-specific EKMA) modeling analysis. Typical summer weekday emission estimates are required as part of the Level III data submittal. Although the TACB used a correct inventory for modeling purposes, the baseline annual inventory used to project future emissions (before additional control) was not consistent with the actual periods of operation of the stationary sources. The State must clarify why its assumption in calculating an annual emisison inventory is appropriate.

Concerning mobile source emissions, EPA questions TACB's inputs to the MOBILE 3 emissions model. The inputs about which EPA has concern include percentage cold start (no catalyst), percentage hot start (catalyst), percentage cold start (catalyst), and percentage of vehicle miles traveled due to light duty gas vehicles (LDGV), light duty gas trucks—1 (LDGT1), and light duty gas trucks—2 (LDGT2). Another EPA concern is the assumption that 10% of the Dallas County VMT and Tarrant County VMT is due to rural driving since this percentage appears excessively large. TACB has failed to submit information justifying the above parameters.

**Modeling Analysis**

Texas chose to utilize the city-specific (level III) EKMA/OZIPP procedure suggested by EPA for use in post-1982 ozone nonattainment areas. However by using an "actual air parcel trajectory approach" Texas chose to use EKMA/OZIPP in a way that deviates from Level III guidance.

The TACB has failed to submit to EPA sufficient information to prove that its "actual trajectory" approach is justified given the available meteorological data and the requirements for meteorological data for "actual trajectory" approaches (e.g., Level II) as discussed in the November 4, 1979, **Federal Register** (44 FR 65667).

Another questionable input related to the air parcel trajectories is TACB's use of CBD non-methane hydrocarbon (NMHC) to nitrogen oxides ($NO_x$) ratios in rural and suburban areas.

Texas has failed to submit to EPA sufficient information proving the validity of the use of these CBD NMHC-$NO_x$ ratios in rural and suburban areas.

The TACB modeled 46 site-days at eight monitoring sites in Dallas County, Tarrant County, and Denton County (for one site that was designed as a downwind maximum concentration site for Dallas).

In all cases TACB modeled at least five days at each site where violations were recorded. EPA guidance requires modeling of at least the five highest ozone days at each site, and in most cases this is sufficient. However, at the Dallas-Mockingbird site there is EPA concern that modeling additional days may reveal a need for a VOC reduction percentage greater than the 51.5% indicated for Tarrant County. In a February 24, 1986, letter TACB agreed to model two additional days at Dallas-Mockingbird and one additional day at the Dallas-North site, where a similar situation may occur. TACB has failed to submit these modeling results.

One additional modeling item is a potential problem. This is the TACB's atmospheric mixing height determination method. The EPA requested, and TACB submitted, the raw data used to obtain the TACB mixing heights. The EPA will compare results from the EPA mixing height computer program to those of the TACB method in order to determine approvability of the TACB procedure.

**Stationary Source Controls**

According to the April 4, 1979, **Federal Register** notice (44 FR 20372), Reasonably Available Control Technology (RACT) is required for all types of sources for which EPA has published a Control Technique Guideline (CTG) document. This requirement also applies to all major (i.e., with a potential to emit 100 tons per year or more of VOC) stationary sources.

However, regulations have not been submitted for all categories covered by a Set III CTG. The TACB has failed to adopt Set III rules for all covered catagories or alternatively to submit a negative declaration that those covered categories for which no Set III rules were adopted do not exist in Dallas and Tarrant Counties. Plus, TACB did not identify and develop RACT regulations for all existing major sources for which no CTG has been established or else submit a negative declaration. That 1979 notice also stated as a condition of approval that a state must submit, as part of its SIP revision, a commitment to adopt regulations corresponding to future EPA CTGs. TACB only committed to consider adopting regulations corresponding to future EPA CTGs. The TACB failed to commit to adopting RACT requirements for sources covered by future CTGs. Texas will have to correct those deficiencies before EPA will be able to approve a corrective SIP for these areas.

Furthermore, EPA is currently evaluating nitrogen oxides ($NO_x$) controls as an effective ozone abatement measure. In the near future, EPA may require Texas to evaluate the technical and financial feasibility of such controls and put them into effect if they are deemed by EPA to be feasible and necessary for ozone abatement.

The SIP revision submittal contains growth allowances for Dallas County and Tarrant County from 1983 through 1987. Since there is no demonstration of attainment, EPA cannot presently approve the Texas growth increments.

**Discussion of Findings and Proposal—Denton and Neighboring Counties**

Texas was scheduled to submit a SIP revision for Denton County within one year after receiving the call for a SIP revision from EPA under section 110(a)(2)(H). EPA extended the Denton

County SIP revision submittal date to August 1987. While EPA believes that the ozone problem in Denton County is at least partially due to VOC emissions from Dallas and Tarrant Counties, VOC emissions from Denton County also contribute substantially to violations of the $O_3$ NAAQS in Denton County. In addition, there is evidence that violations in Dallas and Tarrant Counties are attributable in part to VOC emissions in neighboring counties, such as Denton County. EPA believes that counties near an urban nonattainment area should be included as part of the ozone planning area if they create or could create emissions that significantly contribute to the problem in the urban nonattainment area. Based upon data concerning commuting patterns that EPA received from a North Central Texas Council of Governments (NCTCOG) report showing that 36.1% of the vehicle miles traveled (VMT) in Dallas County is due to vehicles registered in other area counties and 23.5% of VMT in Tarrant County is due to vehicles registered in other area counties, EPA believes that neighboring counties taken together contribute very importantly to the total Dallas and Tarrant Counties VOC emission data base. Further, suburban growth from Dallas and Fort Worth is quite evident in several area counties, including Denton, and significant job-related commuting consistently occurs into Dallas and Tarrant Counties. Moreover, EPA recognizes that industry has investigated the possibility of locating in these fringe counties because of a requirement in Dallas and Tarrant Counties for greater than one for one VOC offsets. Therefore, it appears that any future strategy for attainment and maintenance of the $O_3$ NAAQS in Dallas and Tarrant Counties—as well as other areas of the country—must be based on a regional approach across several counties. EPA is currently considering national guidance for the geographical extent of the air quality analysis and application of controls in an ozone SIP; EPA intends to discuss this guidance in a notice scheduled for publication in late summer, 1987. In the Dallas-Tarrant area, this revised larger planning area would likely include, for example, the counties of Denton, Collin, Rockwall, Kaufman, Ellis, Johnson, Parker, and Wise in Texas. At this point, EPA considers that additional measures with regard to emissions from these counties may be required for a successful comprehensive attainment demonstration in Dallas and Tarrant Counties. As mentioned above, EPA is proposing under Section 173(4) of the Act a ban on the construction of major new VOC sources and on the major modification of existing VOC sources in Dallas and Tarrant Counties. The issue of how long the ban remains in effect is a matter of continuing discussion within the Agency, and the General Preamble, cited above, provides further discussion on this issue. EPA anticipates, however, that removal of the construction ban for Dallas and Tarrant Counties will most likely depend at least on submission of an acceptable demonstration of attainment that accounts for emissions from Denton County and the above neighboring counties that may be included under forthcoming EPA guidance.

*Issues*

EPA intends to supplement this proposal with a separate notice discussing the Agency's evaluation of other aspects of the Texas submittals for Dallas and Tarrant Counties, e.g., the New Source Review Regulations and the VOC Stationary Source Control Regulations.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Under the Regulatory Flexibility Act 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in the nonattainment areas of the State affected. The EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the CAA, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines a State has failed to implement its SIP.

**List of Subjects in 40 CFR 52**

Air pollution control, Intergovernmental relations, Carbon monoxide.

**Authority:** 42 USC 7401–7642.

Dated: May 15, 1987.

**Robert E. Layton, Jr., P.E.**

*Regional Administrator.*

[FR Doc. 87–15375 File 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

**40 CFR Part 52**

**[A–5–FRL–3206–8]**

## Approval and Promulgation of Implementation Plans; Illinois

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice announces USEPA's proposed actions under the Clean Air Act (CAA) on certain revisions to the ozone State Implementation Plan (SIP) required of the State of Illinois for the Illinois portions of the Chicago and St. Louis ozone nonattainment areas. USEPA proposes to disapprove the plan as not meeting all of the requirements of Part D (Sections 171–178) of the CAA, particularly the requirement that the SIP provide for attainment of the standards by the statutory date (or a fixed, near-term date thereafter). Based on that proposed finding, USEPA also proposes to impose a construction ban set forth in section 110(a)(2)(I) of the CAA on major new stationary sources and major modifications of stationary sources of volatile organic compounds (VOC) in the Illinois portions of the Chicago and St. Louis nonattainment areas. Today's proposal is based on this notice and the accompanying General Preamble appearing elsewhere in today's Federal Register.

**DATES:** Comments should be submitted to USEPA on or before September 14, 1987.

**ADDRESSES:** Copies of the Illinois ozone plan revisions are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886–6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Comments on this proposed rule should be addressed to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano (312) 886–6036.

**SUPPLEMENTARY INFORMATION:** This notice contains the following sections:

"Background," "Plan Evaluation," and "Proposed Actions." The "Background" section briefly summarizes the history of the development of the ozone SIP for the Illinois portions of the Chicago and St. Louis ozone nonattainment areas. The "Plan Evaluation" section discusses USEPA's review of the State's Part D SIP submittals for these areas. The "Proposed Actions" section describes USEPA's proposal to (1) find that the plan as a whole does not meet all of the requirements of Part D of the CAA and (2) impose a construction ban on VOC sources in the areas until the State submits and USEPA approves new attainment demonstrations (including but not limited to an air quality analysis and updated emission inventory) and the necessary control measures for the areas.

## Background

A comprehensive description of the requirements of the CAA and USEPA's policies under the CAA Act is set forth in the General Preamble cited above. In general, for a SIP revision to be approved, it must meet the requirements of section 110 of the CAA and any pertinent requirements of 40 CFR Part 51. For a nonattainment area plan revision to be approved, it must also satisfy the requirements of Part D of the CAA, including Section 172. Section 172 contains special requirements for 1982 plan revision for areas that receive an extension of the attainment data for carbon monoxide (CO) or ozone beyond December 31, 1982. The USEPA addressed these requirements in detail in policy guidance published in a January 22, 1981, **Federal Register** notice (46 FR 7182). That guidance supplemental earlier guidance issued in USEPA's "General Preamble" for Part D plans [44 FR 20372 (April 4, 1979)] and four additional notices [44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979)].

Portions of Illinois were designated nonattainment for ozone on March 3, 1978 [43 FR 8962). USEPA approved the State's request for an extension of the attainment date for the Illinois portions of the Chicago and St. Louis ozone nonattainment areas until December 31, 1987, on February 21, 1980 (45 FR 11472).

The State submitted various elements of its 1982 nonattainment area plans on June 30, 1982. The plans were revised and additional information was submitted July 28, 1982, December 23, 1983, January 20, 1984, May 4, 1984, November 14, 1984, April 22, 1985, September 5, 1985, September 17, 1985, October 3, 1985, October 22, 1985, November 20, 1985, February 27, 1986, May 6, 1986, July 23, 1986, and October 2, 1986. The plan purports to demonstrate attainment of the ozone standard by December 31, 1987, through implementation of all of the following stationary source and mobile source measures.

Illinois has currently adopted regulations limiting emissions of VOC for Group I and portions of Group II and III USEPA's Control Technique Guidelines (CTGs) for stationary source categories (RACT I, RACT II, and RACT III);[1] is considering for adoption both new and/or corrected regulations for the remaining portions of Groups II and III of the CTGs and for major sources not covered by USEPA's CTGs (non-CTG sources); has adopted a ban on leaded gasoline in Chicago and the remainder of Cook County; is implementing certain transportation control measures; and is implementing a vehicle inspection and maintenance program (I/M).

### *History of USEPA's Rulemaking*

On February 3, 1983, (48 FR 5110) USEPA proposed to disapprove the initial draft zone plan revisions that the State of Illinois had submitted on June 30, 1982. The following major plan deficiencies were identified in the State's draft plan.

1. The State had not implemented the vehicle I/M program to which it had committed in its 1979 plan. Further, the I/M portion of the plan did not contain all the elements required by USEPA's 1982 SIP policy (January 22, 1981, 46 FR 7182).

2. The plan did not include a commitment for the adoption and final submittal of the VOC RACT regulations for sources covered by the Group II and Group III CTGs and for all other major VOC sources, as required in USEPA's policy of January 22, 1981.

3. The plan did not include a suitable demonstration of attainment. It relied on contingency measures to achieve some of the emission reductions that may be necessary. It provided ranges of estimates of emission control requirements, rather than providing single best estimates of control requirements for each demonstration area as required by USEPA.

4. The plan distinguished between the estimates of emission reductions required to attain the standard in Illinois and estimates of emission reductions required to attain the standard in Wisconsin. The Illinois plan argued that it need not demonstrate attainment in southeast Wisconsin. For the reasons discussed in the February 3, 1983, proposal, USEPA disagrees.

The State modified its draft plan to address the plan deficiencies identified in USEPA's February 3, 1983, proposed disapproval. Only the deficiencies in the I/M portion of the plan and final submittal of stationary source RACT rules remained. USEPA believed it could not propose to approve the I/M portion of the plan until all program elements specified in USEPA policy published January 22, 1981 (46 FR 7182), were met. On August 15, 1984 (49 FR 32601), USEPA revised its proposed rulemaking action and proposed approval of all major plan elements with the exception of the State's I/M program and with the understanding that Illinois would submit finally adopted stationary source RACT rules.

### *Attainment Demonstration*

On April 22, 1985, Illinois submitted to USEPA a proposed revision to its ozone SIP, an attainment demonstration for the Chicago interstate ozone nonattainment area. The proposal showed that a 46% reduction in VOC emissions from the 1979 base inventory would be necessary in order to attain the NAAQS by the end of 1987 throughout the interstate area. Similarly, the ozone attainment demonstration for St. Louis, which included the Illinois portion of the St. Louis ozone nonattainment area, showed that a 41.7% reduction in VOC emissions from the 1979 base inventory would be necessary in order to attain the NAAQS by the end of 1987 throughout the interstate area.[2] In both cases, Illinois plans purported to demonstrate attainment by achieving reductions in VOC emmissions, primarily through RACT level controls for Group II, Group III, major non-CTG sources, implementation of a vehicle I/M program, the Federal Motor Vehicle Control Program (FMVCP), and transportation control measures.[3]

[1] Group I CTGs are those published by USEPA prior to 1978 (RACT I). Group II CTGs are those published in 1978 (RACT II), and Group III CTGs are those published after 1978 (RACT III). For all remaining categories, USEPA has not published CTGs. These are referred to as non-CTG sources or regulations.

[2] The 41.7% control requirement for the St. Louis interstate ozone nonattainment area was jointly agreed to by both Illinois and Missouri. USEPA approved this control requirement (and the 1982 ozone SIP) for the Missouri portion of the St. Louis nonattainment area on September 3, 1986 (51 FR 31328).

[3] Under Illinois' regulatory scheme, the Illinois Environmental Protection Agency (IEPA) develops attainment demonstrations and submits them to USEPA as revisions to the SIP. However, the IEPA does not have the authority to adopt most regulations needed to implement these demonstrations. Instead, the IEPA provides regulatory proposals to the Illinois Pollution Control Board (IPCB), a completely independent rulemaking

Continued

Given the relative nearness of the December 31, 1987, attainment date projected in the Illinois submittals, the validity of the assumptions made in the demonstrations of ozone attainment, which are contained in the SIP revisions currently being reviewed by the USEPA, is uncertain. USEPA is aware that Illinois is behind in its own schedule for the adoption and implementation of some VOC emission control regulations. Failure to implement controls by the attainment date in the submittals makes it unlikely that all affected sources in the extension areas in Illinois will reach the allowable VOC emission levels by the deadlines projected in the demonstrations.

In addition, the data available to USEPA show that ozone concentrations at the peak ozone sites in these areas during the 1984–1986 period continue to violate the ozone NAAQS and have shown little or no improvement over the 1979–1981 peak levels, which were the basis for the VOC control estimates in the attainment demonstrations currently under review by USEPA. Review of the current air quality and available VOC emission reductions achievable by the end of 1987 leads to the conclusion that it is unlikely that attainment of the ozone NAAQS will occur by the end of 1987 in either the Chicago/N.W. Indiana area or the St. Louis area. For these reasons, USEPA concludes that the State submittals do not persuasively demonstrate attainment by December 31, 1987, nor is attainment likely to occur shortly thereafter.

**Legally Adopted Measures**

*Stationary Source Control Measures*

The status of the federally required stationary source control measures in the Illinois portions of the Chicago and St. Louis extension areas is presented below.

RACT I

Illinois' RACT I rules are fully approved with the exception of an outstanding conditional approval item. To satisfy this conditional approval item, Illinois must submit a revision to Rule 205(n) which requires 81% overall control for surface coating operations if add-on control is used. This proposed revision is currently before the Illinois Pollution Control Board (IPCB).[4]

RACT II

Illinois' RACT II rules have not been approved by USEPA. On July 11, 1985, USEPA proposed to approve Illinois' VOC regulations for the following RACT II categories:

- Petroleum refinery fugitive emissions.
- Rubber tire manufacturing.
- Perchloroethylene dry cleaning.

In addition, Illinois has certified that it has no flatwood paneling sources, another Group II CTG category. USEPA will take final action on these submittals in a future **Federal Register** notice.

Illinois lacks approved RACT II rules for the remaining RACT II categories. Although Illinois submitted rules to address most of the remaining RACT II categories, on July 11, 1985 (50 FR 28224), USEPA proposed to disapprove them as not being representative of RACT. The Illinois Environmental Protection Agency (IEPA) has proposed corrections to the deficient RACT II rules, but the State rulemaking procedures on the corrections have not yet been completed. Adopted RACT II rules were due to USEPA by January 1, 1981.

RACT III

The IEPA has given RACT III proposals to the IPCB and draft rules to USEPA for parallel processing. These RACT III proposals are for the following source categories:

| Source category | Date regulation due |
|---|---|
| Large Petroleum Dry Cleaners | Jan. 1, 1984 |
| Polystyrene Resin Manufacturing | Jan. 1, 1985 |
| SOCMI Manufacturing-Leaks | Jan. 1, 1986 |
| SOCMI Air Oxidation | Jan. 1, 1986 |

As indicated above, adopted RACT III regulations range from being over 1 year to over 3 years behind schedule.

MAJOR, NON-CTG RACT RULES

IEPA has proposed a "Generic" VOC rule to the IPCB to satisfy Illinois' requirement to have a major, non-CTG RACT regulation. In addition, Illinois has adopted major non-CTG rules for coke oven by-product recovery plants and wood furniture coating. (USEPA will propose rulemaking on these in future **Federal Register** notices.) IEPA has also proposed a major non-CTG rule for heatset web offset lithographic printing sources.

In summary, although IEPA has generally provided VOC proposals to the IPCB in a timely manner, Illinois still lacks acceptable, finally adopted rules for the following source categories:

RACT II

Leaks from Gasoline Tank Trucks
Miscellaneous Metals
Manufacture of Synthesized Pharmaceutical Products
Graphic Arts
External Floating Roofs

RACT III

Large Petroleum Dry Cleaners
Polystyrene Resin Manufacturing
SOCMI Manufacturing-Leaks
SOCMI Air Oxidation

Major Non-CTG

Generic rule
Heatset Web Offset Printing
Wood furniture coating transfer efficiency test method

Although draft rules for these source categories have final compliance dates no later than the end of 1987, the IPCB may decide to adopt later final compliance dates, based on industry comments. Additionally, even if the rules are adopted with December 31, 1987, compliance dates, it is improbable that sources can actually be in final compliance with these new requirements by that date. This possibility casts further doubt on the State's demonstration that the plan will assure attainment by December 31, 1987, or even shortly thereafter.

