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Presidential Documents

Title 3—

The President

Proclamation 5728 of October 14, 1987

World Food Day, 1987

By the President of the United States of America

A Proclamation

This is the seventh successive year in which people everywhere, including Americans, have observed World Food Day in a spirit of rededication to the continuing fight against world hunger. We Americans are a people with strong ties to other nations and with a long record of humanitarian concern for the hungry around the world. We are blessed with the wherewithal to help: a bountiful land whose fertile soil, moderate climate, and economic and political freedom provide the keys not only to abundance here at home but to a surplus which can be shared with others in grave need around the globe.

Progress has been made in averting the threat of famine in many regions, but widespread poverty and hunger, especially in developing countries, constantly challenge us to ease the human suffering they cause and to preserve the human potential they deplete. As hunger robs people of health and strength, it also saps the economic systems to which they might otherwise contribute, upsets the social order, frustrates progress at every level, and engenders hopelessness and instability.

Our Nation has always been—and continues to be—deeply committed to helping feed the hungry wherever they may be, and to accomplish this goal an extensive network of private and public efforts has been established. But additional steps are clearly necessary. Greater success in the fight against hunger will require the implementation of worldwide agricultural and trade policies designed to promote economic growth and stability for all nations, developing and developed alike. Schemes of narrowly focused government intervention must be replaced by systems that respond to the production and trade decisions made by free individuals. Farmers must have ready access to the international marketplace and the opportunity to compete freely and to sell the goods they produce. Nations, if they are to move toward self-reliance in agriculture, must install systems that promote private ownership, reward effort and efficiency, and recognize the dignity of those who work the land.

The United States has established an initiative to End Hunger in Africa by the end of the century through economic growth and private sector development. All U.S. bilateral and multilateral economic programs and policies are oriented toward this goal. But U.S. government programs cannot do it alone. The participation and commitment of Africans, other donors, and the private sector—volunteer and business, both American and international—are essential.

In recognition of the desire and commitment of the American people to end world hunger, the Congress, by Senate Joint Resolution 110, has designated October 16, 1987, as "World Food Day" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 16, 1987, as World Food Day, and I call upon the people of the United States to observe this day with appropriate activities to explore ways in which our Nation can contribute further to the elimination of hunger in the world.

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

Ronald Reagan

[FR Doc. 87-24195
Filed 10-15-87; 10:49 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 200
Friday, October 16, 1987

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Regional Nuclear Materials Licensing for the United States Navy

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations concerning the domestic licensing of source, byproduct, and special nuclear material (collectively referred to as nuclear materials) to transfer the authority for administering the United States Navy license from Headquarters to the NRC Region II office in Atlanta, Georgia. This action is necessary to inform the public of this administrative change.

EFFECTIVE DATE: December 1, 1987.

FOR FURTHER INFORMATION CONTACT: George J. Deegan, Program Analyst, Operations Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427–4114.

SUPPLEMENTARY INFORMATION: Each year since 1982 (May 27, 1982; 47 FR 23138) (April 14, 1983; 48 FR 16030) (May 9, 1984; 49 FR 19630) (April 15, 1985; 50 FR 14692) (October 8, 1986; 51 FR 35999), the Nuclear Regulatory Commission (NRC) published rules decentralizing most domestic licensing of nuclear materials. The NRC is amending its codified regulations to reflect that the United States Navy license is now included in its decentralization program. This is accomplished by amending 10 CFR 30.6, 10 CFR 40.5, and 10 CFR 70.5 to remove the reference to the exception for the United States Navy.

The NRC recently consolidated approximately one hundred eighty individual United States Navy licenses into one "master" license with many individual permits. During the consolidation and for a short time after it, Headquarters retained the regulatory authority for the Navy licensing effort to maintain continuity. NRC Headquarters has now transferred this authority to the appropriate Regional Office (Region II, Atlanta, Georgia), consistent with similar delegations which affected nearly all other Federal licenses in 1985 and 1986.

Accordingly, with respect to licenses issued pursuant to 10 CFR Parts 30 through 35, 39, 40, and 70, the revisions to 10 CFR 30.6, 40.5, and 70.5 require the Navy to contact the appropriate Regional Office, rather than NRC Headquarters offices, for license applications, renewals, and revisions.

Because delegations of authority to the Regional Administrator are contained in NRC Manual Chapter 0128, the changes to §§ 30.6, 40.5, and 70.5 are procedural amendments only. For purposes of communications, the revised sections indicate the type of licensing authority already delegated administratively to the Regional Administrator.

Because these are amendments dealing with Agency practice, procedure, and organization, pursuant to 5 U.S.C. 533(b)(A), the notice and comment provisions of the Administrative Procedure Act do not apply. The amendments are effective December 1, 1987.

Environmental Impact—Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3)(i). Accordingly, pursuant to 10 CFR 51.22(b), neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval numbers 3150–0017 for Part 30, 3150–0016 for Part 31, 3150–0001 for Part 32, 3150–0015 for Part 33, 3150–0007 for Part 34, 3150–0010 for Part 35, 3150–0130 for Part 39, 3150–0020 for Part 40, and 3150–0009 for Part 70.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection Reporting and recordkeeping requirements.

10 CFR Part 40

Government contracts, Hazardous materials-transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, and Uranium.

10 CFR Part 70

Hazardous materials-transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Parts 30, 40, and 70 are published as a document subject to codification.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34 (b) and (c), 30.41 (a) and (c), and 30.53 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 30.6, 30.36, 30.51, 30.52 30.55, and 30.56 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 30.6, paragraphs (b)(2) (i), (ii), (iii), (iv), and (v) are amended by removing the phrase, "With the exception of the United States Navy," also, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 30.6 Communications.

* * * * *

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 39, 40, and 70 to all persons for academic, medical, and industrial uses, with the following exceptions:

(i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.

(ii) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of sealed sources and devices.

(iii) Processing of source material for extracting of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).

(iv) Distribution of products containing radioactive material to persons exempt pursuant 10 CFR 32.11 through 32.26.

(v) New uses or techniques for use of byproducts, source, or special nuclear material.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 40.5, 40.25(c), (d) (3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 40.5, paragraph (b)(2) (i), (ii), (iii), (iv), and (v) are amended by removing the phrase, "With the exception of the United States Navy," also, the introductory text of paragraph (d) and paragraph (b)(1) are revised to read as follows:

§ 40.5 Communications.

* * * * *

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 39, 40, and 70 to all persons for academic, medical, and industrial uses, with the following exceptions:

(i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.

(ii) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of sealed sources and devices.

(iii) Processing of source material for extracting of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).

(iv) Distribution of products containing radioactive material to persons exempt pursuant 10 CFR 32.11 through 32.26.