**Mobile Source Control Measures**

*Vehicle Inspection and Maintenance (I/M).* USEPA's analysis indicates that all portions of the Illinois I/M program have been submitted as a SIP revision and appear to be approvable, with the exception that Illinois has not submitted a signed version of the "Illinois Environmental Protection Agency/Secretary of State Joint Memorandum—Technical Procedures for Enforcement". USEPA's review of the draft indicates that it appears to be approvable when submitted. Further, it is USEPA's understanding that this signed document is to be submitted shortly.

*Transportation Control Plans (TCP).* On August 15, 1984, USEPA proposed to approve the TCPs for both the Illinois portions of the Chicago and St. Louis nonattainment areas as meeting the requirements of the January 22, 1981,

body. Unless the IPCB adopts these regulatory proposals as rules and the rules comply with Illinois' other regulatory adoption procedures, they do not meet the CAA requirements for SIP submittals.

[4] Similarly, in 1983 through the present, the IEPA has submitted draft stationary source proposals to the IPCB (1) to correct the deficiencies in Illinois' RACT II regulations, (2) to adopt RACT III regulations, and (3) to adopt major, non-CTG regulations. USEPA has reviewed these proposals and has found that these proposals, if adopted, represent substantial progress in the development of the State's VOC stationary source control program. Nevertheless, until these proposals are adopted as regulations by the IPCB and complete the remainder of the State's regulatory adoption procedures, they do not meet the CAA requirements for SIP submittals.

**Federal Register**. No further submittals are required from the State.

*Reasonable Further Progress (RFP).* Due to delay in adopting the mobile and stationary source control measures discussed above, the State has failed to achieve reasonable further progress (RFP) toward attainment of the standard as projected in the plan.

In addition, without the adoption of the necessary rules, USEPA cannot be sure that the plan will achieve RFP, as defined in Section 171 of the CAA, by any fixed, near-term date after the CAA extension area ozone attainment date of December 31, 1987. For these reasons, USEPA concludes that the plan does not meet the CAA's RFP requirement.

**Proposed Action**

Based on the conclusions discussed above, USEPA proposes to find that the plan as a whole, taking into account the legally adopted control measures, does not adequately demonstrate attainment of the NAAQS by the end of 1987 or any near term fixed date thereafter (or RFP in the interim). Therefore, the plan does not meet the requirements of Part D of the CAA. In separate **Federal Register** notices, USEPA will propose rulemaking on the stationary and mobile source control measures adopted by the State.

Consistent with section 110(a)(2)(I) of the CAA and the policy contained in USEPA's **Federal Register** notice of November 2, 1983 (48 FR 50686), USEPA also proposes that, if after consideration of public comments it concludes that the plan does not meet the requirements of Part D, the Agency will at that time add the requirement of having an approved ozone plan which assures attainment, before the ban on the construction of major sources and major modifications of sources of VOC in the zone nonattainment areas can be lifted. A construction ban has been in place in all primary nonattainment areas in Illinois for all pollutants since May 26, 1981, when the Seventh Circuit Court of Appeals decision reached in *Citizens for a Better Environment v. United States*, 649 F.2d 522 (7th Cir. 1981) had the effect of removing USEPA's conditional approval of the New Source Review (NSR) portion of Illinois' Part D Plan and, thereby, reimposing the sanctions in all primary nonattainment areas. As a practical matter, therefore, if sanctions are imposed for failure to submit an ozone plan, it will add other prerequisites to removing the existing sanctions in the areas subject to this notice. Once these additional prerequisities are in place, USEPA would lift the ban only upon final approval of a corrective ozone plan revision. USEPA intends to provide further guidance in the later summer of 1987 on how States can correct their SIPs to meet the CAA's requirements. The issue of how long the ban remains in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above provides further discussion on this issue. Interested parties are invited to comment on all aspects of these proposed actions.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under the Regulatory Flexibility Act 5 U.S.C. 605(b), USEPA must assess the impact of proposed or final rules on small entities. If USEPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will merely continue in effect in the nonattainment areas of the State affected. The USEPA does not have sufficient information to determine the impacts such a continuance of the moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the CAA, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the CAA.

**List of Subjects in 40 CFR Part 52**

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

**Authority:** 42 U.S.C. 7401–7642.)

Dated: May 15, 1987.

**Frank M. Covington,**

*Acting Regional Administrator.*

[FR Doc. 87–15376 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR Part 52**

**[A–9–FRL–3207–2]**

## Approval and Promulgation of Implementation Plans, Nevada

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** EPA is today proposing the following actions for the Nevada State Implementation Plan (SIP) under the Clean Air Act: (1) Disapproval of the carbon monoxide (CO) SIP for Truckee Meadows because the State has not provided a persuasive demonstration of attainment of the national ambient air quality standards (NAAQS) for CO by the statutory date or a fixed, near-term date thereafter; (2) A ban under section 110(a)(2)(I) of the Clean Air Act on the construction or major new sources, and on major modifications to existing sources, of CO in this area because of the abovementioned deficiency; and (3) Approval, in part, of 1985 revisions to the SIP for Truckee Meadows. The disapproval portion of today's action is being proposed for reasons discussed in this notice and in the accompanying General Preamble appearing elsewhere in today's **Federal Register**.

**DATE:** Comments may be submitted to EPA at the address below up to September 14, 1987.

**ADDRESSES:** Comments should be addressed to:

Judith E. Ayres, Regional Administrator, Environmental Protection Agency, Region 9, Attention: Air Management Division (A–2), 215 Fremont Street, San Francisco, CA 94105.

All of the documents referenced in today's notice are available for public inspection during normal business hours at EPA's Region 9 office in San Francisco and at the addresses noted below.

Nevada Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV 89710

Washoe County District Health Department, 1001 E. Ninth Street, Reno, NV 89520

Washoe County Department of Comprehensive Planning, 241 Ridge Street, Reno, Nevada 89520.

**FOR FURTHER INFORMATION CONTACT:**

Wally Woo, EPA, Region 9 (A–2), Air Management Division, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7634; FTS 454–7634.

**SUPPLEMENTARY INFORMATION:**

### A. Background

*1. General Statutory and Regulatory Requirements*

A comprehensive description of the relevant Clean Air Act requirements and EPA's policies under the Act is set forth in the General Preamble cited above.

*2. Regulatory Actions in Truckee Meadows*

The Clean Air Act, as amended, states that a plan must be submitted by January 1, 1979. This requirement was fulfilled by the submission of the 1978

Truckee Meadows Air Quality Implementation Plan (AQIP), and its subsequent approval by EPA. The AQIP applies to the Truckee Meadows air basin in Washoe County, which includes the cities of Reno and Sparks.

On June 23, 1982, the Governor of Nevada submitted the 1982 SIP Update for Truckee Meadows. On February 3, 1983, EPA proposed to disapprove this revision because it failed to show attainment of the CO standard by the statutory date of 1987 (48 FR 5071). Since the plan did not project attainment by 1987, EPA concluded that it also did not provide for reasonable further progress as defined in section 171 of the Clean Air Act. The absence of sufficient legal commitments and implementation schedules for many of the controls measures was the remaining major deficiency.

In a final rulemaking published August 8, 1984 (49 FR 31683), EPA approved the 1982 SIP control measures because they strengthen the SIP. In addition, in that same rulemaking, EPA took no action on whether the attainment demonstration and the reasonable further progress (RFP) portions of the SIP met the requirements of Part D pending further analysis. In deferring action on the plan, EPA noted that the reductions claimed for controls on residential woodburning were not justified. In the August 8, 1984 notice, EPA specified that data supporting wood burning stove reductions be submitted by March 31, 1985. A letter dated May 1, 1985, from EPA Region 9 to the State of Nevada, extended this deadline to October 1, 1985, at the State's request.

To remedy these deficiencies, a 1985 AQIP for Truckee Meadows was adopted by the Washoe Council of Governments on September 11, 1985 and submitted by the State on November 8, 1985. The plan includes documentation that was not originally required by EPA in its rulemaking notice, including a fully updated emissions inventory. Additionally, rather than supplementing the revised 1982 AQIP update, which would have retained the outdated information, the 1985 plan was intended to replace entirely the revised 1982 AQIP. The revision also adds two control elements: a public education program to direct more efficient domestic wood burning and a commitment to adopt a wood stove emission standard in 1987. The revision also discusses the 1985 amendments to the State's Inspection and Maintenance program and the existing Washoe County emergency episode plan restricting wood burning during State I alert levels (no credit is claimed for this intermittent control measure).

This 1985 SIP revision does not correct, however, the attainment demonstration deficiencies in the existing SIP. In fact, the 1985 AQIP acknowledges that Truckee Meadows will not attain the CO NAAQS in 1987 and does not predict attaintment at any near-term future date.

### EPA Proposed Action

EPA is proposing to take the following actions:

1. Approve the control measures, commitments, and updated data base in the revised 1985 AQIP with the exception of the Inspection and Maintenance program revisions, which will be acted upon in a future **Federal Register** notice, and the attainment and RFP demonstration. With these exceptions, approval of the 1985 AQIP measures, commitments, and data base is proposed under section 110(a)(3) because the AQIP updates the SIP inventory and strengthens the SIP by the addition of further control programs.

2. Disapprove the attainment the RFP demonstration portion of the plan since it fails to provide for attainment of the CO standard by December 31, 1987, or a fixed near-term date thereafter.

3. Impose a construction ban under section 110(a)(2)(I) of the Act on major new sources and on major modifications to existing sources of CO in the Truckee Meadows area. The issue of how long the ban would remain in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above, provides additional information of this issue.

These actions would not affect EPA's previous approval of the control measures and commitments in the Nevada SIP for Truckee Meadows.

EPA also has authority under the Act to impose other sanctions and requirements, including the withholding of funding for highways under section 176(a) of the Act and for construction of sewage treatment facilities under section 316 of the Act. For additional information on these other potential consequences and on EPA's proposed rulemaking action on this and other SIPs, the reader may refer to the General Preamble cited above.

In addition, EPA intends to provide further guidance in late summer of 1987 on how states can correct their SIPs to meet the Act's requirements.

### Regulatory Process

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in the Truckee Meadows nonattainment area. EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the Clean Air Act, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Clean Air Act.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget for review.

### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide.

**Authority:** 42 U.S.C. 7401–7642.

Dated: May 15, 1987.

**Judith E. Ayres,**

*Regional Administrator.*

[FR Doc. 87–15377 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR Part 52**

**[A–9–FRL–3207–1]**

## Approval and Promulgation of Implementation Plans; California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** EPA is today proposing the following actions for the California State Implementation Plan (SIP) under the Clean Air Act: (1) disapproval of the ozone SIP for Kern County because the State did not fulfill a previous condition of EPA's approval of the SIP in that the State failed to persuasively demonstrate attainment of the national ambient air quality standard (NAAQS) for ozone by a fixed near-term date; (2) imposition of the ban under section 110(a)(2)(I) of the Clean Air Act on the construction of major new sources, and on major modification to existing sources, of volatile organic compound (VOC) emissions in this area because of the

above-mentioned deficiency; and (3) approval of commitments to adopt control measures, and revised emissions inventory and modeling elements that the State submitted as part of its revised ozone SIP for Kern County; the State's commitments are to adopt and submit additional measures to control emissions of ozone precursors. Today's action is being proposed for reasons discussed in this notice and in the accompanying General Preamble appearing elesewhere in today's Federal Register.

**DATE:** Comments may be submitted up to September 14, 1987.

**ADDRESSES:** Comments may be sent to: Judith E. Ayres, Regional Administrator, Environmental Protection Agency, Region 9, Attention: Air Management Division (A-2), 215 Fremont Street, San Francisco, CA 94105.

Copies of the submitted SIP revision may be inspected during normal business hours at EPA's Region 9 office in San Francisco or at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812
Kern County Air Pollution Control District, 1601 H Street, Suite 250, Bakersfield, CA 93301-5199

**FOR FURTHER INFORMATION CONTACT:** Wally Woo, State Liaison Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7634 FTS: 454-7634.

**SUPPLEMENTARY INFORMATION:**

*A. Background*

*1. General Statutory and Regulatory Requirements*

A comprehensive description of the relevant Clean Air Act requirements and EPA's policies under the Act is set forth in the General Preamble cited above.

*2. Regulatory Actions on Kern County*

On March 3, 1978, EPA promulgated a list of nonattainment areas that included Kern County, California, as a nonattainment area for ozone. 43 FR 8962. On October 12, 1979, California submitted to EPA a package of SIP revisions that included an ozone control plan for Kern County which purported to satisfy the Part D requirements.

On September 15, 1980, EPA published a notice of proposed rulemaking concerning the Kern County ozone SIP and other related SIP revisions. 45 FR 60931. The notice cited several deficiencies in the plan, among them an apparent mistake in estimating the quantity of emissions attributed to oil production operations. 45 FR 60934. This mistake in turn led to a potentially inaccurate estimation of the benefits to be gained by control strategies to reduce such emissions, and cast doubt on the accuracy of the plan's demonstration that its control strategy was sufficient to ensure attainment of the ozone NAAQS by the end of 1982. 45 FR 60934-35. EPA proposed to approve the Kern County plan on the condition that the emissions inventory and emission reduction estimates be corrected and that a revised control strategy reflecting the corrections be submitted to EPA by January 1, 1981. 45 FR 60935 (September 15, 1980). Additional conditions were also attached to approval of the plan, but those other conditions have since either been satisfied by Kern County or removed by EPA. The proposed conditional approval was granted in accordance with EPA's conditional approval policy articulated in 44 FR 38583 (July 2, 1979) and further addressed in 44 FR 67192 (Nov. 23, 1979). Under that policy, a SIP may be conditionally approved as meeting the requirements of Part D if it is in substantial compliance with those requirements and the State has provided assurances that any minor deficiencies will be corrected within a short, specified period. Should the State fail to submit corrections by the specified date, EPA would propose to disapprove the SIP and impose the construction ban of section 110(a)(2)(I).

On August 21, 1981, EPA published a notice of final rulemaking conditionally approving the Kern County ozone SIP. 46 FR 42450. Because the State had objected that the proposed January 1, 1981, deadline for fulfillment of the conditions was unreasonably short, EPA in the final notice extended the deadline until October 1, 1981, the date recommended by both the State and Kern County. California did not meet this deadline for submitting corrections designed to satisfy the conditions.

Kern County did not attain the ozone standard by December 31, 1982. On February 3, 1983, EPA published a notice of proposed rulemaking that listed areas of the country, including Kern County, California, that had not fulfilled conditions attached to the approval of their Part D SIP revisions. 48 FR 4972. EPA proposed to disapprove the SIP's for these areas and to impose the construction ban of section 110(a)(2)(I). 48 FR 4972 (February 3, 1983).

On November 2, 1983, EPA issued a final rulemaking notice and a statement of policy modifying the February 3, 1983, proposal. 48 FR 50686. EPA announced that it would review all unfulfilled conditions on approval of Part D plans to determine which conditions were still germane to attainment and maintenance of the NAAQS. 48 FR 50693. Conditions determined to be no longer necessary would be withdrawn, and plans with unfulfilled conditions determined to be germane to the air quality problem would be classified as having either "serious" or "less serious" deficiencies. Plans with "serious" deficiencies would be disapproved and the construction ban would be imposed on areas covered by those plans. 48 FR 50694. For plans with "less serious" deficiencies, EPA would refrain from imposing the construction ban if the State would commit to fulfill the outstanding conditions by a new date, not later than 1 year after EPA's completion of the review of conditions. Id. During this evolution of EPA's regulatory policy concerning compliance with the requirements of Part D, ozone levels in Kern County continued to violate the NAAQS, despite the conditionally approved plan that purported to provide for attainment of the standard by the end of 1982.

On June 29, 1984, EPA published a notice of proposed rulemaking that announced the results of its review of the outstanding unfulfilled conditions on nonattainment area plans in California. 49 FR 26764. As a result of EPA's review of the Kern County ozone plan, EPA promulgated, on February 12, 1985, a final rule that extended the deadline for fulfillment of the outstanding conditions on approval of the Kern County ozone SIP from October 1, 1981, to February 24, 1985. This rule was published on February 25, 1985 (50 FR 7591). See 40 CFR 52.232(a)(5)(iii). Although the condition itself did not establish a new attainment date for the area's revised control strategy, EPA indicated in the rulemaking on the extension of the condition that it would accept a control strategy based on a demonstration of attainment of the standard by the end of 1987.

Once it became evident that Kern County had not attained the ozone standard by the statutory date of December 31, 1982, EPA supplemented the conditions described above with a notice of SIP deficiency under section 110(a)(2)(H) and thereby issued a call for a SIP revision for the county to include:

(1) An updated emission inventory; and

(2) A revised demonstration of attainment of the ozone standard by December 31, 1987.

*3. Recent Kern SIP Revisions*

1986 Kern County Plan

After a series of public hearings in January, February, and March of 1986 on

a draft revised plan, the Kern County Board adopted the 1986 Kern County Plan on March 31, 1986, after deleting controls for oxides of nitrogen ($NO_x$) from the proposed control strategy. The Kern County Board took this action even though the modeling in the draft 1986 Plan demonstrated that the control of both VOC and $NO_x$ would be beneficial in reducing ozone. The revised plan took credit for new VOC reductions from the California Inspection and Maintenance program and from four VOC control measures:

(1) Rule 414.6, Heavy Oil Test Station—later amended on May 19, 1986, and submitted on November 21, 1986;

(2) 411.1 Pseudo-Cyclic Wells—amended on August 27, 1984, and submitted on February 6, 1985;

(3) 411.1 Steam Drive Well Vents—amended on August 27, 1984, and submitted on February 6, 1985;

(4) 411.5 Refinery Pumps and Compressors—amended on August 27, 1984, and submitted on February 6, 1985.

The Plan also included revised emissions inventories, air quality data, and air quality analyses.

CARB Resolution 86–76

Under Section 41650 of the California State Health and Safety Code, CARB must adopt the plan once approved by the local jurisdiction unless CARB finds that the plan will not meet the CAA requirements. Having concluded that the 1986 Kern County Plan would not meet the requirements of the Clean Air Act, the CARB adopted on August 22, 1986, Resolution 86–76.

By Resolution 86–76, CARB amended the 1986 Kern County Plan by adding a commitment by the State to make the following changes to the SIP by September 30, 1987, if the Kern County Board did not adopt the changes by March 31, 1987:

(1) Revise Rule 425, Oxides of Nitrogen Emissions from Steam Generators Used in Thermally Enhanced Oil Recovery;

(2) Revise Rule 210.1, Standards for an Authority to Construct Permit;

(3) Revise Rule 210.3, Emission Reductions Banking;

(4) Revise Rule 201, Permits Required.

(5) Adopt a rule to control fugitive reactive organic gas emissions from light oil and gas production operations that is at least as effective as the South Coast and Ventura rules;

(6) Adopt a rule that is at least as effective as South Coast Rule 1110.1 to control $NO_x$ emissions from gas-fired internal combustion engines;

(7) Adopt a rule to control fugitive emissions of reactive organic gases from natural gas processing plants that is at least as effective as the South Coast and Ventura rules;

(8) Develop an updated emission inventory and emission forecasts beyond 1987.