(v) New uses or techniques for use of byproduct, source, or special nuclear material.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

5. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)–(k), 70.24(a) and (b), 70.32(a)(3), (5), (6), (d), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b) (c), and (d), 70.58(a)–(g)(3), and (h)–(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a(a), and (d) 70.20b(c) and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)–(g), 70.56, 70.57(b), and (d), and 70.58(a)–(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.20b(d) and (e), 70.38, 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), 70.59, and 70.60(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. In § 70.5, paragraphs (b)(2) (i), (ii), (iii), (iv), and (v) are amended by removing the phrase, "With the exception of the United States Navy," also, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§ 70.5 Communications.

* * * * *

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials

issued pursuant to 10 CFR Parts 30 through 35, 39, 40, and 70 to all persons for academic, medical, and industrial uses, with the following exceptions:

(i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.

(ii) Health and safety design review of sealed sources and devices and approval, for licensing purposes, of sealed sources and devices.

(iii) Processing of source material for extracting of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).

(iv) Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR 32.11 through 32.26.

(v) New uses or techniques for use of byproduct, source, or special nuclear material.

* * * * *

Dated at Bethesda, MD, this 5th day of October 1987.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87-24050 Filed 10-15-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-15-AD; Amdt. 39-5748]

Airworthiness Directives; Beech 65, 70, 80, 90, 99, 100, 200, 300 and 1900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Beech 65, 70, 80, 90, 99, 100, 200, 300 and 1900 Series airplanes, which requires repetitive inspections of the nose landing gear fork assembly to detect fatigue cracking. Reports have been received of cracks developing in the nose landing gear fork around the edge of the weld. The inspection specified in this action will detect critical cracks prior to failure.

DATES: *Effective date:* November 16, 1987. *COMPLIANCE:* As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin No. 2102, Revision I, dated April 1987, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; telephone 316-681-7279. This information may be examined at the Rules Docket, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-15-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, ACE-120W, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone 316-946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring repetitive inspections for fatigue cracking of the nose landing gear (NLG) fork around the edge of the weld on certain Beech 65, 70, 80, 90, 99, 100, 200, 300 and 1900 Series airplanes was published in the **Federal Register** on June 5, 1987 (52 FR 21312). The proposal resulted from the receipt of an increased number of reports of cracks developing in the nose landing gear (NLG) fork around the edge of the weld on Beech 90, 100, 200 and 300 airplanes. In February 1985, the NLG fork broke on a Model 200 during ground roll, causing severe damage to the airplane. All the Beech airplanes in the "heavy twin" series utilize the same NLG design. This design uses a welded fork assembly which connects the lower strut to the axle. The fork is a curved tube which is welded to a collar, which is press-fitted on the strut tube. In July 1986, Beech issued Service Bulletin No. 2102, of which Part II pertains to cracking of the NLG fork. Part I of the Bulletin pertains to slippage of the joint where the fork collar is pressed onto the strut tube.

Beech has issued Revision I to Service Bulletin No. 2102, dated April 1987, which eliminates the time period before initial inspection, expands the serial number effectivity, and reduces the allowable crack length from 1.25 inch to 0.75 inch. Beech is also developing an improved NLG fork which will be more fatigue resistant. The improved forks will not be available in quantity for quite some time, so inspections per the revised bulletin must be relied on to ensure safety in the interim period.

Since the condition described is likely to exist or develop in other Beech 65, 70, 80, 90, 99, 100, 200, 300 and 1900 Series airplanes of the same design, the AD requires inspection of NLG forks per Beech Service Bulletin No. 2102, Revision I, dated April, 1987. If a crack along the edge of the weld is found to exceed 0.75 inch length, the NLG fork must be replaced with a serviceable part prior to further flight.

Interested persons have been afforded an opportunity to comment on the proposal. Only one comment was received. The commenter concurred with the proposed rule, with one exception. The commenter feels that improved, fatigue-resistant NLG fork assemblies should be made available by the manufacturer within a reasonable time. The FAA agrees, and is confident that such replacement parts will be available in due course. Accordingly, the proposal is adopted without change. The FAA has determined that this regulation only involves 4200 airplanes at an approximate total cost of $2250 for each airplane, or a total fleet cost of $9,450,000. The total cost of this inspection is less than the threshold for a significant economic impact.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

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 FAR as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to all Models 65, 65-80, A65, A65-8200, 70, 65-A80, 65-A80-8800, 65-B80, 65-88, 65-90, 65-A90, 65-A90-1, 65-A90-2, 65-A90-3, 65-A90-4, B90, C90, C90A, E90, H90, F90, 100, A100, B100, 99, 99A, A99A, B99, C99, 200, 200C, 200CT, 200T, A200, A200C, A200CT, B200, B200C, B200CT, B200T, 300, 1900, and 1900C (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD unless already accomplished.

To prevent failure of the nose landing gear (NLG) fork due to undetected fatigue cracking, accomplish the following:

(a) Within 200 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS for airplanes in the 65 Series, 70 Series, 80 Series, 99 Series and 1900 Series, and 150 hours TIS for airplanes in the 90 Series, 100 Series, 200 Series and 300 Series, inspect the NLG fork using fluorescent penetrant method in accordance with the instructions in Part II of Beech Service Bulletin No. 2102, Revision I, dated April 1987.

Note.—Inspection for slippage of the NLG fork collar on the strut tube per Part I of the Service Bulletin is recommended but not required by this AD.

(1) If no cracks are found, the airplane may be returned to service.

(2) If a crack is detected at the tip of the weld, is not more than 0.75 inch in length, and does not branch out into the unwelded tube wall (See Figure 1 or Figure 2 as applicable), thereafter at intervals not to exceed 25 hours TIS, inspect the NLG fork per paragraph (a) above until replaced with a serviceable part. The replacement part is immediately subject to the conditions of this AD.

(3) If a crack is detected that exceeds the limits of paragraph (a)(2), prior to further flight, replace the NLG fork with a serviceable part. The replacement part is immediately subject to the conditions of this AD.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(c) The repetitive inspection intervals required by this AD may be adjusted up to 10 percent of the specified interval so as to coincide with other scheduled maintenance.

(d) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone 316-946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine the documents referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 16, 1987.

Issued in Kansas City, Missouri, on September 30, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-23938 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-70-AD; Amdt. 39-5743]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which requires the modification of the main landing gear (MLG) door ground release lever. This amendment is prompted by reports of a left MLG door ground release lever that vibrated into the door open position during flight. This prevented the extension of the left MLG and resulted in the airplane landing with the left MLG retracted.

EFFECTIVE DATE: November 20, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires modification of the main landing gear (MLG) door ground release lever was published in the **Federal Register** on July 2, 1987 (52 FR 25022).

Interested persons have been afforded an opportunity to participate in the making of this amendment. The Air Transport Association (ATA) of America, on behalf of its members, submitted the only comment.

ATA commented that the parts required to be incorporated in accordance with the proposed AD would not be available for 5 to 6 months. The commenter stated that insufficient time would be available for operators with high utilization rates to comply with the 3,000 hour provision of the proposed AD. Therefore, they requested that the compliance time be extended to two years or 4,500 hours time-in-service, whichever occurs first, after the effective date of this AD. The FAA concurs that the 5 to 6 month lead time on parts would be insufficient time for some operators to comply with the AD. Therefore, the final rule is being changed to require compliance within 2 years or 4,500 hours time-in-service, whichever occurs first, after the effective date of this AD.

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

It is estimated that 1188 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of the modification kit is $148. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $651,000.

For the reasons 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 substantial number of small entities, because few, if any Model 727 airplanes are operated by small entities. 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 adding the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes, as listed in Boeing Service Bulletin 727–32–267, Revision 1, dated June 15, 1984, certified in any category. Compliance is required within the next 4,500 hours time-in-service or 2 years after the effective date of this AD, whichever occurs first, unless previously accomplished.

To prevent the main landing gear door release lever from moving to the door open position during flight, accomplish the following:

A. Modify the left and right main landing gear door release levers in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–32–267, Revision 1, dated June 15, 1984, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, 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 in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 20, 1987.

Issued in Seattle, Washington, on October 2, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–23939 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–136–AD; Amdt. 39–5752]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which requires inspection for cracking, and repair or replacement, as necessary, of the skin along the upper row of fasteners of certain fuselage lap joints. This amendment is prompted by recent inspection reports on three airplanes of extensive skin cracking adjacent to lap splice fasteners. Delamination of fuselage tearstraps has also been found in these same areas. Failure to detect and repair cracks could result in rapid depressurization of the airplane.

EFFECTIVE DATE: November 2, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Baillie, Airframe Branch, ANM–120S; telephone (206) 431–1927. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: There have been recent reports of multiple site cracking of the skin on three airplanes along the upper row of fasteners of certain fuselage lap joints. Delamination of fuselage tearstraps has also been found in these same areas. This cracking, when discovered, was severe enough to require replacement of five skin panels on the fuselage of one airplane. The cracking occurs in lap joints that have also experienced adhesive failure of the bonded joint. The loss of the bond to the joint inner skin creates a knife at the bottom of the countersink for the fastener head in the joint outer skin. Fatigue cracking is initiated at the multiple sites in disbonded panels and extends longitudinally from fastener to fastener along the upper row of fasteners. If the cracks suddenly join together and the associated tearstraps are disbonded, extensive structural damage and rapid depressurization of the airplane could result.

It is believed that the problem is confined to airplanes between line number 1 and 291. Improvements were made in the bonding procedure at line number 292.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 30, 1987, which describes procedures for the visual and eddy current inspection and repair of fuselage lap splices.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspection and repair, as necessary, in accordance with the service bulletin previously mentioned.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

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 adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes listed in Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 20, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent rapid depressurization as a result of failure of certain fuselage lap splices, accomplish the following:

A. Prior to the accumulation of 30,000 landings or within 250 landings after the effective date of this AD, whichever occurs later, and at intervals thereafter not to exceed 4,500 landings, perform a detailed visual inspection for cracking of the skin

adjacent to the upper row of longitudinal lap splice fasteners, at stringer 4, both left and right side of the fuselage, from stations 360 to 1016, in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 20, 1987, or later FAA-approved revisions. If any cracks are found, perform an eddy current inspection for the full length of the panel in which the cracks were found in accordance with the service bulletin.

B. The repetitive inspections required by paragraph A. of this AD may be terminated upon the performance of inspections for cracks and/or tearstrap delamination using one of the following three options in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 20, 1987, or later FAA-approved revisions:

1. Perform a high frequency eddy current inspection of the skin adjacent to the upper row of longitudinal lap splice fasteners at stringer 4, both left and right side of the fuselage, from stations 360 to 1016. Repeat at intervals thereafter not to exceed 20,000 landings. If no cracks are found, prior to the accumulation of 6,000 landings after the completion of the above eddy current inspection, and at intervals thereafter not to exceed 3,000 landings until the next eddy current inspection, perform a detailed visual inspection of these same areas.

2. Perform a high frequency eddy current inspection on the skin adjacent to the upper row of longitudinal lap splice fasteners at stringer 4, both left and right sides of the fuselage, from stations 360 to 1016. Repeat at intervals not to exceed 20,000 landings. In addition, perform a tearstrap inspection for delamination. If no cracks are found and tearstrap bond is intact, prior to the accumulation of 6,000 landings after the completion of the above inspections, and at intervals thereafter not to exceed 6,000 landings, perform a detailed visual inspection for skin cracks of the areas previously inspected by eddy current.

3. Perform a high frequency eddy current inspection of the skin adjacent to the upper row of longitudinal lap splice fasteners at stringer 4, both left and right side of fuselage, from stations 360 to 1016. In addition, perform a tearstrap inspection for delamination. Repeat the eddy current inspections at intervals not to exceed 10,000 landings and the delamination inspections at intervals not to exceed 20,000 landings.

C. Repair all cracks and tearstrap delaminations found as a result of the above inspections prior to further flight in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 20, 1987, or later FAA-approved revisions. If blind fasteners are used in the repair, reinspect installation at intervals not to exceed 3,000 landings for loose or missing fasteners. Also, if blind fasteners are used in the skin repair, prior to the accumulation of 15,000 landings after installation, or within 250 landings after the effective date of this AD, whichever is later, and thereafter at intervals not to exceed 4,500 landings, perform the inspection as detailed in paragraph A, above.

D. Terminating action for the inspections required by this AD is the replacement of the existing upper row of joint fasteners with standard protruding head solid fasteners at all affected fuselage longitudinal lap splices and ensuring functional tearstraps in accordance with Boeing Alert Service Bulletin 737–53A1039, Revision 3, dated August 20, 1987, or later FAA-approved revisions.

E. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 PSI.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. 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 information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 2, 1987.

Issued in Seattle, Washington, on October 5, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–23940 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–133–AD; Amdt. 39–5744]

Airworthiness Directive; British Aerospace Model BAC 1–11 –200 and –400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 –200 and –400 series airplanes, which requires inspection, and replacement or repairs, as necessary, to the rear passenger door structure. This amendment is prompted by reports that several horizontal structural members of the door have failed. This condition, if not corrected, could result in structural failure of the door and sudden decompression of the airplane.

EFFECTIVE DATE: October 21, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information 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.