CARB Resolution 86–104

On November 21, 1986, CARB submitted to EPA the 1986 Kern County Plan as amended by CARB's August 22, 1986 Resolution 86–76. CARB also adopted on the same date Resolution 86–104, which requested EPA to postpone any rulemaking action on the SIP revision until March 31, 1987, in order to allow time to resolve a controversy on the need for controls on $NO_x$ emissions in western Kern County. EPA agreed to assist CARB to resolve the issue and to postpone any proposal for rulemaking action until the date requested.

CARB Resolution 87–17

Pursuant to a consensus reached by EPA, CARB, Kern County, and the oil industry that additional $NO_x$ controls were not warranted in western Kern County at this time, CARB adopted Resolution 87–17 on February 26, 1987. This resolution amended the 1986 Kern County Plan to include an automatic "trigger" for $NO_x$ controls in western Kern County should the ozone NAAQS be violated there any time between 1988 to 1990. If the NAAQS is violated, Resolution 87–17 provides that the measures specified in Resolution 86–76 for the control of $NO_x$ emissions in central Kern County (i.e., amendments to Rule 425 for steam generators and a regulation for gas-fired internal combustion engines) are automatically required in western Kern County. Finally, resolution 87–17 incorporated into the 1986 Kern County Plan corrections to the emissions inventory and air quality data and analysis. The resolution and corrected data were submitted as a SIP revision on April 2, 1987.

**B. EPA Findings and Actions**

As described above, the 1986 Kern County Plan and CARB's Resolutions 86–76 and 87–17 strengthen the existing SIP by adding commitments to adopt additional control measures. The revisions also provide an updated and improved emissions inventory and a more current and accurate air quality analysis. The SIP amendments do not, however, contain a demonstration of attainment by December 31, 1987, or by a fixed, near-term date thereafter, despite implementation of the new control measures.

EPA, therefore, is proposing to take the following actions:

(1) Approve the commitments and updated data base in the 1986 Kern County Plan and CARB Resolutions 86–76 and 87–17, with the exception of the attainment and RFP demonstration. With this exception, approval of these revisions is proposed under section 110(a)(3) because the revisions improve the emissions inventory and air quality data portion of the SIP and strengthen the SIP by the commitments to adopt additional control measures. EPA is not acting at this time on the VOC control measures described above and submitted as SIP revisions on February 6, 1985, and November 21, 1986. EPA will act on these measures along with additional control measures scheduled for adoption by the Kern County Board or CARB in the near future. While EPA is proposing full approval of CARB Resolution 87–17, EPA is asking the State to revise the "trigger" to provide that, if the ozone NAAQS is violated *at any time* after 1987 in western Kern County, the more stringent $NO_x$ provisions must be implemented. This revision would minimize additional violations of the ozone NAAQS that might occur after the 1988–1990 period specified in the resolution. EPA will continue to review the most recent modeling and monitoring data to determine the appropriateness of $NO_x$ controls in western Kern County; if evidence so indicates, EPA may ask the State to apply additional $NO_x$ controls in western Kern County on a more expeditious basis.

(2) Disapprove the attainment and RFP demonstration portion of the Plan since it fails to provide for attainment of the ozone NAAQS by December 31, 1987, or a fixed near-term date thereafter. In so doing, EPA is proposing to rescind its prior conditional finding that the Plan satisfies Part D of the Act, since the condition on approval of the 1979 Kern County Ozone Plan respecting the attainment demonstration has not been met.

(3) Impose a construction ban under section 110(a)(2)(I) of the Act on major new sources and on major modifications to existing sources of VOC in the Kern County ozone nonattainment area. The issue of how long the ban would remain in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above, provides additional information on this issue.

The restrictions in EPA's regulations implementing the construction ban "apply only to major stationary sources of emissions that cause or contribute to concentrations of the pollutant for which the nonattainment area was designated as nonattainment, and for which the SIP

does not meet the requirements of Part D or is not being carried out in accordance with the requirements of Part D" (40 CFR 52.24(d)). EPA's current regulations imply that only emissions of VOC are considered ozone precursors for purposes of the construction ban (see 40 CFR 52.24(e), (f)(4)(ii), and (f)(5)(ii)).

With respect to at least portions of the Kern County ozone nonattainment area, the evidence has led EPA to conclude that $NO_x$ emissions contribute to the ozone problem. Primary data supporting this conclusion include the measured ambient ratio of nonmethane organic compounds (NMOC) to $NO_x$ in this area and airshed modeling showing the sensitivity of ozone to $NO_x$ emissions. In any area with a high NMOC/$NO_x$ ratio, emissions increases of $NO_x$, as well as VOC, would be assumed to cause or contribute to increased ozone concentrations downwind. Although other factors besides the NMOC/$NO_x$ ratio (meteorology, for example) must also be considered in the analysis, the measured ratios are generally the predominant consideration in determining the impact of $NO_x$ emissions on ozone.

Ambient NMOC/$NO_x$ ratios have approached 20 to 1 in some central Kern County areas. Airshed modeling completed in 1985 for the revised Kern Plan demonstrates the positive impact of $NO_x$ reductions in reducing ozone concentrations. The technical evidence of this modeling analysis underlies the 1986 Kern County Plan for ozone, which is based primarily on increased control of $NO_x$ emissions.

With respect to Kern County, therefore, EPA solicits comments on whether EPA should establish in this rulemaking that the ozone construction ban affects sources emitting $NO_x$ as well as VOC. Commentors should address whether or not the scope of the construction ban, as quoted above, can be satisfied, with respect to the Kern County nonattainment area, by continuing to limit the force of the ban only to the VOC precursors of ozone.

EPA also has the authority under the Act to impose other sanctions and requirements, including the withholding of funding for highways under Section 176(a) of the Act and for construction of sewage treatment facilities under section 316 of the Act. For additional information on these other potential consequences and on EPA's proposed rulemaking action on this and other O3 and CO SIP's, the reader may refer to the General Preamble cited above.

In addition, EPA intends to provide further guidance in late summer of 1987 on how States can correct their SIP's to meet the Act's requirements.

**Regulatory Process**

Under the Regulatory Flexibility Act 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in Kern County as described above. EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the Clean Air Act, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Clean Air Act.

**List of Subjects in 40 CFR Part 52**

Air pollution control, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: May 15, 1987.

Judith E. Ayres,

*Regional Administrator.*

[FR Doc. 87–15378 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR PART 52**

**[A–9–FRL–3206–9]**

## Approval and Promulgation of Implementation Plans; California

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** EPA is today reproposing to disapprove California's State Implementation Plan (SIP) for attaining the national ambient air quality standards (NAAQS) for ozone ($O_3$) in the Fresno County Air Pollution Control District (APCD), the Sacramento County APCD, the Ventura County APCD, and the South Coast Air Quality Management District (AQMD), and for carbon monoxide (CO) in the South Coast AQMD and the Fresno County APCD. Today's action is being proposed because the SIP for these areas does not meet all of the requirements of Part D of the Clean Air Act, particularly the requirement that the SIP provide for attainment by the statutory date or a fixed, near-term date thereafter. On the basis of today's proposed disapproval, EPA is also proposing to impose a moratorium on the construction and modification of new major stationary sources of volatile organic compounds (VOC) in all of these areas and CO in the Fresno and South Coast areas pursuant to section 110(a)(2)(I) of the Clean Air Act. Today's action reflects a change in EPA's position regarding the acceptability of the aspects of the "Reasonable Extra Efforts Program" (REEP) concept relating to overall SIP approvability and avoidance of section 110(a)(2)(I) construction bans.

The basis of today's proposal is discussed in this notice and in the accompanying General Preamble which appears elsewhere in today's **Federal Register.**

**DATES:** Comments may be submitted to EPA at the address below up to September 14, 1987.

**ADDRESSES:** Comments should be addressed to: Judith E. Ayres, Regional Administrator, Environmental Protection Agency, Region 9, Attention: Air Management Division (A–2), 215 Fremont Street, San Francisco, CA 94105.

All of the documents referenced in today's notice are available for public inspection during normal business hours at EPA's Region 9 office in San Francisco and at the addresses noted below.

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95814

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93721

Sacramento County Air Pollution Control District, 9323 Tech Center Drive, Suite 800, Sacramento, CA 95827

South Coast Air Quality Management District, 9150 Flair Drive, El Monte, CA 91731

Ventura County Air Pollution Control District, 800 South Victoria Avenue, Ventura, CA 93009

**FOR FURTHER INFORMATION CONTACT:** Wally Woo, State Liaison Section, EPA, Region 9 (A–2), Air Management Division, 215 Fremont Street, San Francisco, CA 94105 (415) 974–7634; FTS 454–7634.

**SUPPLEMENTARY INFORMATION:**

### A. Background

*1. General Statutory and Regulatory Requirements*

A comprehensive description of the relevant requirements of the Clean Air Act and EPA's policies under the Act is set forth in the General Preamble cited above.

*2. Regulatory Actions in the California Areas*

In the initial round of section 107 nonattainment designations, EPA designated Ventura County and the Sacramento Air Quality Maintenance Area as nonattainment for $O_3$, and the South Coast and Fresno County as nonattainment for both CO and $O_3$. After EPA's July 2, 1979 imposition of the section 110(a)(2)(I) construction moratorium, the State submitted and EPA approved the 1979 Part D SIPs for all four areas. As a result of those approvals, the Agency lifted the construction ban on November 25, 1983 (48 FR 53114).

As part of the initial round of Part D SIP planning, the State of California requested EPA to approve extensions of the statutory attainment date to December 31, 1987 for the relevant pollutants in all four areas. EPA approved all of the requests. The State then submitted 1982 Plan updates for the $O_3$ SIPs for all four areas as well as for CO SIPs for the South Coast and Fresno. Although these SIP revisions include control measures that would produce expeditious progress toward attainment of the applicable standards, the State conceded that the revisions did not demonstrate that the areas would attain the standards by the stautory date of December 31, 1987.

In final rulemaking published July 30, 1984 (49 FR 30300), EPA approved the emission control measures of California's SIPs for the following geographic areas: The South Coast Air Basin (03 and CO), the Ventura County nonattainment area portion of the South Central Coast Air Basin (03 only), the Fresno County portion of the San Joaquin Valley Air Basin (03 and CO), and the Sacramento Metropolitan area portion of the Sacramento Valley Air Basin (03 only). These measures were approved because they strengthened the SIP. In addition, in that same rulemaking, EPA took no action on whether the attainment and reasonable further progress (RFP) demonstrations in the SIP submittals meet the requirements of Part D pending further analysis of the question.

The attainment demonstrations and Reasonable Further Progress schedules in the SIPs showed projected 1987 emissions substantially above the level corresponding to attainment of the standards, even with implementation of all SIP controls. The Technical Support Document accompanying this **Federal Register** includes relevant excerpts from the SIPs and EPA's evaluation of the attainment demonstration in the referenced 1983 and 1984 rulemaking.

These SIP submittals had been originally proposed for disapproval on February 3, 1983 (48 FR 5074) because these demonstrations did not provide for attainment by the end of 1987. Although subsequent to that proposal EPA indicated its inclination to accept good faith long term planning as adequate to avoid a disapproval and imposition of the 110(a)(2)(I) construction ban, EPA now believes that the absence of a demonstration of attainment by the end of 1987 (or a fixed, near-term date thereafter) compels the Agency to disapprove the attainment and RFP portions of these SIP submittals. More extensive discussion of why EPA now believes disapproval to be the appropriate course of action for such areas appears in the General Preamble cited above describing EPA's interpretation of the Act for areas unable to persuasively demonstrate attainment by the statutory date of December 31, 1987, or a fixed, near-term date thereafter.

As discussed in the General Preamble, today's proposed finding modifies the approach EPA discussed in an advance notice and solicitation of comments published September 26, 1986 (51 FR 34428). Under that approach, in an attempt to deal with the inability of the California SIP's to demonstrate attainment, EPA had begun to develop a process called the "Reasonable Extra Efforts Program" (REEP), to provide for ongoing reductions of volatile organic compounds (VOC), nitrogen oxides (NOx), and CO in the geographic areas of concern. Although EPA now believes it cannot approve plans based on a REEP approach, much of the planning that would be required under that approach—including the submittal of commitments to analyze and adopt new control measures periodically—would be useful for providing progress toward attainment in these areas. Therefore, EPA does not intend today's notice to discourage any ongoing planning that may have occurred as a result of the Agency's discussion of the REEP concept in the September 26, 1986 notice. Moreover, EPA still intends to consider the extent of the State's adoption of new control measures as a factor in its decisionmaking under section 176(a) on whether the State is making "reasonable efforts" to submit an adequate Part D plan and therefore whether to apply the highway and air grants funding sanctions available under section 176(a). EPA plans to provide further guidance in the late summer of 1987 as to how the State can correct its SIPs for these areas to meet the Act's requirements.

**B. Current Actions to Strengthen the SIP**

*1. California's General Program for SIP Enhancement*

Since adoption of the 1982 SIPs, California agencies and the EPA Regional Office have cooperatively assessed additional emission reduction opportunities for use in severe ozone and CO nonattainment areas. Significant progress has already occurred in the preparation of generic and area-specific evaluations of new control programs and improvement to existing programs in order to reduce emissions. The above-cited REEP notice reviews at length the work accomplished as of September 1986 (see particularly 51 FR 34433–34434). These past achievements are briefly summarized below, along with a description of more recent work to revise the SIPs and current commitments and schedules for future SIP updates.

In the case of stationary source controls, EPA evaluated sixteen VOC source categories for Fresno, Sacramento, the South Coast, and Ventura to determine where existing emission controls could be strengthened and where additional new controls could be implemented. A statewide rule review and development committee is studying still other categories. For example, major studies are in progress to control emissions from wineries, marine vessels, pesticide applications, consumer solvents, oil production sumps, bakeries, and industrial boiler NOx.

In the area of transportation control programs, EPA Region 9, the California Air Resources Board (CARB), and the California Department of Transportation (CalTrans) issued a general guidance document and reports on eight board categories of control measures. Review and input to these reports came from the local California transportation agencies and air pollution control agencies. In addition, a continuing regionwide working group of state, local, and federal agencies are cooperating to develop and assess further control options, implementation techniques, funding mechanisms, and tracking and enforcement tools. Work of this group includes continuous serveys of model control programs elsewhere in the country.

The CARB has taken a pioneering role in the development of many mobile source control enhancement programs. Following adoption of the 1982 SIPs and implementation of the State's Inspection and Maintenance program in March 1984, additional programs or program

expansions were adopted by CARB, including these measures: O2 Sensor/ Malfunction Indicator (adopted April 1985, implementation in 1988), New Direct Import Vehicle Certification Regulations (adopted December 1985, implementation in 1986), Revised Emission Standards for Gas and Diesel-Powered Heavy-Duty engines (adopted April 1986, Implementation in 1987), 0.4 gram/mile NOx Emission Standard (adopted April 1986, implementation in 1989), Used Direct Import Vehicle Certification Regulations (adopted December 1986, implementation in 1987), and Expanded In-Use Recall (adopted January 1987, implementation in 1987). Further measures under development include: Lower Exhaust Hydrocarbon (HC) Standard for Light-and Medium-duty Vehicles (hearing in October 1988), Regulations for the Sale of New and Used After-Market Catalysts (hearing in July 1987), Revision to Certification Procedure and Standards for Trucks 6,001 to 16,000 GVWR (hearing in February 1988), and Methanol Standards for Light-duty Vehicles (hearing in June 1988). CARB staff have also scheduled feasibility reports on the emission reduction potential from more stringent exhaust emission standards for heavy-duty diesel engines, new evaporative standards and/or improved test procedures, improved certification through catalyst bench tests, a revised program for light-duty vehicle after-market parts, new benzene standards, and new emission standards for heavy-duty construction equipment. Finally, a wide variety of improvements to the existing Inspection and Maintenance (Smog Check) program are contemplated in the 1987–1988 period.

*2. Progress in Specific Nonattainment Areas*

• South Coast.

On February 6, 1987, the South Coast Air Quality Management District Board adopted the following rule hearing schedule for new or enhanced control measures:

| Rule | Quarter |
|---|---|
| Plastic Coatings | 1st/87. |
| Metal Parts & Products | 1st/87. |
| Polyester Resin Operations (Fiberglass Manufacturing). | 1st/87. |
| Aerospace Coatings | 1st/87. |
| New Source Review Offsets | 2nd/87. |
| Electric Utility Turbines (N0x Controls | 3rd/87. |
| Ship Berthing (N0x Controls) | 3rd/87. |
| Oil Tank Cleaning | 3rd/87. |
| Refinery Boilers & Heaters (N0x Controls) | 4th/87. |
| Industrial Boilers (N0x Controls) | 4th/87. |
| Decontamination of Soil | 4th/87. |
| Air Stripping | 4th/87. |
| Electric Utility Boilers (N0x Controls) | 1st/88. |
| Trip Reduction Program | 1st/87. |

With the exception of the Trip Reduction Program, all measures scheduled for the first quarter of 1987 have been adopted successfully. The Board further resolved to seek legislative authority or clarify its existing authority to adopt controls for locomotives, indirect source regulation, higher fees for variances, and an improved Inspection and Maintenance Program. The District has also scheduled a totally revised SIP for release at the end of 1987. For this revised SIP, the District is evaluating over 100 additional short-range control measures or control measure concepts. Finally, the District has also issued a report on long-range control measures to be considered as SIP enhancements.

On April 2, 1987, the Southern California Association of Governments (SCAG) adopted an enhanced schedule for transportation control measure development and implementation.

The SCAG resolution includes an agreement to proceed "expeditiously with a good faith effort to coordinate actions among member agencies with responsibilities herein, track the enhanced schedule implementation, provide the resources for technical assistance as needed, and coordinate the development of the measures identified. . . ." The SCAG control measures consist of specific goals in the following areas: high occupany vehicle lane construction, signal synchronization and retiming, peak hour parking restrictions and other traffic flow improvements, transit improvement activities (transit guidelines, incentives for developers, noontime shuttles, preferential treatment for buses, fare subsidies, public education improvements, transit ticket sale at workplaces, enhanced transit security), methanol bus conversion, construction of the Los Angeles to Long Beach light rail line, ridesharing, development of private sector transportation management associations, and telecommunting/teleconferencing. Perhaps the most important of the SCAG measures is the development or trip reduction ordinances for existing and new developments. This control measure would require consideration of multiple options for each affected work site, including preferential and reserved parking for ridesharers, reduced parking supply, reduced parking fees for ridesharers, provision for an in-house carpool/vanpool coordinator and education program, subsidies or other incentives for carpool/vanpool participants, fare subsidies or other incentives for transit use, provision of vanpool vehicles and park-n-ride lots, noontime shuttle service, flextime/ modified work schedules, and telecommuting. The SCAG SIP resolution also attached letters of commitment from twelve jurisdictions currently participating with SCAG in accelerated implementation of transportation control measures.

• Ventura

Ventura, as part of the South Central Coast air basin, was notified in 1984 by the EPA of the need to revise its SIP to include the Outer Cintinental Shelf (OCS) in its planning base. Also in 1984 Ventura County joined with the EPA in the "Ventura Project," a cooperative audit of its overall SIP, resulting in a mutually agreed upon course of stengthening its SIP.