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: Several failed horizontal structural members have been reported on rear passenger doors on Model BAC 1–11 airplanes. Cracks initiated in the aft free flange of some horizontal members, and grew towards the pressure skin attach flange. Failure of these members could result in structural failure of the door and sudden decompression of the airplane.

British Aerospace issued Campaign Wire 52–CW–PM5448, dated September 4, 1987, which describes a one-time inspection, and replacement or repairs, as necessary, to the affected structural members of the door. Campaign Wire 52–CW–PM5448, Issue 2, was issued September 18, 1987, to correct the original issue and specify repetitive inspections. The United Kingdom Civil Aviation Authority has classified the campaign wires as mandatory.

This airplane model is manufactured in the United Kingdom 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 this condition is likely to exist or develop on other airplanes of the same type design, this AD requires inspections, and replacement or repairs, as necessary, in accordance with the campaign wires previously mentioned.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAC 1–11 –200 and –400 series airplanes, listed in British Aerospace Campaign Wire 52–CW–PM5448, Issue 2, dated September 18, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent sudden decompression of the fuselage as a result of failure of the rear passenger door, accomplish the following:

A. Within the next 100 landings, or within 30 days after the effective date of this AD, or prior to the accumulation of 20,000 landings, whichever occurs later, inspect the rear passenger door structure for cracks, in accordance with British Aerospace Campaign Wire 52–CW–PM5448, Issue 2, dated September 18, 1987.

B. Repair or replace cracked structure, before further flight, in accordance with the campaign wire described in paragraph A., above.

C. Repeat the inspection required by paragraph A., above, at intervals not to exceed:

1. 800 landings for airplanes with doors that have the horizontal members repaired in accordance with the structural repair manual.

2. 1,200 landings for airplanes with doors in which the horizontal members were found undamaged at the last inspection or were replaced.

D. And 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.

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

All persons affected by this directive who have not already received the appropriate service information, may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information 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 becomes effective October 21, 1987.

Issued in Seattle, Washington, on September 21, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–23941 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–ASW–10, Amdt. 39–5747]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale Model AS 332C and L Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial inspection and separation of the electrical cable bundles connecting each AC generator to its regulating card on Aerospatiale Model AS 332C and L helicopters. This AD is needed to prevent a complete loss of the AC electrical generation system which could result in possible loss of the helicopter.

DATES: Effective Date: November 12, 1987.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053.

A copy of the applicable service documents is contained in the Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Mr. W. Boyce, Brussels Aircraft Certification Office, AEU–100 (APO Air Mail Address), Federal Aviation Administration, c/o American Embassy, APO New York 09667–1011, or Mr. John Swihart, Aircraft Certification Division, Rotorcraft Standards Staff, ASW–110, Federal Aviation Administration, Fort Worth, Texas 76193–0110, telephone (817) 624–5120.

SUPPLEMENTARY INFORMATION: The FAA has determined that a short circuit in the cable connecting the No. 2 AC generator to its regulator card could cause the complete loss of the AC electrical power on Aerospatiale Model AS 332C and L helicopters. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires an initial inspection and separation of the electrical cable bundles connecting each AC generator to its regulating card.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1987). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.19 [Amended]

2. By adding the following new AD:

Societe Nationale Industrielle Aerospatiale: Applies to all Model AS 332C and L helicopters certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent loss of the AC electrical generation system, accomplish the following:

(a) Within the next 50 hours' time in service or the next 30 days after the effective date of this AD, inspect the electrical cable bundles connecting each AC generator to its regulating card in accordance with the instructions given in paragraph BBA of Aerospatiale Telex Service No. 05.12, transmitted by Aerospatials Telex No. 10084, dated January 16, 1987.

(b) The aircraft can be returned to operational service if the insulation values measured are greater than 2 megohms.

(c) If the insulation values measured are less than 2 megohms, the installation is to be modified in accordance with the instructions given in Aerospatiale AS 332 Service Bulletin No. 24.10, paragraph 2, "Accomplishment Instructions."

(d) Within 400 hours' time in service following the inspection or before December 31, 1987, whichever occurs first, modify the aircraft in accordance with the instructions given in AS 332 Service Bulletin No. 24.10, paragraph 2, "Accomplishment Instructions."

(e) An alternate means of compliance which provides an equivalent level of safety may be used if approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Fort Worth, Texas 76193-0100.

This amendment becomes effective November 12, 1987.

Issued in Fort Worth, Texas, on September 25, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-23942 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASO-11]

Alteration of Transition Area, Venice, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment increases the size of the Venice, Florida, transition area to accommodate instrument flight rules (IFR) operations at the Venice Municipal Airport. This action lowers the base of controlled airspace from 1200 feet to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure predicated on the Venice non-directional radio beacon (RBN) has been developed to serve the airport and additional controlled airspace is required for the protection of IFR aeronautical activities.

EFFECTIVE DATE: 0901 UTC, November 6, 1987.

FOR FURTHER INFORMATION CONTACT: Walter H. Wulff, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Venice, Florida, transition area to accommodate instrument flight rules (IFR) operations at the Venice Municipal Airport. This action will provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Venice Municipal Airport (FR 26023).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Venice, Florida, transition area to accommodate IFR aeronautical operations in the vicinity of the Venice Municipal Airport.

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

Adoption of the Amendment

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

PART 71—[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 Public Law 97-449, January 12, 1983); [14 CFR 11.69]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Venice, Florida [Revised]

Venice, Florida

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Venice Municipal Airport (Lat. 27°04'30" N., Long. 82°25'00" W.); within 3 miles each side of the 137° bearing from the Venice RBN (Lat. 27°03'38" N., Long. 82°25'47" W.) extending from the 6.5 mile radius area to 8.5 miles of the RBN.

Issued in East Point, Georgia, on October 1, 1987.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 87-23943 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 25407; Amdt. No. 1358]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

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

For Purchase

Individual SIAP copies may be obtained from:

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

By Subscription

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

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

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

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

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on October 2, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of The Amendment

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

PART 97—[AMENDED]

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

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

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

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

. . . Effective January 14, 1988

Point Hope, AK—Point Hope, NDB RWY 1, Amdt. 1
Point Hope, AK—Point Hope, NDB RWY 19, Amdt. 1
Umiat, AK—Umiat, NDB RWY 23, Orig.
Umiat, AK—Umiat, NDB-A, Amdt. 3
Umiat, AK—Umiat, NDB-B, Amdt. 2 *Cancelled*
Umiat, AK—Umiat, NDB-C, Orig., *Cancelled*