Since that time Ventura has been engaged in a comprehensive effort to revise its SIP. As part of that effort Ventura has developed schedules for adoption of new control measures for reduction of emissions from stationary and mobile sources. In August of 1986, in response to EPA's request for a work schedule, the District submitted the following projections for rule adoption and revisions. In the interim EPA has abstained from making a negative "reasonable efforts" finding under section 176(a) pending formal submission of a SIP revision, which is expected this summer.

| Rule | Quarter |
|---|---|
| Submerged Fill Crude Oil Loading Racks | 1st/87. |
| Deletion of Gasoline V. R. Exemptions | 2nd/87. |
| Fiberglass Fabrication/Polyester Resin Use | 4th/87. |
| Oil Field Maintenance Procedures | 4th/87. |
| Petroleum Production/Sumps and Pits | 2nd/88 |
| Landfill Gas Recovery and Disposal | 2nd/88. |
| Industrial I. C. Engines (Phase 3) | 4th/88. |
| Petroleum Storage/Vapor Pressure Less then 1.5. | 2nd/89. |
| Oil-Water Separators | 2nd/89. |
| External Combustion NOx Control | 3rd/89. |
| Paper, Fabric and Film Coatings | 4th/89. |
| Thermally enhanced Oil Recovery boilers | 4th/89. |
| Commercial Water Heaters/Gas Fired | 4th/89. |
| Aerospace Coatings | 2nd/90. |
| Hazardous Waste Disposal | 2nd/90. |
| Petroleum Dry Cleaners | 2nd/90. |
| Electric Utility Boilers | 3rd/90. |
| Wood Furniture Manufacturing | 3rd/90. |
| Gas Turbines | 2nd/91. |
| Oil Drilling | 3rd/91. |

Ventura's SIP revision is also expected to include the following transportation control measures: areawide carpooling and vanpooling, modified work schedules, park and ride, HOV lanes, road improvements, signal synchronization, ramp metering, development design criteria, development incentives, jobs/housing balance, growth management programs, short range and long range transit programs, transit/land use planning, bicycle lanes and storage facilities, and pedestrian improvements. EPA expects local adoption of these measures to

proceed immediately following adoption or the overall Plan.

• Fresno

On May 5, 1987, the Fresno County Air Pollution Control Board adopted the following rule hearing schedule for new or enhanced control measures:

| Rule | Quarter |
|---|---|
| Vegetable Oil | 4th/87. |
| Misc Metal Parts | 4th/87. |
| Architectural Coatings | 4th/87. |
| Can & Coil | 4th/87. |
| Refinery & Chemical Fugitives | 4th/87. |
| Large Commercial Bakeries | 1st/88. |
| Well Vent Vapor Recovery Systems | 1st/88. |
| Graphic Arts | 1st/88. |
| Oil Production Sumps | 2nd/88. |
| Pesticides | 3rd/88. |
| Delete Rule 202 Exemptions (sm. IC Engines) | 3rd/88. |
| Hair Care Products | 4th/88. |
| Oil Production Tanks & Fugitives | 1st/89. |
| Bulk Terminals | 1st/89. |
| Degreasing | 1st/89. |
| Underarm Products | 2nd/89. |
| Petroleum Dry Cleaners | 4th/89. |
| Wineries | 4th/89. |

In addition to the stationary source commitments listed above, Fresco transportation and planning jurisdictions are developing a SIP revision schedule which will include new and enhanced transportation control measures (TCMs). The Council of Fresno County Governments (COFCG) is coordinating the development of the SIP revision package for TCMs with resolutions from each of the appropriate jurisdictions to support these commitments. EPA anticipates the TCM SIP revision to be submitted by the COFCG by early summer 1987. The COFCG control measures being evaluated for the upcoming SIP revision include specific goals in the following areas: car and vanpools, ridesharing preferential incentives, flextime, park & ride lots, high occupancy vehicle lanes, freeway ramp metering, operational changes, signal improvements, reversible lanes and other traffic flow improvement, transit/land use planning, transit improvements, nonmotorized incentives, and telecommunications. COFCG is also coordinating the development or a trip reduction ordinance for new developments.

Both the stationary source and the TCM SIP revision schedules consist of two-year work programs to evaluate and adopt the scheduled measures. These schedules contain a commitment to maintain an ongoing planning process and to further evaluate for adoption any new control measures which become available.

• Sacramento

On February 24, 1987, the Sacramento County Air Pollution Control District Board adopted a schedule for District activities to be undertaken over the next two years to investigate and develop new or revised control measures for stationary and area sources in Sacramento. The schedule outlines a basic work program for the evaluation of each measure. If, after District analysis and public comment, the decision is made to continue rule revision or development, the schedule identifies when District staff would expect to propose the new or revised rule for adoption as follows:

| Rule | Quarter |
|---|---|
| Architectural Coatings | 2nd/87. |
| Miscellaneous Metal Parts and Products (Update rule according to TRG requirements) | 3rd/87. |
| Bulk Terminals | 1st/88. |
| Refinery and Chemicals | 1st/88. |
| Paper Film and Fabric Coatings | 1st/88. |
| Aerospace Coating | 1st/88. |
| Degreasing | 3rd/88. |
| Miscellaneous Metal Parts and Products (Clean up solvents requirement) | 3rd/88. |
| Miscellaneous Metal Parts and Products (New rule) | 4th/88. |
| Fiberglass and Resins | 4th/88. |
| Graphic Arts | 1st/89. |
| Wood Furniture | 1st/89. |
| Auto Refinishing | 1st/89. |

In the Sacramento Air Quality Maintenance Area, less than ten percent of the current VOC emission inventory comes from stationary sources. Therefore, in addition to the stationary source commitments above, Sacramento jurisdictions must develop and implement aggressive measures to further reduce VOC emissions from transportation sources. Towards that end, in the Spring of 1986, the Sacramento Area Council of Governments (SACOG) agreed to take the lead in coordinating the development of additional or strengthened Transportation Control Measures (TCM's) with each Sacramento Area jurisdiction (as was done for the 1982 Plan.) Also, selected cities and counties in the Sacramento area and the APCD have already taken steps, beyond the 1982 Plan and independent of SACOG, to better handle transportation related emissions. These efforts include hiring city or county rideshare coordinators, strengthening existing trip reduction ordinances, and carrying out a major public/private sector information campaign.

SACOG has not yet fully instituted the program for additional TCM development. Instead, and at EPA's request, SACOG participated, along with EPA, the CARB, and Caltrans, in an in-depth evaluation of the implementation status of Sacramento's 1982 Plan measures. The EPA status report was released February 10, 1987. SACOG is continuing to work with the jurisdictions on additional TCM's in an attempt to show that everything reasonable is being done to improve Sacramento's air quality.

SACOG has also been consulting with the Air Pollution Control District, EPA, the CARB, and local planning agencies regarding an update of the Sacramento Air Quality Plan. The update should incorporate the commitments identified in the Board's February 24, 1987, resolution for stationary sources, as well as any adopted by the jurisdictions for TCM's.

*3. Importance of Continued Progress*

Despite the stringency of their existing SIP's these four districts of California still experience extremely high peak ozone concentrations and a large number of annual exceedances of the national, health-based ozone standard. The severity of the CO problem in the South Coast and Fresno also continues to provide the responsible State and local jurisdictions with an impetus for adoption of particularly ambitious control progams. Moreover, all of the areas are undergoing rapid increases in population and associated emissions (represented, for example, by growth in vehicle miles traveled). In some of the areas, this growth has helped to produce a major shortfall in achieving the reductions scheduled in the 1982 SIPs; these substantial deficits in meeting RFP as projected in those SIP's also should prompt increased State and local efforts to expedite the development of additional control measures and to improve the implementation of the existing SIP.

As stated elsewhere in this notice and in the accompanying General Preamble, EPA believes that imposition of the funding restrictions under section 176(a) must be based on a case by case determination of whether or not the responsible state and local agencies are making "reasonable efforts" to submit a plan that satisfies Part D. Whether or not responsible State and local agencies adopt SIP enhancements according to the schedules described above will be an important factor in EPA's decisions on these and other discretionary sanctions under the Clean Air Act.

**Proposed Action**

EPA proposes to find that the California SIPs for the South Coast Air Basin ($O_3$ and CO), Ventura County ($O_3$ only), Fresno County ($O_3$ and CO), and the Sacramento Metropolitan area ($O_3$ only) do not adequately demonstrate attainment by December 31, 1987 (or a fixed, near-term date thereafter), and therefore do not meet all of the requirements of Part D of the Clean Air Act.

Based on this proposed finding and consistent with section 110(a)(2)(I) of the Act, EPA also proposes to impose a ban on the construction of major sources and major modifications to sources of VOC in all of those areas, and sources of CO in the Fresno and South Coast areas. The issue of how long the ban would remain in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above, provides further information on this issue.

The restrictions in EPA's regulations implementing the construction ban "apply only to major stationary sources of emissions that cause or contribute to concentrations of the pollutant for which the nonattainment area was designated as nonattainment, and for which the SIP does not meet the requirements of Part D or is not being carried out in accordance with the requirements of Part D" (40 CFR 52.24(d)). EPA's current regulations imply that only emissions of VOC are considered $O_3$ precursors for purposes of the construction ban (see 40 CFR 52.24(e), (f)(4)(ii), and (f)(5)(ii)).

With respect to the Fresno, Ventura, and South Coast $O_3$ nonattainment areas, evidence leads EPA to conclude that $NO_x$ emission also contribute to the $O_3$ problem. Primary data supporting this conclusion includes the measured ambient ratios of nonmethane organic compounds (NMOC) to $NO_x$ in these areas and, in the case of Ventura, airshed modeling showing the sensitivity of $O_3$ to both VOC and $NO_x$ emissions. In an area with a high NMOC/$NO_x$ ratio, $NO_x$ emissions increases would also be assumed to cause or contribute to increased $O_3$ concentrations. Although other factors besides the NMOC/$NO_x$ ratio (such as meteorology) must also be considered in the analysis, the measured ratios are generally the principal consideration in determining the impact of $NO_x$ emissions on $O_3$ concentrations.

The 1982 SIP for Fresno is based on the Empirical Kinetic Modeling Approach (EKMA) simulation, which uses an NMOC/$NO_x$ ratio of 16.8 to 1, derived from three years of ambient data collected at the Cal State Fresno monitor. Data from the most recent three year period at the Fresno monitor showed similar values. The 1982 SIP for Ventura, like the 1982 SIP for the South Coast, explicitly relies on both VOC and $NO_x$ reductions for projected improvements in $O_3$ air quality. More recently, airshed modeling has been performed for the South Central Coast area of California (which includes Ventura). This sophisticated modeling was performed under the Joint Interagency Modeling Study (JIMS), as part of ongoing assessments of air quality impacts of emissions from activities in Santa Barbara and Ventura Counties, including emissions from the Outer Continental Shelf. The JIMS study, and additional modeling runs prepared for an update to the Ventura SIP, show $O_3$ sensitivity to both VOC and $NO_x$. In the South Coast Air Basin, NMOC/$NO_x$ ratios vary significantly from the western part of the basin (where they range between 6 to 1 and 10 to 1) to the eastern part of the basin (with typical ratios between 11 to 1 and 14 to 1). Peak $O_3$ concentrations and the greatest number of annual exceedances are found in the eastern part of the basin. CARB has recently prepared an analysis of NMOC and $NO_x$ emissions and air quality trends in the South Coast Air Basin. The CARB analysis suggests that $NO_x$ emissions may contribute more to $O_3$ formation than the ambient NMOC/$NO_x$ ratio data may indicate. EPA lacks evidence to suggest that $NO_x$ emission increases in the Sacramento nonattainment area significantly cause or contribute to the $O_3$ problem in that area.

With respect to Fresno, Ventura, and the South Coast, EPA solicits comments on whether EPA should establish in this rulemaking that the ozone construction ban in these areas affects sources emitting $NO_x$ as well as VOC. Commentors should address whether or not the scope and purpose of the construction ban, as quoted above, can be satisfied, with respect to these specific areas, by limiting the ban only to the VOC precursors of $O_3$.

### Regulatory Process

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in the non-attainment areas described above. EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the Clean Air Act, the imposition of a construction moratorium is automatically and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Clean Air Act.

### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons.

**Authority:** 42 U.S.C. 7401–7642.

Dated: May 15, 1987.

**Judith E. Ayres,**

*Regional Administrator.*

[FR Doc. 87–15379 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

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## 40 CFR Part 52

**[A–4–FRL–3208–8; GA–010]**

## Approval and Promulgation of Implementation Plans, Georgia; Atlanta Area Ozone Plan

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA today proposes the following actions for the Georgia State implementation plan (SIP) under the Clean Air Act (the Act):

- Disapproval of the ozone ($O_3$) SIP for the Atlanta metropolitan area because, in its revision to that SIP, the State did not demonstrate attainment of the national ambient air quality standard (NAAQS) for $O_3$ by a fixed near-term date.
- A finding for purposes of section 173(4) of the Act only that Georgia is not carrying out its $O_3$ SIP because it did not revise its SIP to persuasively demonstrate attainment of the NAAQS for $O_3$ for the Atlanta metropolitan area after EPA called for a SIP revision under section 110(a)(2)(H) of the Act for this area.
- A ban under section 173(4) on the construction of major new sources and major modifications to existing sources of volatile organic compound (VOC) emissions (which react to form $O_3$) in this area based on the finding described above.
- Approval of certain regulations that the State submitted as part of its SIP revision; these regulations control VOC emissions.

Today's proposal is based on the discussion in this notice and the accompanying "General Preamble" appearing elsewhere in today's **Federal Register**.

**DATES:** Comments on this action must be received by September 14, 1987.

**ADDRESSES:** Send any comments on this action to Thomas P. Lyttle, EPA Region IV at the address given below. You may inspect copies of the submittal and

EPA's evaluation during normal business hours at the following locations:

EPA, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Georgia Department of Natural Resources, Air Protection Branch, Floyd Towers East, Room 1162, 205 Butler Street, SE., Atlanta, Georgia 30334.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Lyttle, EPA Region IV, at the address listed above, or by calling 404–347–2864 or FTS 257–2864.

**SUPPLEMENTARY INFORMATION:**

## Background

### *A. Statutory and Regulatory Requirements*

A comprehensive description of the requirements of the Clean Air Act and EPA's policies under the Act is set forth in the General Preamble cited above.

### *B. Regulatory Actions on the Atlanta Ozone SIP*

Georgia submitted its ozone SIP revision for an eleven-county area covering Atlanta on January 17, and March 9, 16, and 20, 1979. EPA approved this revision on September 18, 1979 (44 FR 54047). This revision included a demonstration that, through implementation of various controls on stationary and mobile sources of VOCs, the area would meet the NAAQS for ozone by the end of 1982.

On February 24, 1984, the EPA Regional Administrator for Region 4 sent a formal notice to the Governor of Georgia that the SIP for the Atlanta ozone nonattainment area was substantially inadequate to ensure attainment of the NAAQS. The Agency stated that it intended to have Georgia submit a SIP revision for the area within a year after the State received the call for a SIP revision.

The National Ambient Air Quality Standard for ozone is 0.12 ppm for a one-hour average, not to be exceeded on more than one day per year. The Atlanta SIP call was based on the occurrence of numerous ozone exceedances in the period 1981–1983. This included nine days with exceedances at one or more sites in 1981, four days in 1982, and 23 in 1983. The "design value" for ozone (i.e., the fourth highest value over the three years at any single monitor) was 0.160 ppm. In response to the SIP call, Georgia prepared and submitted a revised ozone SIP for the Atlanta area. The SIP revision projected that a 41% reduction in VOC emissions would be needed to attain the ozone standard. The VOC emission reduction estimated to occur between 1984 and the end of 1987 due to measures contained in the SIP was 28%. Since this level of control would not be sufficient to project attainment by the end of 1987, or any fixed near-term date thereafter, EPA advised Georgia in an April 9, 1985, letter that additional measures would be necessary. Potentially, these included measures that had not been widely implemented in other areas.

These comments, along with comments on various technical questions about the SIP, were presented to Georgia at the public hearing on the SIP, held April 19, 1985. Georgia was also advised in a letter dated May 14, 1985, that non-CTG categories must be inventoried and appropriate RACT regulations adopted. As a result of these comments, Georgia committed in the SIP to study and, where feasible, adopt the additional measures listed above.

## Georgia Ozone SIP Submittal

Georgia's ozone SIP submittal of May 22, 1985, addresses all of the components necessary to comply with EPA's requirements for SIP call areas. However, there are major deficiencies in certain aspects of the submittal. A technical support document (TSD) which provides a detailed review of the SIP, has been prepared and may be reviewed as part of the docket accompanying this proposal. A discussion of the major sections of the Georgia submittal is presented below.

### Emission Inventory

Georgia prepared emission inventories for hydrocarbons and nitrogen oxides for the eleven-county metropolitan Atlanta ozone nonattainment area for both the 1984 base year and 1987. Point source emissions were generally obtained from the National Emissions Data System (NEDS). Area source emissions were estimated primarily through use of emission factors applied either per capita or to some indicator of activity. For certain categories Georgia used surveys to estimate emissions. Highway mobile source emissions were obtained using vehicle miles traveled (VMT) estimates produced by the Atlanta Regional Commission (ARC) and emission factors derived from the Mobile 3 model. For the other major mobile source category, aircraft, the inventory was derived from an environmental assessment prepared for the Atlanta-Hartsfield International Airport.

There are several problems with the emission inventory which must be corrected before it can be approved. These include: (1) sparse documentation of the procedures used to estimate emissions for point sources, including the procedures used to eliminate nonreactive emissions and to adjust the inventory to a typical summer day, (2) lack of documentation of the method used to account for growth in emissions, (3) questionable emission estimates for certain source categories, and (4) lack of a description of the methods used to verify the completeness and accuracy of the emission inventory. Because these deficiencies could significantly influence the inventory, these questions must be satisfactorily resolved before EPA can approve this portion of the SIP.

### Modeling

Modeling to predict the amount of emission control needed to attain the ozone standard was performed by Georgia using the city-specific Empirical Kinetics Modeling Approach (EKMA) in conjunction with the modified ozone isopleth plotting program (OZIPM). The OZIPM model was used with the Carbon Bond 3 (CB3) kinetics mechanism rather than the standard Dodge mechanism. An air quality data base of 1982–1984 was used. Ozone data was collected at three monitors, one upwind (Dallas) and two downwind (South DeKalb, Conyers); however, because the number of ozone exceedances and their magnitude was much lower at the Dallas site (only five exceedances, 0.130 ppm maximum), modeling was performed only for the downwind sites. Modeling was done for the five highest ozone values recorded at each site during the 1982–84 period (six days at the DeKalb site since the fifth highest value occurred on two different days). Of the days modeled, five of six at DeKalb and three of five at Conyers occurred during 1983.

Input data used in the modeling were generally consistent with EPA recommendations. Two exceptions were the use of a morning mixing height of 210 meters rather than the 250 meter minimum specified by EPA guidance, and the use of gridded rather than county-by-county emission estimates. EPA considers these deviations to be minor.

As a check in the accuracy of modeling, EPA recommends that predictions of maximum ozone levels be obtained from OZIPM for the days modeled. If the predicted values are within ± 30% of the monitored values, the OZIPM simulations are considered adequate. All eleven predicted values fall within 30% of the monitored values. Emission reduction requirements calculated for the Atlanta area monitors (fourth highest in the three-year period

1982–84) were 33% for the South DeKalb monitor and 41% for the Conyers monitor. Therefore, a 41% nonmethane organic compound (NMOC) emission reduction from the 1984 base year inventory would be required to demonstrate attainment of the ozone standard.

Because EPA-recommended procedures have been followed with a few minor exceptions, and the predicted ozone values agree with monitored levels, EPA proposes approval of the modeling portion of the SIP. However, some inputs to the modeling are obtained from the emission inventory. If significant changes are made in the inventory, the modeling may have to be revised prior to final approval.