Chico, CA—Chico, ILS RWY 13L, Amdt. 6
Chino, CA—Chino, VOR-B, Amdt. 2
Chino, CA—Chino, ILS RWY 26, Amdt. 4
Pohnpei Island Federated States of Micronesia, Pohnpei Intl, NDB/DME RWY 9, Amdt. 2
Upland, CA—Cable, VOR RWY 6, Amdt. 5
Savannah, GA—Savannah International, RNAV RWY 27, Amdt. 5, *Cancelled*
Lihue, HI—Lihue, VOR/DME or TACAN RWY 35, Amdt. 5
Worcester, MA—Worcester Muni, NDB RWY 11, Amdt. 16
Worcester, MA—Worcester Muni, NDB RWY 29, Amdt. 8
Worcester, MA—Worcester Muni, ILS RWY 11, Amdt. 17
Syracuse, NY—Syracuse Hancock Intl, ILS RWY 10, Amdt. 5
The Dalles, OR—The Dalles Muni, VOR/DME A, Amdt. 3
Hartsville, SC—Hartsville Muni, NDB RWY 20, Amdt. 3
Brigham City, UT—Brigham City, NDB RWY 34, Amdt. 5
Logan, UT—Logan-Cache, VOR-A, Amdt. 6
Ogden, UT—Ogden Muni, VOR RWY 7, Amdt. 5
Ogden, UT—Ogden Muni, RNAV RWY 7, Amdt. 1, *Cancelled*
Ogden, UT—Ogden Muni, RNAV RWY 3, Orig.
Saint George, UT—Saint George Muni, VOR/DME RWY 34, Amdt. 2
Saint George, UT—Saint George Muni, VOR-C, Amdt. 2
Saint George, UT—Saint George Muni, VOR-B, Amdt. 2
Salt Lake City, UT—Salt Lake City Intl, VOR or TACAN RWY 16L, Amdt. 9
Salt Lake City, UT—Salt Lake City Intl, VOR or TACAN RWY 16R, Amdt. 21
Salt Lake City, UT—Salt Lake City Intl, ILS RWY 34L, Amdt. 37
Salt Lake City, UT—Salt Lake City Intl, ILS/DME RWY 16R, Amdt. 3
Grantsburg, WI—Grantsburg Muni, VOR-A, Amdt. 1, *Cancelled*
Grantsburg, WI—Grantsburg Muni, VOR-A, Orig.
Siren, WI—Burnett County, VOR RWY 5, Orig.

. . . Effective December 17, 1987

Ft. Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, VOR RWY 26, Amdt. 1
Ft. Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, NDB RWY 26, Amdt. 1
Ft. Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, LOC RWY 26, Amdt. 1
Ft. Huachuca-Sierra Vista, AZ—Libby AAF/Sierra Vista Muni, RADAR-1, Amdt. 3
Naples, FL—Naples Muni, VOR RWY 22, Amdt. 4
Atlanta, GA—DeKalb-Peachtree, ILS RWY 20L, Amdt. 6
Madison, GA—Madison Muni, VOR/DME-A, Amdt. 6
Montezuma, GA—Dr. C P Savage Sr., NDB RWY 18, Amdt. 1
Mattoon-Charleston, IL—Coles County Memorial, VOR RWY 6, Amdt. 12
Mattoon-Charleston, IL—Coles County Memorial, VOR RWY 24, Amdt. 10
Charlotte, NC—Charlotte/Douglas Intl, VOR PWY 36L, Amdt. 4
Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18L, Amdt. 5
Charlotte, NC—Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt. 5
Allendale, SC—Allendale County, VOR-A, Amdt. 4

. . . Effective November 19, 1987

Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 5L, Amdt. 1
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 5R, Amdt. 2
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23L, Amdt. 3
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23R, Amdt. 3
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 5R, Amdt. 12
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 23L, Amdt. 12
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 28R, Amdt. 18
Cleveland, OH—Cleveland-Hopkins Intl, RADAR-1, Amdt. 29
Cleveland, OH—Cleveland-Hopkins Intl, RNAV RWY 10L, Amdt. 9
Cleveland, OH—Cleveland-Hopkins Intl, RNAV RWY 18, Amdt. 9
Cleveland, OH—Cleveland-Hopkins Intl, RNAV RWY 36, Amdt. 9

. . . Effective October 22, 1987

Tucson, AZ—Tucson International, LOC/DME BC RWY 29R, Amdt. 6
Miami, FL—Miami Intl, LOC RWY 30, Amdt. 4
Miami, FL—Miami Intl, ILS RWY 12, Amdt. 1
Plymouth, MA—Plymouth Muni, NDB RWY 6, Amdt. 8, *Cancelled*
St. Louis, MO—Lambert/St. Louis Intl, LDA/DME RWY 30L, Orig.
St. Louis, MO—Lambert/St. Louis Intl, ILS RWY 30R, Amdt. 5
St. Louis, MO—Lambert/St. Louis Intl, RNAV RWY 30R, Amdt. 2
Winnemucaa, NV—Winnemucca Muni, VOR/DME RWY 14, Orig.
Salt Lake City, UT—Salt Lake City Intl, ILS RWY 16L, Amdt. 8

. . . Effective September 25, 1987

Talkeetna, AK—Talkeetna, VOR/DME RWY 36, Amdt. 1

. . . Effective September 24, 1987

Harrisburg, PA—Capital City, ILS RWY 8, Amdt. 9
Lancaster, PA—Lancaster, VOR RWY 31, Amdt. 14
Lancaster, PA—Lancaster, VOR/DME RWY 26, Amdt. 6
Lancaster, PA—Lancaster, VOR/DME RWY 31, Amdt. 2
Lancaster, PA—Lancaster, ILS RWY 8, Amdt. 12
Latrobe, PA—Westmoreland County, RNAV RWY 5, Amdt. 1
Middletown, PA—Harrisburg Intl Arpt-Olmsted Fld, ILS RWY 31, Amdt. 4
Wise, VA—Lonesome Pine, RNAV RWY 24, Amdt. 2

The FAA published an Amendment in Docket No. 25369, Amdt. No. 1356 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 179 Page 34902; dated Wednesday, September 16, 1987) under § 97.27 effective October 22, 1987, which is hereby amended as follows:

Kosrae Island Federated States of Micronesia, KOSRAE. NDB/DME-A Orig. Change effective date to 19 Nov 1987.

The FAA published an Amendment in Docket No. 25369, Amdt. No. 1356 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 179 Page 34902; dated Wednesday, September 16, 1987) under § 97.25 effective October 22, 1987, which is hereby amended as follows:

Laurel/Hattiesburg, MS—Pine Belt Regional LOC BC RWY 36 Orig. Should Read:
Laurel/Hattiesburg, MS—Pine Belt Regional LOC BC RWY 36 Orig., *Cancelled.*

[FR Doc. 87-23684 Filed 10-15-87; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR 276

[Rel. No. IA-1092]

Applicability of the Investment Advisers Act to Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services

ACTION: Statement of staff interpretive position.

SUMMARY: The Commission is publishing the views of the staff of the Division of Investment Management on the applicability of the Investment Advisers Act of 1940 to financial planners and other persons who provide investment advice as a component of other financial services. The views expressed in this statement were developed jointly by Division staff and the North American Securities. Administrators Association, Inc. ("NASAA") to update Investment Adivsers Act Release No. 770 and provide uniform interpretations of the application of federal and state adviser laws to financial planners and other persons. The revised statement clarifies, among other things, the "business" element of the definition of investment adviser.

FOR FURTHER INFORMATION CONTACT: A. Thomas Smith III, Attorney, (202) 272-2030 Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: Since the Commission published Investment

Advisers Act Rel. No. 770 (Aug. 13, 1981) ("IA–770"), the Commission and NASAA have worked together to promote more uniform regulation of investment advisers under federal and state securities laws. At the federal level, advisers are regulated under the Investment Advisers Act of 1940 ("Advisers Act"). Approximately 40 states regulate the activities of advisers under state adviser laws that typically are substantially similar to the Advisers Act. The staff of the Division and the NASAA Financial Planner/Investment Advisers Committee jointly developed the views stated in this release to provide uniform interpretations about the applicability of federal and state adviser laws to the activities of financial planners and other persons. While the views being published are based substantially on IA–770, this release revises IA–770 in some respects. Specifically, the revised release provides additional guidance on the fiduciary responsibilities of advisers, clarifies the "business" element of the definition of investment adviser, and supplements the views contained in IA–770 by references to interpretive letters issued by the Division since IA–770 was published.

I. Background

Financial planning typically involves providing a variety of services, principally advisory in nature, to individuals or families regarding the management of their financial resources based upon an analysis of individual client needs. Generally, financial planning services involve preparing a financial program for a client based on the client's financial circumstances and objectives. This information normally would cover present and anticipated assets and liabilities, including insurance, savings, investments, and anticipated retirement or other employee benefits. The program developed for the client usually includes general recommendations for a course of activity, or specific actions, to be taken by the client. For example, recommendations may be made that the client obtain insurance or revise existing coverage, establish an individual retirement account, increase or decrease funds held in savings accounts, or invest funds in securities. A financial planner may develop tax or estate plans for clients or refer clients to an accountant or attorney for these services.

The provider of such financial planning services in most cases assists the client in implementing the recommended program by, among other things, making specific recommendations to carry out the general recommendations of the program, or be selling the client insurance products, securities, or other investments. The financial planner may also review the client's program periodically and recommend revisions. Persons providing such financial planning services use various compensation arrangements. Some financial planners charge clients an overall fee for developing an individual client program while others charge clients an hourly fee. In some instances financial planners are compensated, in whole or in part, by commissions on the sale to the client of insurance products, interests in real estate, securities (such as common stocks, bonds, limited partnership interests, and mutual funds), or other investments.

A second common form of service relating to financial matters is provided by "pension consultants" who typically offer, in addition to administrative services, a variety of advisory services to employee benefit plans and their fiduciaries based upon an analysis of the needs of the plan. These advisory services may include advice as to the types of funding media available to provide plan benefits, general recommendations as to what portion of plan assets should be invested in various investment media, including securities, and, in some cases, recommendations regarding investment in specific securities or other investments. Pension consultants may also assist plan fiduciaries in determining plan investment objectives and policies and in designing funding media for the plan. They may also provide general or specific advice to plan fiduciaries as to the selection or retention of persons to manage the assets of the plan.[1]. Persons providing these services to plans are customarily compensated for their services through fees paid by the plan, its sponsor, or other persons; by means of sales commissions on the sale of insurance products or investments to the plan; or through a combination of fees and commissions.

Another form of financial advisory service is that provided by persons offering a variety of financially related services to entertainers or athletes based upon the needs of the individual client. Such persons, who often use the designation "sports representative" or "entertainment representative," offer a number of services to clients, including the negotiation of employment contracts and development of promotional opportunities for the client, as well as advisory services related to investments, tax planning, or budget and money management. Some persons providing these services to clients may assume discretion over all or a portion of a client's funds by collecting income, paying bills, and making investments for the client. Sports or entertainment representatives are customarily compensated for their services primarily through fees charged for negotiation of employment contracts but may also receive compensation in the form of fixed charges or hourly fees for other services provided, including investment advisory services.

There are other persons who, while not falling precisely into one of the foregoing categories, provide financial advisory services. As discussed below, financial planners, pension consultants, sports or entertainment representatives or other persons providing financial advisory services, may be investment advisers within the meaning of the Advisers Act, state adviser laws, or both.

II. Status as an Investment Adviser

A. Definition of Investment Adviser

Section 202(a)(11) of the Advisers Act defines the term "Investment adviser" to mean:

> * * * any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities * * *.

Whether a person providing financially related services of the type discussed in this release is an investment adviser within the meaning of the Advisers Act depends upon all the relevant facts and circumstances. As a general matter, if the activities of any person providing integrated advisory services satisfy the elements of the definition, the person would be an investment adviser within the meaning of the Advisers Act, unless entitled to rely on one of the exclusions from the definition of investment adviser in

[1] The authority to manage all or a portion of a plan's assets often is delegated to a person who qualifies as an "investment manager" under the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 *et seq.*]. Under that statute, which is applicable to private sector pension and welfare benefit plans, an "investment manager" must be a registered investment adviser under the Advisers Act, a bank as defined in the Advisers Act, or an insurance company that is qualified to perform services as an investment manager under the laws of more than one State.

clauses (A) to (F) of section 202(a)(11).[2] A determination as to whether a person providing financial planning, pension consulting, or other integrated advisory services is an investment adviser will depend upon whether such person: (1) Provides advice, or issues reports or analyses, regarding securities; (2) is in the business of providing such services; and (3) provides such services for compensation. These three elements are discussed below.