**Control Strategy**

In order to achieve the required 41% emission reduction to demonstrate attainment of the ozone standard, Georgia has adopted controls on several categories of sources. The major emission controls include the adoption of regulations to require the application of reasonably available control technology (RACT) to sources covered by Groups I, II, and III of EPA's Control Techniques Guidelines (CTGs), including a reduced size cutoff of 25 tons per year potential, a generic RACT rule for major (100 TPY) stationary sources not covered by CTGs, and an enchanced I/M program including an anti-tampering program. Through implementation of the control program included in the proposed revisions to the SIP, Georgia predicted an emission reduction of 28% from the 1984 base level hydrocarbon emissions of 94,994 TPY to 66,081 TPY by the end of 1987. The level of VOC emissions needed to demonstrate attainment is 56,046 TPY. Thus, the currently adopted control program leaves a shortfall of approximately 12,000 TPY compared to the emission reductions needed to demonstrate attainment by the end of 1987, or any fixed near-term date thereafter.

*Stationary Source Controls*

The SIP submittal includes formally adopted CTG regulations for Group III sources as well as for additional Group II categories which, as a result of the change in the cutoff level, are now subject sources. Also included was a generic RACT regulation for major non-CTG sources. Group I and other Group II regulations were adopted earlier. In addition to meeting the basic RACT requirement for 100 TPY sources, the regulations include a change in the size cutoff for CTG sources from 100 TPY potential to 25 TPY potential. While the regulations in general are consistent with the CTGs, the 25 TPY cutoff is in some cases higher than the CTG applicability level. Specific cases are listed in the TSD.

Review of the implementation of the adopted CTG regulations has revealed a significant problem in the applicability interpretation of the regulations. The State considers "potential to emit" to be based on a facility's actual operating status including control equipment employed and normal hours of production. EPA's view of "potential to emit" is broader in that it assumes 24-hour operation, 7 days a week, for the entire facility. Deviations from this requirement must be accompanied by federally enforceable permit restrictions or physical operational constraints which prevent the source from exceeding the operating schedule. The State's interpretation allows exemption for facilities that EPA would normally presume could reasonably be regulated to the CTG levels pursuant to the RACT requirement of Section 172 of the CAA. In order for these regulations to be approvable, the State must add to its regulations a definition for "potential to emit" which is consistent with the EPA definition, or adequately explain why EPA's definition would impose unreasonable requirements. Alternatively, the State may submit, as part of the SIP, restrictions on operating schedules which would limit emissions at affected facilities to less than the applicable cutoff level. Georgia has committed to study and, where found feasible, adopt additional control measures to help reduce the projected emission reduction shortfall. These measures include Stage II vapor recovery, gasoline volatility controls, and controls on architectural surface coating and consumer/commercial solvent use.

EPA requires that specific regulations be adopted for 100 TPY potential non-CTG sources. EPA advised Georgia in a letter dated May 14, 1985, of numerous sources that might be subject to regulation as 100 TPY non-CTG sources. Georgia agreed to survey these sources and determine whether they were over the 100 TPY threshold and, if they were, to adopt specific regulations. Until the surveys are completed and specific regulations are adopted, the regulations on major non-CTG sources cannot be approved. In addition, the applicability determination must be based on EPA's definition of "potential to emit," which the regulation does not now do. Finally, where they differ from the CTGs, the applicability cutoff levels must be revised prior to final approval of the regulations, or else an adequate justification for the difference between the applicability limits in the CTGs and the State regulations must be presented.

*I/M Program*

The I/M program has been in operation on a mandatory basis since April 1, 1982. The program was initially required by the Clean Air Act as a carbon monoxide control measure (Atlanta has an extension of the CO attainment date to 1987). However, hydrocarbon standard have also been enforced, although no credit for HC reductions was claimed by Georgia as part of its 1979 ozone SIP.

Several changes in the law, and others made administratively, have enhanced the emission reductions available from the program. The new law expanded the vehicle coverage by increasing the model years covered from 10 to 12 and the weight cutoff for trucks from 6000 pounds to 8500. Program regulations were amended to tighten the emission standards for 1981 and later vehicles from 2.5% CO and 250 ppm HC to 1.2% CO and 220 ppm HC. The existing law provided for counties to be included in the program when their vehicle population exceeded 200,000. Originally, three counties, Fulton, Cobb and Dekalb, were covered. On April 1, 1985, Gwinnett County also became subject to the program. However, since motorists in newly covered counties have one year to comply, the registration requirement was not effective until April 1, 1986. Finally, Georgia also included emission reduction credits for a tampering inspection covering air pumps and catalysts. A tampering inspection has been required since the start of the program, but with only limited guidance to stations on how to perform the inspection. Additional information on emission control applications has been supplied to stations to improve the quality of the tampering inspections.

Georgia has estimated emission reductions from the revised program to be equivalent to a 32.6% hydrocarbon emission reduction from covered automobiles alone in 1987. Because the 4-county inspection area is slightly smaller than the urbanized area, the reduction in emissions is equal to a 31.1% reduction from autos in the urbanized area. Since EPA's minimum emission reduction requirement for I/M programs in SIP call areas is a 23.3% reduction in hydrocarbon emissions from light-duty vehicles (i.e., autos) in the urbanized area, the basic design of the Georgia program meets EPA's minimum emission reduction requirement. Station licensing

requirements and the public awareness aspects of the program are also adequate. Therefore, EPA proposes to approve the inspection test procedures, emission standards, station licensing requirements, recordkeeping and record submittal requirements, and the public awareness aspects of the I/M program.

However, EPA audits have uncovered several operating problems which have substantially reduced the I/M program's actual effectiveness. These include: (1) low participation rate (less than 50%), (2) a low failure rate, and (3) quality control problems.

The low participation rate occurred while the program had only a windshield sticker enforcement system. In the 1985 session of the State legislature, the I/M law was amended to require that motorists present proof of passing the I/M test before the annual vehicle registration can be obtrained. This requirement became effective in 1986. Because registration-based enforcement has been effective in producing 95+% compliance in all areas now using it, EPA feels that this change should correct the compliance problem. An audit by EPA in June 1986 confirmed that the compliance rate in the three counties covered by the new registration requirement was about 95%. However, the audit also indicated that there is one problem with the registration enforcement system which must be corrected before this system can be approved by EPA.

This problem is the possibility of obtaining two registrations from one inspection (i.e., using an inspection form obtained in January-March to register a vehicle in both that year and the following one.) Georgia submitted on April 2, 1986, a letter reiterating its intention to allow only one registration per inspection. The letter proposed to clarify and strengthen the registration procedures to accomplish this goal. The State must make the necessary changes to the enforcement mechanism in order for it to be approvable by EPA. If necessary, this must include changes to the legislative authority, since some State and local officials indicated during the audit that such a change could not be accomplished administratively. EPA proposes to approve the enforcement system, but the State must make the necessary improvements to the system and submit them as part of the SIP prior to final action by EPA.

Because Georgia does not have staggered registration, most vehicles must be registered in a three- or four-month period (January 1–April 1 or May 1). Since an extremely large volume of vehicles must be tested (due to the previous low compliance rate) and registered in this short time, EPA is concerned about potential problems with the quality of testing. EPA recommends the adoption of twelve-month staggered registration to reduce the inspection and registration volume experienced in the January–March period.

Another major problem is that the program has experienced a much lower than expected failure rate. EPA does not require that an I/M program meet any pre-determined failure rate. However, a large difference between the expected and reported failure rates strongly suggests that many vehicles are receiving stickers and compliance forms without being inspected properly, if at all. Although some improvement may be expected because of improved compliance (there is evidence that cars which had not been participating in the program would fail at a higher rate than cars which had been), additional improvements are almost certain to be needed. The tampering program, in particular, will require careful oversight by the State to assure that vehicles are properly failed and repaired since the failure rate on the tampering portion of the inspection has been extremely low (under 2%). Preliminary data obtained from a survey conducted by EPA on vehicles subject to the Atlanta inspection program in November 1986 indicate the actual tampering rate is approximately 10% for the catalyst, air pump and filler inlet restrictor, and 15% for all components.

Several quality control problems were observed at some stations in EPA's 1985 audit of the program. These included: (1) improper calibration of station analyzers, (2) poor equipment maintenance, particularly with regard to leaking probes, (3) lack of an effective system to identify and take enforcement action against problem stations, and (4) the use of vehicle owner self-certification for cost waivers without a mechanism for auditing the validity of the certifications. EPA's audit in early 1986 showed that these problems may have been slightly lessened, but their incidence is still too high.

One additional action which must be taken by Georgia is the inclusion of the I/M program rules and regulations in the SIP. The original rules were included in the 1982 CO SIP, but the rules to be revised must also be included in the current ozone SIP.

If it were implemented to produce the designed emission reductions, the I/M program would meet EPA requirements. Georgia has made some progress in correcting problems with the program. In particular, the adoption of registration enforcement should correct one of the most severe problems, the low participation rate. However, significant problems still exist after five years of operation. On March 9, 1987, EPA formally notified the Governor of Georgia that the State must submit within three months a plan to correct the existing operational problems, and have implemented these corrections within one year. Until Georgia shows that it can correct the existing problems, there is serious doubt about the adequacy of the emission analyzer specifications, maintenance/calibration requirements and the quality control, surveillance and audit procedures. EPA is today proposing no action on these elements of the I/M program or on the program overall.

*Transportation Control Measures*

Various TCM measures were included in the 1979 ozone SIP and in the 1982 CO SIP. Georgia has adopted no additional TCMs, but has committed to study the TCMs and adopt any additional ones which are found to be feasible. As mentioned below, EPA intends to provide further guidance in the late summer of 1987 on how states can correct their SIPs to meet the Act's requirements. The criteria for which additional measures (including TCM's) that the SIP will have to consider will be addressed in that guidance.

*Other SIP Elements*

EPA requires that the SIP contain a monitoring plan and a contingency plan to insure that transportation measures provide the anticipated reductions and, if necessary, that additional measures are adopted or substituted. EPA also requires that procedures be developed for public consultation, for assessing conformity of federal actions to the SIP and for assuring that basic transportation needs are met. Georgia included by reference each of these elements as contained in the 1982 carbon monoxide SIP for the Atlanta area. Since each of these elements relates equally well to hydrocarbons as to carbon monoxide, and EPA has approved each of those elements in the CO SIP (November 10, 1983, 48 FR 51622), EPA proposes to approve these elements in the ozone SIP as well.

**Other Issues**

Georgia has contended that many of the ozone violations occurring in 1983 were the result of what it feels was a highly unusual stagnation episode which occurred from July 12–24. The SIP includes a discussion of this contention, along with a statistical demonstration indicating that this stagnation was a

once-in-50-year occurrence. EPA believes that meteorology probably did influence the 1983 ozone readings. However, it is unclear how much lower the 1983 readings would have been had "normal" meteorology occurred.

EPA has investigated mechanisms for adjusting ozone values based on criteria such as temperature, cloud cover and wind speed, but so far has not found any combination of variables which can predict reliably the number of ozone violations that will occur in a given year based on an area's meteorology. Until such a mechanism can be demonstrated, EPA concludes that there is no basis on which to adjust ozone readings recorded in a given year because of meteorological parameters which differ from the historical average. The current ozone policy allows averaging of ozone values over three years to account for differing frequencies of occurrence of meteorological conditions which promote ozone formation.

It should also be noted that the ozone levels recorded in 1986 were similar in magnitude to those recorded in 1983. As a result, the design value for the 1984–86 time period is 0.160 ppm, which is identical to the design value for the 1982–84 period which includes the disputed 1983 data.

**Summary of Findings and Proposal**

Georgia submitted a revision to the $O_3$ SIP for the Atlanta metropolitan area on May 22, 1985. The submittal contains measures that would reduce emissions of volatile organic compounds (VOC); reduction of VOC emissions is necessary to reduce $O_3$ concentrations. The SIP revision, however, does not demonstrate that the amount of VOC emissions reductions provided in the SIP is sufficient to attain the $O_3$ NAAQS by a fixed near-term date. As described in the General Preamble, EPA interprets the Act to require such a demonstration for an area like Atlanta.

Therefore, EPA is proposing to disapprove the revision to the $O_3$ SIP for the Atlanta metropolitan area.

As noted earlier, EPA had previously called for a revision to the 1979 ozone SIP for the Atlanta metropolitan area under section 110(a)(2)(H) of the Act. Since the SIP requires an adequate response to a SIP call, and EPA is now finding that Georgia submittal is not adequate to meet the Act's attainment requirements, EPA is now proposing to find for purposes of section 173(4) only that Georgia is not carrying out its SIP. As a result, EPA is also proposing to impose a ban on the construction of new VOC sources, and on major modifications of existing VOC sources, under section 173(4) of the Act. The issue of how long the ban remains in effect is a matter of continuing discussion within the Agency, and the General Preamble, cited above, provides further discussion on this issue.

EPA also has authority under the Act to impose other sanctions and requirements, including the withholding of funding for construction of sewage treatment facilities under section 316 of the Act. For additional information on these other potential consequences and information on EPA's proposed rulemaking action on this and other $O_3$ and CO SIPs, the reader may refer to the General Preamble cited above.

In addition, EPA intends to provide further guidance in the late summer of 1987 on how States can correct their SIPs to meet the Act's requirements. At a minimum, however, it is clear now that in any corrective SIP revision for the Atlanta area, the State must correct the problems described above in connection with the pending SIP submittal.

**Measures Proposed for Approval**

EPA is proposing to approve a number of measures in the State submittal for the metropolitan Atlanta area as part of the $O_3$ SIP under section 110(a)(3) of the Act on the ground that they would strengthen the SIP and thereby produce progress toward attainment of the $O_3$ NAAQS. These measures are described below.

EPA proposes to approve the modeling portion of the Georgia SIP, and, from the transportation control portion of the SIP, the monitoring plan, contingency plan, conformity and basic transportation needs elements because they meet the requirements of the Clean Air Act and EPA policy. In addition, because the inspection test procedures, emission standards, inspection station licensing requirements, recordkeeping and record submittal requirements, public awareness program and enforcement system for the I/M program meet EPA requiremnts, EPA proposes approval of these elements, with the understanding that Georgia will submit as part of the SIP, prior to EPA's final action, the improvements in the registration procedures which will prevent one inspection from being used to obtain two registrations. EPA proposes no action on the other I/M elements (quality control and related procedures), or on the I/M program overall, pending receipt and review of the corrective steps to be taken. EPA also proposes to approve the stationary source regulations which were included as part of the SIP. However, because these regulations do not meet EPA requirements in some respects (i.e., the applicability of the regulations is based on an incorrect interpretation of "potential to emit", and the applicability cutoff of 25 TPY is in some cases higher than is specified in the applicable CTG), the regulations cannot receive final approval until these deficiencies are corrected.

**Regulatory Process**

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA must assess the impact of proposed or final rules on small entities. If EPA takes final action as proposed today, a moratorium on the construction and modification of major stationary sources will go into effect in the Atlanta ozone nonattainment area. EPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the Clean Air Act, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that a State has failed to implement its SIP.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

**List of Subjects in 40 CFR Part 52**

Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxide, Hydrocarbons.

Authority: 42 U.S.C. 7401–7642.

Dated: May 19, 1987.

Jack E. Ravan,

*Regional Administrator.*

[FR Doc. 87–15380 Filed 7–13–87; 8:45 am]

BILLING CODE 6560–50–M

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**40 CFR Part 52**

**[A–5–FRL–3206–3]**

## Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This notice announces USEPA's proposed actions under the Clean Air Act (CAA) on certain revisions to the ozone State implementation plan (SIP) requested by the State of Indiana for Clark, Floyd, Lake and Porter Counties. First, USEPA proposes to approve the inspection and maintenance (I/M) portion of Indiana's ozone SIP, except for the portion that

addresses the resources and funding for enforcement. Second, USEPA proposes to approve the transportation control plan (TCP) portion of the SIP. Third, USEPA proposes to disapprove the ozone SIP as not meeting all of the requirements of Part D (sections 171–178) of the CAA. Finally, based on these proposed findings, USEPA also proposes to impose the construction ban set forth in section 110(a)(2)(I) of the CAA on major new stationary sources and major modifications of stationary sources of ozone precursors in the nonattainment areas of Clark, Floyd, Lake and Porter Counties. Today's proposal is based on this notice and the accompanying "General Preamble" appearing elsewhere in today's **Federal Register**.

**DATES:** Comments should be submitted to USEPA on or before September 14, 1987.

**ADDRESSES:** Copies of State submittals and other materials related to this rulemaking notice are available for inspection during normal business hours at the following addresses: (It is recommended that you telephone Steven D. Griffin, at (312) 353–3849, before visiting the Region V Office.

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206–6015

Comments on this proposed rule should be addressed to: (Please submit an original and three copies if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

**FOR FURTHER INFORMATION CONTACT:** Steven D. Griffin, (312) 353–3849.

## I. Supplementary Information

This notice contains the following sections: "Background" and "Proposed Actions." The "Background" section briefly summarizes the history of the development of the ozone SIP for Indiana and discusses USEPA's review of the State's Part D ozone SIP submittal for Clark, Floyd, Lake and Porter Counties. The "Proposed Actions" section describes USEPA's proposal to disapprove a portion of the I/M program, to approve other portions, and to approve the TCP portion of the Indiana ozone SIP. It also describes USEPA's proposal to (1) find that the plan as a whole does not meet all of the requirements of Part D of the CAA and (2) impose a construction ban on ozone precursor sources in the area until the State submits and USEPA approves a new attainment demonstration (including but not limited to an air quality analysis and updated emission inventory) and the necessary control measures for the area. This notice also includes sections which address the development of Indiana's ozone plan, past rulemaking actions, and USEPA's recent review of the plan.

## II. Background

Today's proposal is based on this notice and the accompanying "General Preamble" cited above.

Clark, Floyd, Lake and Porter Counties were designated nonattainment for ozone on March 3, 1978 (43 FR 8962). On June 26, 1979, Indiana submitted a request to extend the dates for ozone attainment in Clark, Floyd, Lake and Porter Counties. This submittal included SIP revisions with attainment demonstrations for the four counties. USEPA approved or conditionally approved portions of the plan in four rulemaking actions (see 46 FR 36, 47 FR 6274, 47 FR 47552 and 48 FR 2124). Development of Indiana's post-1982 ozone SIP will be detailed in the following sections.

For a SIP revision to be approved, it must meet the requirements of section 110 of the CAA and any pertinent requirements of 40 CFR Part 51. For a nonattainment area plan revision to be approved, it must additionally satisfy the requirements of Part D of the CAA, including section 172. Section 172 contains special requirements for 1982 plan revisions for areas that receive an extension of the attainment date for ozone beyond December 31, 1982. The USEPA addressed these requirements in detail in policy guidance published in the January 22, 1981, **Federal Register** (46 FR 7182). That guidance supplemented guidance issued in USEPA's "General Preamble" for Part D plans [44 FR 20372 (April 4, 1979)] and four additional notices [44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); and 44 FR 67182 (November 23, 1979)]. A "General Preamble" is published elsewhere in today's **Federal Register** which discusses the inability of areas to attain the NAAQS by the end of 1987. That notice provides background and support for this proposed rulemaking notice and future rulemaking actions on the plan for the above-named counties.

## III. Development of Indiana's Post-1982 Ozone SIP

### *A. Overall Plan Development*

On September 2, 1982, Indiana submitted a draft ozone/carbon monoxide (CO) SIP revision to USEPA. The revision included a SIP strategy which called for volatile organic compound (VOC) emission reductions of 34% for Clark and Floyd Counties in the Louisville Interstate Air Quality Control Region (AQCR), and VOC reductions of 31% for Lake and Porter Counties in the Chicago Interstate AQCR. These reductions were designed to result in NAAQS attainment by 1987.