1. *Advice or Analyses Concerning Securities*

It would seem apparent that a person who gives advice or makes recommendations or issues reports or analyses with respect to specific securities is an investment adviser under section 202(a)(11), assuming the other elements of the definition of investment adviser are met, *i.e.*, that such services are performed as a part of a business and for compensation. However, it has been asked on a number of occasions whether advice, recommendations, or reports that do not pertain to specific securities satisfy this element of the definition. The staff believes that a person who provides advice, or issues or promulgates reports or analyses, which concern securities, but which do not relate to specific securities, generally is an investment adviser under section 202(a)(11), assuming the services are performed as part of a business [3] and for compensation. The staff has interpreted the definition of investment adviser to include persons who advise clients concerning the relative advantages and disadvantages of investing in securities in general as compared to other investments.[4] A person who, in the course of developing a financial program for a client, advises a client as to the desirability of investing in, purchasing or selling securities, as opposed to, or in relation to, any non-securities investment or financial vehicle would also be "advising" others within the meaning of section 202(a)(11).[5]

Similarly, a person who advises employee benefit plans on funding plan benefits by investing in, purchasing, or selling securities, as opposed to, or in addition to, insurance products, real estate not involving securities, or other funding media, would be "advising" others within the meaning of section 202(a)(11). A person providing advice to a client as to the selection or retention of an investment manager or managers also, under certain circumstances, would be deemed to be "advising" others within the meaning of section 202(a)(11).[6]

2. The "Business" Standard

Under section 202(a)(11), an investment adviser is one who, for compensation, (1) engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or, alternatively, (2) issues or promulgates reports or analyses concerning securities as part of a regular business. Each of these two alternatives in the statutory definition of investment adviser contains a business test—one involves "engaging in the business" of advising others while the other involves issuing reports about securities as "part of a regular business." While the "business" standards established under section 202(a)(11) are phrased somewhat differently, it is the staff's opinion that they should be interpreted in the same manner. In both cases, the determination to be made is whether the degree of the person's advisory activities constitutes being "in the business" of an investment adviser. The giving of advice need not constitute the principal business activity or any particular portion of the business activities of a person in order for the person to be an investment adviser under section 202(a)(11). The giving of advice need only be done on such a basis that it constitutes a business activity occurring with some regularity. The frequency of the activity is a factor, but is not determinative.

Whether a person giving advice about securities for compensation would be "in the business" of doing so, depends upon all relevant facts and circumstances. The staff considers a person to be "in the business" of providing advice if the person: (i) Holds himself out as an investment adviser or as one who provides investment advice, (ii) receives any separate or additional compensation that represents a clearly definable charge for providing advice about securities, regardless of whether the compensation is separate from or included within any overall compensation, or receives transaction-based compensation if the client implements in the investment advice, or (iii) on anything other than rare, isolated and non-periodic instances, provides specific investment advice.[7] For the purposes of (iii) above, "specific investment advice" includes a recommendation, analysis or report about specific securities or specific categories of securities (*e.g.*, industrial development bonds, mutual funds, or medical technology stocks). It includes a recommendation that a client allocate certain percentages of his assets to life insurance, high yielding bonds, and mutual funds or particular types of mutual funds such as growth stock funds or money market funds. However, specific investment advice does not include advice limited to a general recommendation to allocate assets in securities, life insurance, and tangible assets.

In applying the foregoing tests, the staff may consider other financial services activities offered to clients. For example, if a financial planner structures his planning so as to give only generic, non-specific investment advice as a financial planner, but then gives specific securities advice in his capacity as a registered representative of a dealer or as agent of an insurance company, the person would not be able to assert that he was not "in the business" of giving investment advice. See discussion of the broker-dealer exception set forth in section 202(a)(11)(C) of the Advisers Act, *infra*. In the staff's view, it is necessary to

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[2] *See* discussion of section 202(a)(11) (A) to (F) in section IIB, *infra*.

[3] In this regard, as discussed in detail below, it is the staff's view that a person who gives advice or prepares analyses concerning securities generally may, nevertheless, not be "in the business" of doing so and, therefore, will not be considered an "investment adviser" as that term is used in section 202(a)(11).

[4] *See, e. g., Richard K. May* (pub. avail. Dec. 11, 1979).

[5] *See, e. g., Thomas Beard* (pub. avail. May 8, 1975); *Sinclair-deMarinis Inc.* (pub. avail. May 1, 1981).

[6] *See, e. g., FPC Securities Corp.* (pub. avail. Dec. 1, 1974) (program to assist client in selection and retention of investment manager by, among other things, recommending investment managers to clients, monitoring and evaluating the performance of a client's investment manager, and advising client as to the retention of such manager); *William Bye Co.* (pub. avail. Apr. 26, 1973) (program involving recommendations to client as to selection and retention of investment manager based upon client's investment objectives and periodic monitoring and evaluation of investment manager's performance). On occasion in the past the staff has taken no-action positions with respect to certain situations involving persons providing advice to clients as to the selection or retention of investment managers. *See, e. g., Sebastian Associates, Ltd.*, (pub. avail. Aug. 7, 1975) (provision of assistance to clients in obtaining and coordinating the services of various professionals such as tax attorneys and investment advisers, including referring clients to such professionals, in connection with business as agent for clients with respect to negotiation of employment and promotional contracts); *Hudson Valley Planning Inc.* (pub. avail. Feb. 25, 1978) (provision of names of several investment managers to client upon request, without recommendation, in connection with business of providing administrative services to employee benefit plans.)

[7] *See Zinn v. Parish*, 644 F.2d 360 (7th Cir 1981).

consider these other financial services activities. Section 208(d) of the Advisers Act makes it illegal for someone to do indirectly under the Advisers Act what cannot be done directly.

3. Compensation

The definition of investment adviser applies to persons who give investment advice for compensation. This compensation element is satisfied by the receipt of any economic benefit, whether in the form of an advisory fee or some other fee relating to the total services rendered, commissions, or some combination of the foregoing. It is not necessary that a person who provides investment advisory and other services to a client charge a separate fee for the investment advisory portion of the total services. The compensation element is satisfied if a single fee is charged for a number of different services, including investment advice or the issuing of reports or analyses concerning securities within the meaning of the Advisers Act.[8] As discussed above, however, the fact that no separate fee is charged for the investment advisory portion of the service could be relevant to whether the person is "in the business" of giving investment advice.

It is not necessary that an adviser's compensation be paid directly by the person receiving investment advisory services, but only that the investment adviser receive compensation from some source for his services.[9] Accordingly, a person providing a variety of services to a client, including investment advisory services, for which the person receives any economic benefit, for example, by receipt of a single fee or commissions upon the sale to the client of insurance products or investments, would be performing such advisory services "for compensation" within the meaning of section 202(a)(11) of the Advisers Act.[10]

B. Exclusions From Definition of Investment Adviser

Clauses (A) to (E) of section 202(a)(11) of the Advisers Act set forth limited exclusions from the definition of investment adviser available to certain persons.[11] Whether an exclusion from the definition of investment adviser is available to any financial planner, pension consultant or other person providing investment advisory services within the meaning of section 202(a)(11), depends upon the relevant facts and circumstances.