On February 3, 1983 (48 FR 5106), USEPA proposed to disapprove the draft revision, because: 1) it did not include an enforceable commitment to adopt Reasonably Available Control Technology (RACT) for Group III Control Technique Guideline (CTG) sources and other major, non-CTG VOC sources (sources for which no CTG has been or is contemplated to be published); 2) it did not include a commitment to implement I/M; 3) it did not ensure interstate (Illinois, Indiana and Wisconsin) ozone attainment, pursuant to requirements of section 110(a)(2)(E) of the CAA; 4) it included contingency measures instead of enforceable emission reduction strategies; and 5) it deviated from USEPA guidance in other areas, including area, mobile and point source inventories, air quality data and ozone modeling.

On December 2, 1983, Indiana submitted the State adopted version of the 1982 ozone plan. Changes were made and certain deficiencies were corrected. These included: 1) a commitment to adopt Group III CTG RACT and RACT for the remaining major, non-CTG VOC sources; 2) a renewed commitment to adopt and implement I/M; 3) a commitment to adopt the modeling analysis of emission reduction requirements submitted by Illinois to ensure interstate ozone attainment; and 4) adoption of Stage II vapor recovery for gasoline service stations as a contingency measure.

On October 9, 1984 (49 FR 39574), USEPA proposed conditional approval of portions of the ozone plan, as follows: 1) approval of Indiana's TCP if further technical support regarding transportation control measures (TCMs) was provided by the State; 2) approval of the I/M program if the State provided an approvable description of its enforcement mechanism, a description of the resources available to enforce its I/M program, a demonstration that its I/

M program meets the CAA's RACT requirement, and a commitment to rectify other stated deficiencies within a specified time; 3) approval of the northwest Indiana ozone attainment demonstration if the State agreed to adopt Illinois' modeling analysis of emission reduction requirements for the Chicago interstate area as part of its revision to Indiana's SIP; and 4) approval of the ozone plan for Clark and Floyd Counties if the State committed to reduce VOC emissions by at least 32.5% from 1980 to 1987 in order to attain the NAAQS by 1987.

In response to USEPA's proposed rulemaking, the State submitted its comments on February 8, 1985. A detailed description of those comments and subsequent proposals to resolve major issues will follow.

*B. Northwest Indian/Interstate Ozone Attainment Demonstration*

Section 110(a)(2)(E) of the CAA requires that a SIP contain adequate provisions to prevent sources in one State from interfering significantly with attainment and maintenance of the NAAQS in neighboring States. Indiana was required to submit an ozone attainment demonstration for Lake and Porter Counties which would ensure that sources in those counties would not interfere significantly with attainment in northeast Illinois and southeast Wisconsin.

On April 22, 1985, Illinois submitted to USEPA a proposed revision to the ozone attainment demonstration for northeast Illinois. The proposal showed that a 46% reduction in VOC emissions from the 1979 base inventory would be necessary in order to attain the NAAQS by the end of 1987 throughout the interstate area. These reductions would be accomplished primarily through RACT level controls for Group II, Group III, and major, non-CTG sources and implementation of its vehicle I/M program. On October 25, 1985, Indiana adopted by reference Illinois' modeling analysis of emission reduction requirements as part of the Indiana ozone plan. In addition, Indiana submitted a revised VOC emissions inventory for Lake and Porter Counties, which reflected a substantial reduction from 1979 to 1987 in VOCs from coke oven by-product recovery plants. This reduction will be obtained if USEPA promulgates regulations controlling coke oven by-product emissions under its National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program. However, even if such promulgation occurs by 1987, certain applicable sources could be granted up to 2-year compliance waivers, pursuant to 40 CFR 61.11. Therefore, as a contingency measure, Indiana committed to adopt, as necessary, a range of control measures in Lake and Porter Counties, including State regulation of coke oven by-product recovery plants, Stage II vapor recovery, and expansion of RACT rules for smaller VOC sources, sufficient to meet the remaining portion of the 46% reduction which is necessary to attain the ozone NAAQS by 1987.

*C. Ozone Plan for Clark and Floyd Counties*

In the February 8, 1985, State submittal to USEPA, new reduction factors for Group III and major, non-CTG sources were incorporated in order to update the projected VOC inventory for Clark and Floyd Counties. In addition, emissions reductions from implementation of TCMs were included. The SIP strategy projected a 34.3% VOC emission reduction for Clark and Floyd Counties and a 32.7% reduction for the Louisville interstate area to occur between 1980 and 1987. A 32% reduction is required to attain the ozone NAAQS in the interstate Louisville area. The submittal also included the required demonstration of reasonable further progress (RFP), which showed annual emission reductions from 1980 to 1987 that equaled or exceeded the required minimal linear reduction rate.

On July 3, 1985, Indiana submitted a schedule for adopting and submitting major, non-CTG source control regulations for VOCs. The schedule called for State Board adoption of these regulations by January 1986 with a final promulgation date in April or May 1986. The submittal also included documentation of a whiskey warehouse operation in Jeffersonville, Indiana (Clark County) which was scheduled to phase out fermentation processing, leading to a permanent closure by 1987. The plant closing represented a significant reduction in VOC emissions. The State committed to not using these reductions as emissions offsets for potential new sources in the area, thereby avoiding a mere transfer of emissions from the closing source to any new sources. Lastly, the submittal included revised non-CTG source emission reductions and an updated RFP report for Clark and Floyd Counties. Although RFP reductions between 1983 and 1984 were somewhat less than reductions represented by linear RFP, reductions returned to a linear rate between 1984 and 1985 and continued at this rate to 1987.

On December 13, 1985, in response to USEPA's July 18, 1985, letter concerning Indiana's deficient control plans, the State submitted a revised schedule for State Board adoption and final promulgation of major, non-CTG source control regulations for VOCs. The schedule called for final promulgation of regulations in October or November 1986. Such promulgation and subsequent enforcement of non-CTG VOC source regulations, when combined with other point, area and mobile source reductions, were projected to lead to attainment of the ozone NAAQS in Clark and Floyd Counties by 1987.

*D. Indiana's Transportation Control Plan*

In the February 8, 1985, submittal, the State agreed to provide:

(a) sufficient documentation to support the bases for choosing to implement certain TCMs for the purposes of VOC emission reductions in the four applicable counties, pursuant to Section 198(f) of the CAA. The county metropolitan planning organizations (MPOs) committed to submit to the State the required technical analyses and TCM assessments by June 30, 1985;

(b) a commitment to provide a yearly assessment of implemented TCMs in the four counties, including technical analyses of emission reductions resulting from the implementation of each measure or group of measures. The MPOs agreed to submit to the State this commitment, again, by June 30, 1985;

(c) a discussion of how the basic transportation needs of the four counties are being met, including funding provisions and commitments for such needs. Such information was to have been submitted to the State by August 30, 1985; and

(d) sufficient documentation to support emission reduction benefits for the TCMs included in the State's 1982 TCP for Lake and Porter Counties. The TCMs include speed limit review, placing traffic signals on flash at certain lightly travelled intersections, removing unnecessary stop signs, carpooling and vanpooling. This information was due to be submitted by April 30, 1985.

In addition, the State agreed to provide a list of planned transportation measures and projects that may adversely affect air quality and that would be delayed if expected emission reductions or air quality improvements did not occur. (See 46 FR 7182, January 22, 1981.)

*E. Vehicle Inspection and Maintenance (I/M):*

The February 8, 1985, submittal included a discussion of Indiana's proposed I/M enforcement mechanism, which was previously outlined in a

February 6, 1985, letter to USEPA from the Governor of Indiana. The program was comprised of a $5 excise tax credit as an incentive to vehicle owners who voluntarily have their vehicles tested, suspension of registrations at the time of renewal for those vehicles which have not been tested, and a $100 fine to owners of untested vehicles.

In two rulemaking actions, USEPA proposed the imposition of sanctions to withhold funding for State highway and air quality programs and to place a moratorium on new and modified source construction. On August 3, 1983 (48 FR 35316), USEPA proposed to find that Indiana was no longer implementing its approved 1979 ozone/CO SIP, due to the State's failure to demonstrate satisfactorily that the I/M provisions of the SIP were being implemented. As a result, USEPA proposed the imposition of funding sanctions, pursuant to section 176(b) of the CAA, and a moratorium on new and modified source construction, pursuant to section 173(4). On January 21, 1986 (51 FR 2732), USEPA proposed to limit certain funding assistance, pursuant to section 176(a), due to the State's failure to submit a SIP for the four counties which considered each of the elements in section 172 of the CAA. Although the January 21, 1986, notice announced that public hearings would be held on USEPA's proposed actions concerning I/M issues, these hearings were indefinitely postponed on April 7, 1986 (51 FR 11756). This postponement was due to the State Legislature's passage of an enforcement mechanism which authorized vehicle registration suspension and a $100 fine for owners of untested vehicles.

## IV. January 26, 1987, Proposed Rulemaking on the Post-1982 Ozone SIP

On January 26, 1987 (52 FR 2728), USEPA proposed the following actions on the post-1982 SIP:

(1) USEPA proposed to disapprove Indiana's TCP, unless the State provided the information, described earlier in today's notice, within the comment period associated with the January 26, 1987, notice.

(2) USEPA deferred action on the I/M portion of Indiana's SIP. However, the notice outlined deficient areas which needed to be resolved in order for Indiana's I/M program to be approvable. In order to obtain final approval of the I/M portion of its plan, the State was required to submit to USEPA: a) a detailed description of its enforcement mechanism based in part on the legislation discussed in this notice; b) a detailed description of the resources which the State would provide to implement its I/M enforcement plan; c) a demonstration that its I/M program meets the CAA's RACT requirements; and d) satisfaction of the other deficiencies stated both in a technical support document dated June 29, 1984, and the October 9, 1984, Federal Register notice (49 FR 39574).

(3) USEPA proposed to approve Indiana's ozone attainment demonstration for Lake and Porter Counties based on the State's adoption of Illinois' analysis of emission reduction requirements and the State's commitment to adopt sufficient VOC control measures to achieve the necessary reductions, including, if necessary, Stage II vapor recovery and expansion of VOC RACT rules for smaller sources.

(4) USEPA proposed to approve Indiana's ozone attainment demonstration for Clark and Floyd Counties based on the State's commitment to adopt major, non-CTG VOC source regulations along with previously claimed point, area and mobile source VOC reductions.

However, USEPA stated that it would disapprove Indiana's ozone attainment demonstrations for Lake and Porter Counties and Clark and Floyd Counties unless the State took the necessary steps prior to final rulemaking to assure attainment and maintenance of the ozone NAAQS by the end of 1987.

## V. Subsequent Review of Indiana's Post-1982 Ozone SIP

USEPA's review of Indiana's ozone SIP since publication of the January 26, 1987, notice has resulted in the need to modify its position concerning the plan's approvability. Therefore, USEPA is reproposing the following actions:

(1) USEPA reproposes to approve Indiana's transportation control plan and to withdraw its proposed disapproval of January 26, 1987, because the State has resolved those deficiencies cited in the January 1987 notice in its submittals of May 14, 1986, June 10, 1986, and April 6, 1987.

(2) USEPA reproposes to approve the I/M portion of the plan, except for the portion that addresses the funding and resources for enforcement, because the State Legislature has failed to pass legislation for the July 1987 to June 1989 State biennial budget which would provide funding for enforcement of the I/M program. However, if the State demonstrates that the enforcement mechanism for the I/M program will be properly funded and the needed resources allocated before USEPA proceeds to final rulemaking to disapprove this portion of the program, USEPA may withdraw this proposed disapproval. All other portions of the program appear approvable, because the State submitted on September 30, 1986, and February 18, 1987: a) a description of its enforcement mechanism; b) a demonstration that RACT level reductions in hydrocarbons and CO can be achieved through the program; and c) revised rule 325 IAC 13–1.1 which resolves minor deficiencies noted in USEPA's October 9, 1984, notice.

(3) USEPA reproposes to disapprove Indiana's ozone attainment demonstration for Lake and Porter Counties and to withdraw its proposed approval of January 26, 1987, for two main reasons. First, air quality data for 1984–1986 in the southeast Wisconsin area show continued violations of the ozone NAAQS. These high ozone concentrations at Racine and Kenosha are believed to be due to precursor emissions from the Chicago-northwest Indiana area.

There has been little or no improvement in ozone levels from the peak levels monitored during 1979–1981, which calls into question whether the greater Chicago area will attain the ozone standard, either by the end of 1987 or a fixed near-term date, even if all projected emission reductions committed to by the States of Illinois and Indiana are implemented.

Second, the State has failed to submit non-CTG VOC RACT rules for coke oven by-product recovery plants, which comprise the bulk of the emission reductions claimed in the State's attainment demonstration for northwest Indiana. In addition, the State has failed to implement any contingency measures to ensure attainment by December 31, 1987. These two facts indicate a strong probability that pollutant levels from northwest Indiana will be greater than the Indiana attainment demonstration allows. For these reasons, EPA cannot find that the Indiana submittal demonstrates attainment by December 31, 1987, or by a near-term fixed date. It is important to note, however, that the State has indicated to USEPA that it is developing and will submit the non-CTG RACT rules previously discussed within the next few months. In addition, USEPA will continue to monitor air quality in the area to determine if improvements are being made toward ultimate attainment of the ozone NAAQS.

(4) USEPA repropose to disapprove Indiana's ozone attainment demonstration for Clark and Floyd Counties and to withdraw its proposed approval of January 26, 1987, for two reasons, similar to those above. First, air quality data for 1984–1986 in the Louisville area continue to show

violations of the ozone NAAQS.[1] The data, however, show significant improvement over the 1979–1981 air quality data. Second, the State has submitted its non-CTG VOC RACT rules for wood furniture/cabinet surface coating and marine vessel coating, which have been preliminarily adopted by the Indiana Air Pollution Control Board (Board). Emission reductions from these rules would provide the State with the reduction level required under its attainment demonstration. However, because these rules have not been finally adopted by the State and submitted to USEPA as SIP revisions, USEPA questions the State's ability to have federally enforceable, fully implemented rules with compliance dates by December 31, 1987. The above deficiencies indicate another strong probability of the failure of the Louisville interstate area to attain the ozone NAAQS by the end of 1987. Moreover, because of the uncertainty about whether ozone concentrations will decrease significantly in the area and whether the State will actually implement the necessary control measures in the near future, EPA does not have adequate assurance at this time that Clark and Floyd Counties will attain the standard even shortly after December 31, 1987. However USEPA will continue to monitor the State's progress toward implementation of RACT rules and to review air quality data in the area. USEPA may repropose to approve Indiana's attainment demonstration for Clark and Floyd Counties if air quality improvements and implementation of RACT rules are achieved as to ensure attainment of the ozone NAAQS by the end of 1987 or a fixed near-term date thereafter.

[1] The Kentucky portion of the Louisville interstate ozone attainment demonstration was approved by USEPA on October 9, 1984 (49 FR 39547).

## VI. Summary of Plan Evaluation

The plans strengthen the current SIP, because they call for I/M (although it lacks adequate funding and resources for enforcement) and TCM implementation. For the reasons described above, however, USEPA cannot now conclude that the plans meet the requirements for a plan revision that provides for attainment of the ozone standard by the end of 1987.

## VII. Proposed Action

Based on the conclusions discussed above, USEPA proposes to: 1) disapprove that portion of the I/M program which addresses funding and resources for enforcement, because of a failure by the State to provide funding for enforcement of the program; 2) approve all other portions of the I/M program; 3) approve the TCP portion of the plan; and 4) find that the SIP as a whole does not adequately demonstrate attainment of the NAAQS by the end of 1987 or a fixed year-term date and, therefore, does not meet all of the requirements of Part D of the CAA.

Consistent with section 110(a)(2)(I) of the CAA and the policy contained in USEPA's **Federal Register** of November 2, 1983 (48 FR 50686), USEPA also proposes to impose a ban on the construction of major VOC sources and major modifications of VOC sources in the nonattainment areas. Once that ban is in place, USEPA would lift it only upon final approval of a corrective plan revision. The issue of how long the ban remains in effect is a matter of continuing discussion within the Agency and the General Preamble, cited above, provides further discussion on this issue.

Interested parties are invited to comment on all aspect of these proposed actions.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), USEPA must assess the impact of proposed or final rules on small entities. If USEPA takes final action as proposed today, a moratorium on the construction and modification of major VOC stationary sources will go into effect in the ozone nonattainment areas of Clark, Floyd, Lake, and Porter Counties. The USEPA does not have sufficient information to determine the impacts such a moratorium may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action, when promulgated, were to have a significant impact, the Agency could not modify its action. Under the CAA, the imposition of a construction moratorium is automatic and mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Act.

### List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Ozone.

**Authority:** 42 U.S.C. 7401–7642.

Dated: May 15, 1987.

**Frank M. Covington,**

*Acting Regional Administrator.*

[FR Doc. 87–15381 Filed 7–13–87; 8:45 am]

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Tuesday
July 14, 1987

Part III

# Department of Defense
# General Services Administration
# National Aeronautics and Space Administration

48 CFR Parts 15 and 52
Federal Acquisition Regulation (FAR); Truth in Negotiations Act Amendments; Proposed Rule

**DEPARTMENT OF DEFENSE**

**General Services Administration**

**National Aeronautics and Space Administration**

**48 CFR Parts 15 and 52**

## Federal Acquisition Regulation (FAR); Truth in Negotiations Act Amendments

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to Federal Acquisition Regulation (FAR) Subpart 15.8, and the clauses at 52.214–27, 52.215–2, 52.215–22, and 52.215–23 to incorporate amendments to the Truth in Negotiations Act required by Section 952 of the Defense Acquisition Improvement Act of 1986 (Pub. L. 99–500).

**DATE:** Comments should be submitted to the FAR Secretariat at the address shown below on or before September 14, 1987 to be considered in the formulation of a final rule.

**ADDRESS:** Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 87–22 in all correspondence related to this issue.

**FOR FURTHER INFORMATION CONTACT:** Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The FY 87 DoD Authorization Act amends 10 U.S.C. 2306, which applies to contracts issued by DoD and NASA. By incorporating these changes into FAR Subpart 15.8, contracts issued by all executive agencies will be covered as well. Changes are also required to 52.215–2, Audit-Negotiation; 52.215–22, Price Reduction for Defective Cost or Pricing Data; 52.215–23, Price Reduction for Defective Cost or Pricing Data—Modifications; and 52.214–27, Price Reduction for Defective Cost or Pricing Data—Modifications—Sealed Bidding.

The proposed revision would—

(1) Modify the definition of "cost or pricing data";

(2) Prohibit certain contractor defenses when defective pricing has occurred; and

(3) Allow contractor offsets to price reductions otherwise due the Government in certain situations and prohibit such offsets in other situations.

### B. Regulatory Flexibility Act

It appears that the proposed revisions to FAR Subpart 15.8 and the clauses at 52.214–27, 52.215–2, 52.215–22, and 52.215–23 do not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because they apply to contracts awarded as a result of the submission and certification of cost or pricing data. Most supplies and services obtained from small entities are acquired on a competitive fixed-price basis and cost or pricing data is not required in such procurements.

### C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed rule does not impose any additional recordkeeping or information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

### List of Subjects in 48 CFR Parts 15 and 52

Government procurement.

Dated: July 6, 1987.

**Lawrence J. Rizzi,**

*Director, Office of Federal Acquisition and Regulatory Policy.*

Therefore, it is proposed that 48 CFR Parts 15 and 52 be amended as set forth below:

1. The authority citation for Parts 15 and 52 continues to read as follows:

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

## PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.801 is amended by revising the definition "cost or pricing data" to read as follows:

**15.801 Definitions.**

* * * * *

"Cost or pricing data" means all information as of the date of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective contractor's judgment about estimated future costs or projections, they do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the information that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. They also include such factors as (a) vendor quotations; (b) nonrecurring costs; (c) information on changes in production methods and in production or purchasing volume; (d) data supporting projections of business prospects and objectives and related operations costs; (e) unit-cost trends such as those associated with labor efficiency; (f) make-or-buy decisions; (g) estimated resources to attain business goals; (h) information on management decisions that could have a significant bearing on costs.

* * * * *

**15.802 [Amended]**

3. Section 15.802 is amended by removing in the first sentence of paragraph (a) the citation "10 U.S.C. 2306(f)" and inserting in its place the citation "10 U.S.C. 2306(a)".

4. Section 15.804–2 is amended by adding a second sentence in paragraph (a)(1)(iii); by revising paragraph (a)(2); and by adding paragraph (c) to read as follows:

**15.804–2 Requiring certified cost or pricing data.**

(a) * * *

(1) * * *

(iii) * * * (But see 15.804–3(i)).

* * * * *

(2) If certified cost or pricing data are needed for pricing actions over $25,000 and not in excess of $100,000, they may be obtained. There should be relatively few instances where certified cost or pricing data and inclusion of defective pricing clauses would be justified in awards between $25,000 and $100,000. The data which the contracting officer requires to be submitted shall be limited to that data necessary to determine the reasonableness of the price. Whenever certified cost or pricing data are required for pricing actions of $100,000 or less, the contracting officer shall document the file to justify the requirement. When awarding a contract of $25,000 or less, the contracting officer shall not require certified cost or pricing data.

* * * * *

(c) The requirements of this section also apply to contracts entered into by the head of any agency on behalf of a foreign government.

5. Section 15.804–3 is amended by revising paragraph (i) to read as follows:

**15.804-3 Exemptions from or waiver of submission of certified cost or pricing data.**

* * * * *

(i) *Waiver for exceptional cases.* The agency head (or, if the contract is with a foreign government or agency, the head of the contracting activity) may, in exceptional cases, waive the requirement for submission of certified cost or pricing data. The authorization for the waiver and the reasons for granting it shall be in writing. The agency head may delegate this authority. When the agency head or designee has waived the requirement for submission of certified cost or pricing data, the contractor or higher-tier subcontractor to whom the waiver relates shall be considered as having been required to make available cost or pricing data for purposes of 15.804-2(a)(1)(iii). Consequently, award of any lower-tier subcontractor expected to exceed $100,000 requires the submission of certified cost or pricing data unless exempt or waived under this subsection 15.804-3.

6. Section 15.804-7 is amended by revising paragraphs (b) and (e) to read as follows:

**15.804-7 Defective cost or pricing data.**

* * * * *

(b)(1) If, after award, cost or pricing data are found to be inaccurate, incomplete, or noncurrent as of the date of final agreement on price given on the contractor's or subcontractor's Certificate of Current Cost or Pricing Data, the Government is entitled to a price adjustment, including profit or fee, of any significant amount by which the price was increased because of the defective data. This entitlement is ensured by including in the contract one of the clauses prescribed in 15.804-8 and set forth at 52.215-22, Price Reduction for Defective Cost or Pricing Data, and 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications. The clauses give the Government the right to a price adjustment for defects in cost or pricing data submitted by the contractor, a prospective subcontractor, or an actual subcontractor.

(2) In arriving at a price adjustment, the contracting officer shall consider (i) the time by which the cost or pricing data became reasonably available to the contractor and (ii) the extent to which the Government relied upon the defective data.

(3) The clauses referred to in subparagraph (b)(1) of this subsection recognize that the Government's right to a price adjustment is not affected by any of the following circumstances:

(i) The contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position;

(ii) The contracting officer should have known that the cost or pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each such item procured under such contract; or

(iv) The prime contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data relating to the contract.

(4) Subject to subparagraphs (b)(5) and (b)(6) of this subsection, the contracting officer shall allow an offset for any understated cost or pricing data submitted in support of price negotiations, up to the amount of the Government's claim for overstated pricing data arising out of the same pricing action (for example, the initial pricing of the same contract or the pricing of the same change order).

(5) An offset shall be allowed only in an amount supported by the facts and if the contractor (i) certifies to the contracting officer that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset in the amount requested, and (ii) proves that the cost or pricing data were available before the date of agreement on price but were not submitted. Such offsets need not be in the same cost groupings (e.g., material, direct labor, or indirect costs).

(6) An offset shall not be allowed if (i) the understated data was known by the contractor to be understated when the Certificate of Current Cost or Pricing Data was signed, or (ii) the facts demonstrate that the price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

* * * * *

(e) If (1) both contractor and subcontractor submitted and (2) the contractor certified, or should have certified, cost or pricing data, the Government has the right, under the clauses at 52.215-22, Price Reduction for Defective Cost or Pricing Data, and 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications, to reduce the prime contract price if it was significantly increased because a subcontractor submitted defective data. This right applies whether these data supported subcontract cost estimates or supported firm agreements between subcontractor and contractor.

* * * * *

7. Section 15.804-8 is amended by revising paragraphs (a) and (b) to read as follows:

**15.804-8 Contract clauses.**

(a) *Price Reduction for Defective Cost or Pricing Data.* The contracting officer shall, when contracting by negotiation, insert the clause at 52.215-22, Price Reduction for Defective Cost or Pricing Data, in solicitations and contracts when it is contemplated that cost or pricing data will be required from the contractor or any subcontractor (see 15.804-2).

(b) *Price Reduction for Defective Cost or Pricing Data—Modifications.* The contracting officer shall, when contracting by negotiation, insert the clause at 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications, in solicitations and contracts when (1) it is contemplated that cost or pricing data will be required from the contractor or any subcontractor (see 15.804-2) for the pricing of contract modifications, and (2) the clause prescribed in paragraph (a) of this subsection has not been included.

* * * * *

8. Section 15.806 is amended by revising paragraph (b) to read as follows:

**15.806 Subcontract pricing considerations.**

* * * * *

(b) Except when the subcontract prices are based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public or are set by law or regulation, any contractor required to submit certified cost or pricing data or for whom a waiver was granted under 15.804-3(i) also shall obtain certified cost or pricing data before awarding any subcontract or purchase order expected to exceed $100,000 or issuing any modification involving a price adjustment expected to exceed $100,000 (see example of pricing adjustment at 15.804-2(a)(1)(ii) and see 15.804-6(g) through (i)). To waive subcontractor cost or pricing data, follow the procedures at 15.804-3(i).

* * * * *

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 52.214-27 is amended by removing in the title of the clause the

date "(APR 1985)" and inserting in its place the date "(JUN 1987)" and by adding paragraphs (d)(1) and (d)(2) to read as follows:

**52.214-27 Price Reduction for Defective Cost or Pricing Data-Modifications-Sealed Bidding.**

* * * * *

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense—

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted;

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character or the data to the attention of the Contracting Officer;

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract; or

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

10. Section 52.215-2 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1987)"; by adding in the first sentence of paragraph (b) of the clause the word "proposing," following the words "related to"; and by removing all the derivation lines following "(End of clause)" to read as follows:

**§ 52.215-2 Audit—Negotiation.**

As prescribed in 15.106-2(b), insert the following clause:

* * * * *

11. Section 52.215-22 is amended by revising the introductory text; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(JUN 1987)"; by adding paragraphs (c)(1) and (c)(2); and by removing both derivation lines following "(End of clause)" to read as follows:

**§ 52.215-22 Price Reduction for Defective Cost or Pricing Data.**

As prescribed in 15.804-8(a), insert the following clause:

* * * * *

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense—

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted;

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer;

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract; or

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

12. Section 52.215-23 is amended by removing in the title of the clause the date "(APR 1985)" and inserting in its place the date "(JUN 1987)"; and by adding paragraphs (d)(1) and (d)(2) to read as follows:

**§ 52.215-23 Price Reduction for Defective Cost or Pricing Data—Modifications.**

* * * * *

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense—

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted;

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer;

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract; or

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

[FR Doc. 87-15847 Filed 7-13-87; 8:45 am]

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federal register

Tuesday
July 14, 1987

Part IV

# Department of Education

## Office of Special Education and Rehabilitative Services

## Research in Education of the Handicapped; Research Institute on Placement of Severely Handicapped Children; Final Annual Funding Priority

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

### Research in Education of the Handicapped; Research Institute on Placement of Severely Handicapped Children

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Annual Funding Priority.

**SUMMARY:** The Secretary announces an annual funding priority under the Research in Education of the Handicapped Program. This priority supports a research project on placement and integration of severely handicapped children.

**EFFECTIVE DATE:** This final annual funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this final annual priority, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** R. Paul Thompson, Severely Handicapped Branch, Office of Special Education Programs, Department of Education, 330 C Street SW. (Switzer Building, Room 3511—M/S 3409), Washington, DC 20202. Telephone: (202) 732–1177.

**SUPPLEMENTARY INFORMATION:** The Research in Education of the Handicapped Program, authorized by Sections 641–644 of Part E of the Education of the Handicapped Act, supports research, surveys, and demonstration projects relating to the educational needs of children with handicaps. Under this program, the Secretary makes awards for research and related activities, to assist special education and related services personnel and other appropriate persons including parents, in improving the education and related services for handicapped children and youth, and to conduct research, surveys, or demonstration projects relating to the education of children and youth with handicaps. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and services for children and youth with handicaps, including physical education or recreation.

On April 28, 1987, the Secretary published in the **Federal Register** (52 FR 15456), a notice of proposed priority under the Research in Education of the Handicapped Program to support a research project on placement and integration of severely handicapped children.

**SUMMARY OF COMMENTS AND RESPONSES:** No comments on the proposed priority were received.

#### Final Priority

In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary will give an absolute preference to applications submitted under this priority of the Research in Education of the Handicapped program in 1987 that respond to the priority described below.

*Research Institute on Placement and Integration of Children With Severe Handicaps*

This priority supports a research project that: (1) Studies the current characteristics and distribution of educational placements of children with severe handicaps, and identifies variables that are related to differences among State and local education agencies in the distribution of placements; (2) provides information about strategies and techniques that facilitate effective integration of children with severe handicaps into regular public schools where same-aged students without disabilities are educated, by (a) evaluating existing strategies and techniques, and (b) developing and validating new strategies and techniques; and (3) provides technical assistance to State-wide systems change projects funded under the Program for Severely Handicapped Children and to other related State-wide services projects for severely handicapped children which promote integration of these children.

The intent of this institute is to support and coordinate research at different sites across the country on the subject of placement of children and youth with severe handicaps. This coordination should assure that the research findings are shared and evaluated by these researchers and disseminated to State and local school administrators and teachers of children with severe handicaps, and to the general public.

(a) *Tasks.* Applications under this priority must present a comprehensive plan for completion of the following tasks:

(1) *Descriptive research.* Under this component, the institute is to conduct descriptive research on the current distribution of placements of children with severe handicaps and those at risk of being categorized as having severe handicaps. The institute will accomplish the following activities:

(i) Develop and validate a set of mutually exclusive and exhaustive categories of types of educational placements that reflect professional consensus and available evidence on important differences among placement options.

(ii) Use the categories developed above to define the distribution of placements of children with severe handicaps in at least six demographically different and geographically dispersed States. The resulting information should identify at least the number and ages of students in each placement category.

(iii) Use an adequate sample of local education agencies (LEAs) from the States studied to identify factors that appear to differentiate among LEAs with high and low percentages of children placed in regular public school buildings. Factors to be investigated should include types of State funding formulas, resource allocation practices, community characteristics, and instructional procedures.

(iv) Identify potentially useful practices in LEAs with a high percent of placements in regular school buildings, such as: models for deploying supervisory and related services staff; patterns of interactions with students' families; use of community resources outside the school; and procedures for assessment and IEP development.

(v) Identify types of preschool placements that result in the highest percentage of children with severe handicaps entering regular school settings at age six.

(vi) Conduct other related research which the applicant proposes as important to developing and using the information gained form studies addressing activities (i)–(v).

(2) *Developmental research.* Under this component, the institute is to perform research, development, and evaluation activities that increase the effectiveness of special education programs for children with severe handicaps that are located in regular school buildings where same-aged children without disabilities form the majority of the student body. The research should identify intervention procedures, administrative arrangements, or other strategies that result in more active social networks and relationships, improved development of functional skills, and improved vocational and residential outcomes upon graduation. Topics and procedures identified for this developmental research component

should be those that show the greatest potential for improving special education practices in regular school settings, as determined through a review of current literature, model practice, and current service delivery.

In addition, the institute must:

(i) Justify the focus of the developmental research in terms of the relevance of the research to current needs of children with severe handicaps and their families; and

(ii) Describe how the findings of this research effort will be disseminated to professional personnel, including teachers and administrators of programs serving children with severe handicaps, and to the general public.

(3) *Technical assistance.* Under this component, the institute is to provide technical assistance to State-wide systems change projects funded under the Program for Severely Handicapped Children and to a limited number of other relevant projects promoting the integration of children with severe handicaps into the least restrictive environments.

To complete this task, the institute is to:

(i) Define the recipients of technical assistance in conjunction with the Department of Education program officer. For planning and budgeting purposes, applicants should assume that these recipients will be five nationally distributed State-wide systems change projects selected for funding in the FY 1987 competitions for such projects under the Program for Severly Handicapped Children,with up to 10 additional projects, identified by the Secretary, that are providing related Statewide services for severely handicapped children.

(ii) Develop in coordination with the project personnel of each of the projects defined under Task(a)(3)(i), an annually reviewed plan for delivery of technical assistance to be provided by the institute to the system change projects to facilitate efforts within the States to improve the number of effectiveness of placements of children with severe handicaps into regular school settings within the States. The technical assistance designed for each of these projects must show its responsiveness to the unique needs of each State served, as those needs have been articulated in written form by the State-wide systems change projects.

(iii) Provide the technical assistance to the State-wide systems change projects. For planning purposes, applicants should assume (a) that two meetings for the directors of each of the projects defined under Task (a)(3)(i) will be required each year in Washington, D.C., with the institute providing arrangements and supplying faculty, but not paying for participants' travel; (b) that at least three trips of three days duration will be made each year to the State of the projects defined under Task (a)(3)(i); and (c) that at least two topical workshops will be held when similar needs are found across States.

(iv) Demonstrate utilization of institute findings under Tasks (a)(1) and (a)(2) in the provision of the technical assistance.

(v) Implement an evaluation plan to determine effectiveness of the technical assistance provided the State-wide systems change projects including procedures to determine user satisfaction, change in quality of services provided children with severe handicaps, and the overall impact on these children, their parents and relevant others.

(vi) Coordinate technical assistance activities with other related projects, including the Federal Regional Resource Center and the Regional Resource Centers anticipated to be funded in fiscal year 1987.

(b) *Products.* Products of the institute will include:

(1) Written, publishable results of accomplishments under Tasks (a)(1) and (2).

(2) Annual technical assistance plans for each of the State-wide systems change projects defined under Task (a)(3)(i).

(3) An annual project report which summarizes overall institute accomplishments, describes problems encountered in carrying out project activities and action taken to resolve these problems, describes relevant areas identified in the institute which need further investigation.

(c) *Period of award.* The project funded under this priority will be funded through a cooperative agreement with the Secretary for a period of 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Institute for the last two years of the project period, in addition to considering the factors in 34 CFR 75.253(a), the Secretary will also consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of there view team are to be performed during the last half of the institute's second year, and will replace the year's annual evaluation which a recipients is required to perform under 34 CFR 75–590. During all other years of the project a recipient must also comply with 34 CFR 75.590. Costs associated with the external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient and its subgrantees

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and improvement of practice in the effective integration of children with severe handicaps; and

(3) The effectiveness of the technical assistance provided by the institute to State-wide systems change projects and other relevant projects, as determined through: (i) Recipient satisfaction, and (ii) the extent to which the technical assistance is reflected in improved recipient performance as measured by its positive impact on the targeted children with severe handicaps.

(20 U.S.C. 1441–1444)

(Catalog of Federal Domestic Assistance No. 84.023; Research in Education of the Handicapped)

Dated: June 30, 1987.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 87–15908 Filed 7–13–87; 8:45 am]

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federal register

Tuesday
July 14, 1987

Part V

# Department of Education

## Office of Special Education and Rehabilitative Services

## Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals; Final Annual Funding Priorities

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

### Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Annual Funding Priorities for Fiscal Year 1987.

**SUMMARY:** The Secretary announces annual funding priorities for grants for Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals. The Secretary announces four priorities to direct funds to the areas of greatest need during fiscal year 1987. The final priorities would support applications which propose to: (a) Include effective strategies to support transition from school to work for persons with severe learning disabilities; (b) demonstrate the best practices known today to overcome barriers to employment for persons with traumatic brain injuries; (c) develop employment programs for deaf-blind persons for whom competitive employment has previously been unlikely; and (d) demonstrate innovative transitional employment services for persons with chronic mental illness.

**EFFECTIVE DATE:** These final annual funding priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these final annual funding priorities, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Delores Watkins, Division of Resource Development, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3322–M/S 2312), Washington, DC 20202. Telephone: (202) 732–1349.

**SUPPLEMENTARY INFORMATION:** Grants for Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals are authorized by section 311(a)(1) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 777a(a)(1)). Program regulations are established at 34 CFR Part 373. The purpose of the Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals is to support projects which hold the promise of expanding or improving vocational rehabilitation and other rehabilitation services to disabled persons (especially those with the most severe disabilities), irrespective of age or vocational potential.

#### Summary of Comments and Responses

A notice of proposed annual funding priorities was published in the **Federal Register** on April 29, 1987 at 52 FR 15692. The public was given thirty days to comment on the proposed priorities. No comments were received in response to the notice of proposed priorities. No significant changes were made in the final priorities.

#### Priorities

In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary gives an absolute perference to applications submitted in fiscal year 1987 in response to one of several established priorities:

All applications will be evaluated according to criteria which appear in program regulations at 34 CFR 373.30. Final Priorities are:

*Priority 1—Learning Disabled*

Projects supported under this priority must include effective strategies to support transition from school to work for persons with severe learning disabilities. The Program of Special Projects and Demonstrations of the Rehabilitation Services Administration has previously supported projects and demonstrations in the area of learning disabilities. The National Institute on Disability and Rehabilitation Research currently supports research projects which focus on learning disabilities. As a result, there should be an adequate research and demonstration base for the generation of new program approaches that will lead to successful employment of individuals with severe learning disabilities. This priority solicits applications which propose projects that would: (1) Provide practical field testing of methods derived from previous and current research and demonstration projects; and (2) disseminate findings and information about training and placement practices with individuals who are learning disabled to encourage their replication by others.

*Priority 2—Traumatic Head Injured*

Persons who suffer traumatic head injuries often have severe problems obtaining and maintaining employment. According to information released by the National Institute on Disability and Rehabilitation Research, 400,000 to 682,000 persons suffer severe traumatic head injury each year. Of these, from 30,000 to 50,000 are left with disabilities so severe as to preclude return to a normal life. Although these individuals may vary significantly in the manifestation of their disability, they frequently have severe learning impairments coupled with loss of short-term memory and limited attention span. This priority solicits applications which propose projects that would demonstrate the best practices known today to overcome these barriers to employment, and in so doing, would document and disseminate those approaches which appear to work best with individuals with various behavior characteristics.

*Priority 3—Deaf-Blind*

This priority supports projects which design, implement, and disseminate information about innovative practices in the job placement, job site training, and follow-up of deaf-blind persons. The practices must extend beyond, expand upon, complement, or supplement existing successful practices. These projects shall emphasize on-the-job skills adaptations, employee-employer relations, job acquisition, retention skills, and, where appropriate, supplemental support for the employment of deaf-blind persons on a long-term basis. These projects shall provide services for severely handicapped deaf-blind youth who typically have not been eligible for vocational rehabilitation services.

*Priority 4—Chronically Mentally Ill*

There is increasing awareness that in order for chronically mentally ill persons to live independently in the community, there must be adequate job opportunities and service procedures which will lead to competitive employment. The purpose of this priority is to solicit applications which will demonstrate innovative employment services for chronically mentally ill persons that result in or lead to permanent employment. A primary

concern is that the applicant provide or arrange for the necessary employment services in the community. It is expected that the applicant will actively identify and utilize permanent placement opportunities with local public and private enterprise employers. Special emphasis shall be given to the provision of project services to the chronically mentally ill who are at risk of being institutionalized or reinstitutionalized.

(Authority: 29 U.S.C. 777a(a)(1))

(Catalog of Federal Domestic Assistance No. 84.128 Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals)

Dated: June 30, 1987.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 87–15907 Filed 7–13–87; 8:45 am]

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Tuesday
July 14, 1987

Part VI

# Department of Education

**Office of Special Education and Rehabilitative Services**

**Educational Media Research, Production, Distribution, and Training Program; Final Annual Funding Priority**

Tuesday
July 14, 1987

Part VI

# Department of Education

Office of Special Education and Rehabilitative Services

Educational Media Research, Production, Distribution, and Training Program; Final Annual Funding Priority

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

### Educational Media Research, Production, Distribution, and Training Program

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Annual Funding Priority.

**SUMMARY:** The Secretary announces this annual funding priority for the Educational Media Research, Production, Distribution, and Training Program to ensure effective use of program funds and to direct funds to the area identified during Fiscal Year 1987.

**EFFECTIVE DATE:** This final annual funding priority takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this final annual funding priority, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Dr. Malcolm Norwood, Division of Educational Services, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 4088–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1177.

**SUPPLEMENTARY INFORMATION:** Awards under the Educational Media Research, Production, Distribution, and Training Programs are authorized under Part F of the Education of the Handicapped Act. The purpose of this program is to promote the educational advancement of persons who are handicapped by providing assistance for conducting research in the use of educational media for persons who are handicapped; producing and disributing educational media for the use of persons who are handicapped, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of persons who are handicapped; and training persons in the use of educational media for the instruction of persons who are handicapped.

### Summary of Comments and Response

A notice of proposed annual funding priority was published in the **Federal Register** on April 28, 1987 at 52 FR 15461. The public was given thirty days to comment on the proposed priority. No comments were received

### Priority

In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications submitted under the Educational Media Research, Production, Distribution, and Training Program in Fiscal Year 1987 that respond to the priority described below. An absolute preference is one under which the Secretary selects only those applications that meet the described priority.

*Closed-Captioned Television Programming for Children*

This priority supports a cooperative agreement to close-caption national, syndicated, and public broadcasting programs for children who are hearing-impaired. Closed-captioning of national, syndicated, and public broadcasting programs increases access for children who are hearing-impaird to programming available to the general population.

### Intergovernmental Review

This program is subject to the requirements of Exeuctive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination review of proposed Federal financial assistance.

In accordance with the order, this document provides early notification of the Department's specific plans and actions for this program.

(20 U.S.C. 1451(a)(2))

(Catalog of Federal Domestic Assistance No. 84.026; Educational Media Research, Production, Distribution)

Dated: June 30, 1987.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 87–15910 Filed 7–13–87; 8:45 am]

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Tuesday
July 14, 1987

Part VII

# Department of Education

**Office of Special Education and Rehabilitative Services**

**Research in Education of the Handicapped; Final Annual Funding Priority**

# Budget Highlights

## Part VII

## Department of Education

Office of Special Education and Rehabilitative Services

Research in Education of the Handicapped; Fiscal Agency Funding Priority

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

### Research in Education of the Handicapped; Final Annual Funding Priority

**AGENCY:** Department of Education.

**ACTION:** Notice of Final Annual Funding Priority.

**SUMMARY:** The Secretary announces an annual funding priority for the Research in Education of the Handicapped program. This priority supports an early childhood research institute on policy.

**EFFECTIVE DATE:** This final annual funding priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this final annual funding priority, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 300 "C" Street SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

**SUPPLEMENTARY INFORMATION:** The Research in Education of the Handicapped program, authorized by sections 641–644 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441–1444), supports research, surveys, and demonstration projects relating to the educational needs of children and youth with handicaps; and, as amended by the 1986 Amendments, authorizes funding for research related to early intervention services for infants and toddlers with handicaps. Under this program, the Secretary makes awards to eligible parties for research and related activities to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for infants, toddlers, children, and youth; and to conduct research, surveys, or demonstrations relating to the education of infants, toddlers, children, and youth with handicaps. Research and related activities supported under this program must be designed to increase knowledge and understanding of handicapping conditions and services for infants, toddlers, children, and youth with handicaps, including physical education or recreation.

#### Summary of Comments and Responses

A notice of proposed annual funding priority was published in the **Federal Register** on May 5, 1987 at 52 FR 16766. The public was given thirty days in which to comment. One comment was received in response to the notice of proposed annual funding priority. The comment was in support of the priority. Therefore, no changes have been made in the final priority.

#### Priority

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(c)(3), and subject to available funds, the Secretary gives an absolute preference to each application submitted in response to the following priority. Each application must provide satisfactory assurance that the recipient will use funds made available to conduct the following activity:

*Early Childhood Research Institute—Policy*

This priority will establish an Early Childhood Research Institute to conduct a program of research related to policy development and implementation for providing early intervention and services for infants and toddlers with handicaps and their families. The research program must consist of two major areas of inquiry.

First, the institute must conduct descriptive studies that would identify, document, and analyze existing policies and policy development activities related to establishing comprehensive services for infants and toddlers with handicaps and their families. These studies must be conducted on an annual basis and must provide a State-by-State description of the status of States' efforts to implement comprehensive services. In conducting the studies, the institute must analyze data made available by the States and the Federal Government. The institute's research must include, but need not be limited to, studies that provide information about funding patterns for services, the numbers and kinds of infants and toddlers and their families receiving services, the numbers and kinds of services and service delivery agencies involved, the numbers and kinds of personnel involved in service delivery, and the status of personnel preparation, certification, and employment within each State.

Second, the institute must conduct explanatory research that includes, but is not limited to, studies that determine: (1) The positive and negative consequences of different State policies and funding patterns in providing comprehensive services; (2) State factors that account for variations in service availability; (3) State and local policies and practices that serve as incentives and disincentives for establishing comprehensive services; (4) policy development procedures and models that will assist State and local entities to develop comprehensive services; and (5) alternative statutory and/or regulatory changes that might be made at State levels to facilitate the development of comprehensive services.

In carrying out its research activities, the institute must provide research training and experience for at least 10 graduate students annually.

#### Period of Award

The Secretary will approve one cooperative agreement with a project period of 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the institute for the last two years of the project period, in addition to considering the factors in 34 CFR 75.253(a), the Secretary will also consider the recommendation of a review team consisting of three external experts selected by the Secretary and designated Federal program officials. The services of the review team are to be performed during the last half of the institute's second year, and will replace that year's annual evaluation which the recipient is required to perform under 34 CFR 75.590. During all other years of the project, the recipient must comply with 34 CFR 75.590. Costs associated with the services to be performed by the three external members of the review team are to be incorporated into the applicant's proposed budget. In developing its recommendation, the review team will consider, among other factors, the following:

(1) The timeliness and the effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the recipient of the cooperative agreement and its subgrantees; and

(2) The degree to which the institute's research design and methodological procedures demonstrate the potential for producing significant new knowledge and products.

(20 U.S.C. 1441–1444)

(Catalog of Federal Domestic Assistance Number 84:023; Research in Education of the Handicapped Program)

Dated: July 1, 1987.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 87–15909 Filed 7–13–87; 8:45 am]

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Tuesday
July 14, 1987

Part VIII

# Department of Education

34 CFR Part 237

Christa McAuliffe Fellowship Program; Final Regulations

## DEPARTMENT OF EDUCATION

### 34 CFR Part 237

### Christa McAuliffe Fellowship Program

**AGENCY:** Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary issues regulations governing the Christa McAuliffe Fellowship Program for outstanding teachers currently authorized by Title V, Part D, Subpart 2 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986. These regulations specify the responsibilities of the Secretary in administering the program, the duties of State panels in selecting fellows, and the terms and conditions that apply to recipients of the fellowship awards.

**EFFECTIVE DATE:** These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

**FOR FURTHER INFORMATION CONTACT:** Ms. Willi Webb, Director, Policy, Planning, and Executive Operations, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 2189, Washington, DC 20202. Telephone (202) 732–5104.

**SUPPLEMENTARY INFORMATION:** The Christa McAuliffe Fellowship Program is authorized by Title V, Part D, Subpart 2 of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1986. It establishes a national fellowship program for outstanding full-time public and private school teachers. These teachers may use awards for projects approved by the Secretary to improve their knowledge or skills and the education of their students, including (1) sabbaticals for study or research directly associated with the objectives of the statute, or their own academic improvement, (2) consultation with or assistance to other school districts or private school systems, (3) development of special innovative programs, or (4) model teacher programs and staff development.

On May 13, 1987 the Secretary published a notice of proposed rulemaking (NPRM) for the Christa McAuliffe Fellowship Program in the **Federal Register** (52 FR 18184).

There are no significant changes or differences between the NPRM and these final regulations. No comments were received regarding the NPRM.

*Executive Order 12291*

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

*Paperwork Reduction Act of 1980*

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

*Assessment of Educational Impact*

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency of authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Part 237**

College and universities, Education, Elementary and secondary education, Scholarships and fellowships, Teachers.

(Catalog of Federal Domestic Assistance Number 84.190, Christa McAuliffe Fellowship Program)

Dated: June 30, 1987.

**William J. Bennett,**

*Secretary of Education.*

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 237 to read as follows:

## PART 237—CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

**Subpart A—General**

Sec.

237.1 What is the Christa McAuliffe Followship Program?
237.2 Who is eligible to apply under the Christa McAuliffe Fellowship Program?
237.3 How are awards distributed?
237.4 In what amount are fellowships awarded?
237.5 For what purposes may a fellow use an award?
237.6 What priorities may the Secretary establish?
237.7 What regulations apply?
237.8 What definitions apply?

**Subpart B—How Does One Apply For An Award?**

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**Authority:** 20 U.S.C. 1113–1113e, unless otherwise noted.

### Subpart A—General

**§ 237.1 What is the Christa McAuliffe Fellowship Program?**

The Christa McAuliffe Fellowship Program (CMFP) is designed to reward excellence in teaching by encouraging outstanding teachers to continue their education, to develop innovative programs, to consult with or assist LEAs, private schools, or private school systems, and to engage in other educational activities that will improve the knowledge and skills of teachers and the education of students.

(Authority: 20 U.S.C. 1113, 1113b)

**§ 237.2 Who is eligible to apply under the Christa McAuliffe Fellowship Program?**

An individuals is eligible to apply for a Christa McAuliffe Fellowship if the individuals at the time of application—

(a)(1) Is a citizen or national of the United States;

(2) Is a permanent resident of the United States;

(3) Provides evidence from the Immigration and Naturalization Service that the individuals is in the Unites Stated for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Is a permanent resident of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; and

(b) Is a full-time teacher in a public or private elementary or secondary school.

(Authority: 20 U.S.C. 1113b, 1113d(a))

**§ 237.3 How are awards distributed?**

(a) Except as provided in section 563(a)(3) of the Act, the Secretary awards one national teacher fellowship

under this part to an eligible teacher in each of the following:

(1) Each congressional district in each of the fifty States.

(2) The District of Columbia.

(3) The Commonwealth of Puerto Rico.

(4) Guam.

(5) The Virgin Islands.

(6) American Samoa.

(7) The Northern Mariana Islands.

(8) The Trust Territory of the Pacific Islands.

(b)(1) If the conditions stated in section 563(a)(3) of the Act apply, the Secretary publishes an alternative distribution of fellowship under this part that—

(i) Will permit fellowship awards at the level stated in § 237.4; and

(ii) Is geographically equitable as determined by the Secretary.

(2) The Secretary sends a notice of this distribution to each of the statewide panels established under § 237.20.

(Authority: 20 U.S.C. 1113b(a))

**§ 237.4 In what amount are fellowships awarded?**

A fellowship awarded under this part may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary.

(Authority: 20 U.S.C. 1113b(a)(2))

**§ 237.5 For what purposes may a fellow use an award?**

Christa McAuliffe fellows may use fellowships awarded under this part for projects to improve education including:

(a) Sabbaticals for study or research directly associated with objectives of this part, or academic improvement of the fellows.

(b) Consultation with or assistance to LEAs, private schools, or private school systems other than those with which the fellow is employed or associated.

(c) Development of special innovative programs.

(d) Model teacher programs and staff development.

(Authority: 20 U.S.C. 1113b(b))

**§ 237.6 What priorities may the Secretary establish?**

(a) The Secretary may annually establish, as a priority, one or more of the projects listed in § 237.5.

(b) The Secretary announces any annual priorities in a notice published in the **Federal Register.**

(Authority: 20 U.S.C. 1113d(a))

**§ 237.7 What regulations apply?**

The following regulations apply to the Christa McAuliffe Fellowship Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 77 (Definitions That Apply to Department Regulations).

(b) The regulations in this Part 237.

(Authority: 20 U.S.C. 1113d(a))

**§ 237.8 What definitions apply?**

(a) The following definitions apply to terms used in this part:

"Act" means the Higher Education Act of 1965, as amended.

"Fellow" means a fellowship recipient under this part.

"Fellowship" means an award made to a person under this part.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Department
EDGAR
Elementary school
Local educational agency
Private
Public
Secondary school
Secretary
State educational agency

(Authority: 20 U.S.C. 1113d(a))

## Subpart B—How Does One Apply For An Award?

**§ 237.10 How does an individual apply for a fellowship?**

(a) To apply for a fellowship under this part, an individual must submit an application containing a proposal for a fellowship project as described in § 237.5, indicating the extent to which the applicant wishes to continue current teaching duties.

(b) The application shall provide this application to the appropriate LEA for comment prior to submission to the statewide panel for the State within which the proposal project is to be conducted as described in § 237.20.

(c) The applicant shall submit the application to the statewide panel within the deadline established by the panel.

(Authority: 20 U.S.C. 1113c, 1113d(a))

## Subpart C—How Are Fellows Selected?

**§ 237.20 What are the statewide panels?**

(a) Recipients of Christa McAuliffe Fellowships in each State are selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency (SEA), or by an existing panel designated by the chief State elected official and approved by the Secretary.

(b) The statewide panel must be representative of school administrators, teachers, parents, and institutions of higher education.

(Authority: 20 U.S.C. 1113c)

**§ 237.21 What are the responsibilities of a statewide panel?**

(a) Each statewide panel has the responsibility for—

(1) Establishing its own operating procedures regarding the fellowship selection process; and

(2) Disseminating information and application materials to the LEAs, private schools, and private school systems regarding the fellowship competition.

(b) Each panel may impose reasonable administrative requirements for the submission, handling, and processing of applications.

(c) Each statewide panel must consult with the appropriate LEA in evaluating proposals from applicants.

(d) In their applications to the statewide panel, individuals must include—

(1) Two recommendations from teaching peers;

(2) A recommendation from the principal; and

(3) A recommendation from the superintendent on the quality of the proposal and its educational benefit.

(e) A statewide panel may establish additional criteria, consistent with the Act, for the award of fellowships in its area as it considers appropriate.

(f) A statewide panel shall submit to the Secretary its selections for recipients of fellowships under this part within the schedule established by the Secretary.

(Authority: 20 U.S.C. 1113d)

## Subpart D—What Conditions Must Be Met By Fellows?

**§ 237.30 What is the duration of a fellowship?**

An individual may receive a Christa McAuliffe Fellowship under this program for up to 12 months.

(Authority: 20 U.S.C. 1113d(a))

**§ 237.31 May a fellowship be awarded for two consecutive years?**

A Christa McAuliffe fellow may not receive an award for any two consecutive years.

(Authority: 20 U.S.C. 1113b(a)(2))

**§ 237.32 What records and reports are required from fellows?**

Each fellow shall keep any records and submit any reports that are required by the Secretary.

(Authority: 20 U.S.C. 1113d(a))

**§ 237.33 What is the service requirement for a fellowship?**

A fellow must return to a teaching position in the fellow's current LEA, private school, or private school system for at least two years following the completion of the fellowship.

(Authority: 20 U.S.C. 1113b(a)(2), 1113d)

**§ 237.34 What are the requirements for repayment of the fellowship?**

(a) If a fellow does not carry out the activities described in the approved application or does not comply with § 237.33, the fellow shall make repayment in accordance with this section.

(b) The Secretary prorates the amount a fellow is required to repay based on the length of time the fellow carried out the fellowship activities, and held a teaching position in accordance with § 237.33 compared to the length of time that would have been involved if the fellow has fully met these requirements.

(Authority: 20 U.S.C. 1113e)

[FR Doc. 87-15906 Filed 7-13-87; 8:45 am]

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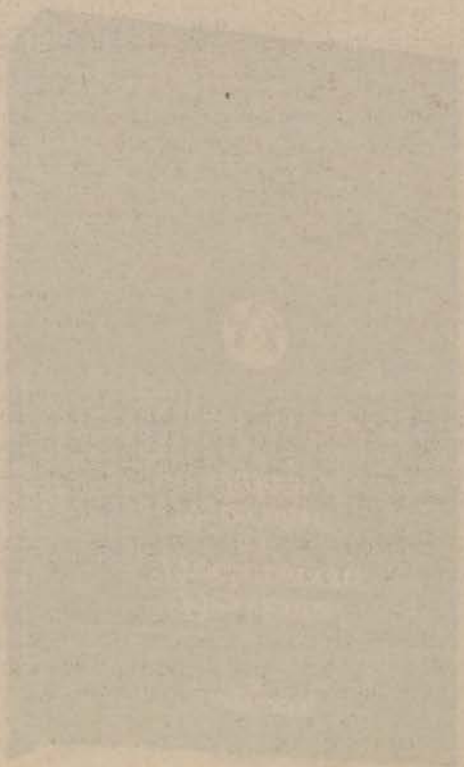
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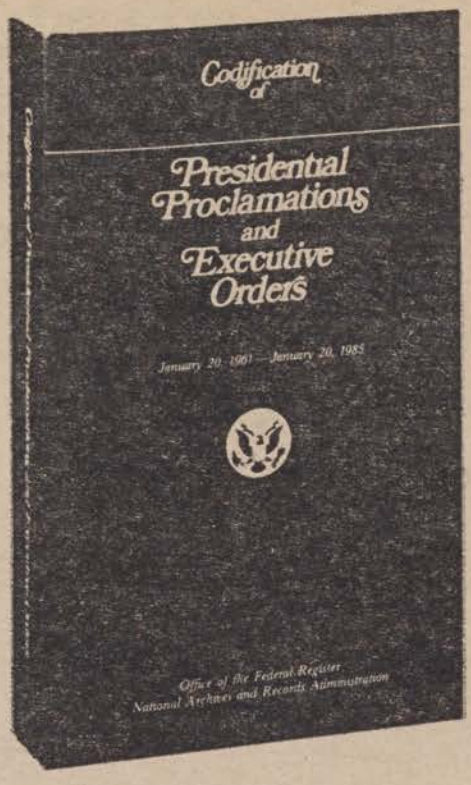
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