A person relying on an exclusion from the definition of investment adviser must meet all of the requirements of the exclusion. The staff's view is that the exclusion contained in section 202(a)(11)(B) is not available, for example, to a lawyer or accountant who holds himself out to the public as providing financial planning, pension consulting, or other financial advisory services. In such a case it would appear that the performance of investment advisory services by the person would not be incidental to his practice as a lawyer or accountant.[12] Similarly, the exclusion for brokers or dealers contained in section 202(a)(11)(C) would not be available to a broker or dealer, or associated person of a broker or dealer, acting within the scope of the business of a broker or dealer, if the person receives any special compensation for providing investment advisory services.[13] Moreover, the exclusion from the definition of investment adviser contained in section 202(a)(11)(C) is only available to an associated person of a broker or dealer or "registered representative" who provides investment advisory services to clients within the scope of the person's employment with the broker or dealer.[14] For example, if a registered representative provides advice independent of, or separate from, his broker or dealer employer such as by establishing a separate financial planning practice, then he could not rely on the exclusion because his investment advisory activities would not be subject to control by his broker or dealer employer.[15] Similarly, the exclusion would be unavailable if he provides advice without the knowledge and approval of his employer because in that capacity his advisory activities would, by definition, be outside the control of his employer.[16]

III. Registration as an Investment Adviser

Any person who is an investment adviser within the meaning of section 202(a)(11) of the Advisers Act, who is not excluded from the definition of investment adviser by virtue of one of the exclusions in section 202(a)(11), and who makes use of the mails or any instrumentality of interstate commerce in connection with the person's business as an investment adviser, is required by section 203(a) of the Advisers Act to register with the Commission as an investment adviser unless specifically exempted from registration by section 203(b) of the Advisers Act.[17] Also, any

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[8] *See, e.g., FINESCO* (pub. avail. Dec. 11, 1979).

[9] *See, e.g., Warren H. Livingston* (pub. avail. Mar. 8, 1980).

[10] Section 202(a)(11)(C) of the Advisers Act excludes from the definition of investment adviser a broker or dealer who performs investment advisory services that are incidental to the conduct of its broker or dealer business and who receives no special compensation therefor. *See* discussion of section 202(a)(11)(C), *infra*.

[11] Section 202(a)(11) provides that the defintion of investment adviser does not include:

(A) A bank, or any bank holding company as defined in the Bank Holding Company Act of 1956, which is not an investment company;

(B) Any lawyer, accountant, engineer or teacher whose performance of such [advisory] services is solely incidental to the practice of his profession;

(C) Any broker or dealer whose performance of such [advisory] services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor;

(D) The publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation;

(E) Any person whose advice, analyses, or reports related to no securities other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest which shall be, designated by the Secretary of the Treasury, pursuant to section 3(a)(12) of the Securities Exchange Act of 1934, as exempted securities for the purpose of that Act * * *

Section 202(a)(11)(F) excludes from the definition of investment adviser "such other persons not within the intent of this paragraph, as the Commission may designate by rules and regulations or order."

[12] *See, e. g., Mortimer M. Lerner* (pub. avail. Feb. 15, 1980); *David R. Markley* (pub. avail. Feb. 8, 1985); *Hauk, Soule & Fasani, P.C.* (pub. avail. May 1, 1986). The "professional" exclusion provided in section 202(a)(11)(B) by its terms is only available to lawyers, accountants, engineers, and teachers. A person engaged in a profession other than one of those enumerated in section 202(a)(11)(B) who performs investment advisory services would be an investment adviser within the meaning of section 202(a)(11) whether or not the performance of investment advisory services is incidental to the practice of such profession. Unless another basis for excluding the person from the definition of investment adviser is available, the person would be subject to the Advisers Act.

[13] *See, e. g., FINESCO, supra* note 8. For a general statement of the views of the staff regarding special compensation under section 202(a)(11)(C), *see* Investment Advisers Act Release No. 640 (October 5, 1978), and *Robert S. Strevell* (pub. avail. April 29, 1985). *See* discussion of the "business" standard, *supra*.

[14] *See, e. g., Corinne E. Wood* (pub. avail. April 17, 1986); George E. Bates (pub. avail. April 26, 1979).

[15] *See, e. g., Robert S. Strevell, supra* note 13; *Elmer D. Robinson* (pub. avail. Jan. 6, 1986); *Brent A. Neiser* (pub. avail. Jan. 21, 1986).

[16] *Id.*

[17] Section 203(b) exempts from registration:

(1) any investment adviser all of whose clients are residents of the State within which such investment adviser maintains his or its principal office and place of business, and who does not furnish advice or issue analyses or reports with respect to securities listed or admitted to unlisted trading privileges on any national securities exchange;

(2) Any investment adviser whose only clients are insurance companies; or

(3) Any investment adviser who during the course of the preceding twelve months has had fewer than fifteen clients and who neither holds himself out

Continued

person who is an investment adviser within the meaning of any State investment adviser definition, and who is not excluded from that definition, may be required to register with that State. The materials necessary for registering with the Commission as an investment adviser can be obtained by writing the Publications Unit, Securities and Exchange Commission, Washington, DC, 20549. As to the various States, persons should contact the office of the State securities administrator in the State in which they must register to obtain the necessary materials.

IV. Application of Antifraud Provisions

The antifraud provisions of section 206 of the Advisers Act [15 U.S.C. 80b–6], and the rules adopted by the Commission thereunder, apply to any person who is an investment adviser as defined in the Advisers Act, whether or not the person is required to be registered with the Commission as an investment adviser.[18] Sections 206 (1) and (2) of the Advisers Act, upon which many State antifraud provisions are patterned, make it unlawful for an investment adviser, directly or any indirectly, to "employ any device, scheme, or artifice to defraud client or prospective client" or to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." [19] An investment adviser is a fiduciary who owes his clients "an affirmative duty of 'utmost good faith, and full and fair' disclosure of all material facts." [20] The Supreme Court has stated that a "[f]ailure to disclose material facts must be deemed fraud or deceit within its intended meaning, for, as the experience of the 1920's and 1930's amply reveals, the darkness and ignorance of commercial secrecy are the conditions under which predatory practices best thrive." [21] Accordingly, the duty of an investment adviser to refrain from fraudulent conduct includes an obligation to disclose material facts to his clients whenever the failure to do so would defraud or operate as a fraud or deceit upon any client or prospective client. In this connection the adviser's duty to disclose material facts is particularly pertinent whenever the adviser is in a situation involving a conflict, or potential conflict, of interest with a client.

The type of disclosure required by an investment adviser who has a potential conflict of interest with a client will depend upon all the facts and circumstances. As a general matter, an adviser must disclose to clients all material facts regarding the potential conflict of interest so that the client can make an informed decision as to whether to enter into or continue an advisory relationship with the adviser or whether to take some action to protect himself against the specific conflict of interest involved. The following examples, which have been selected from cases and staff interpretive and no-action letters, illustrate the scope of the duty to disclose material information to clients in certain common situations involving conflicts of interests.

The advisers' duty to disclose material facts includes the duty to disclose the various capacities in which he might act when dealing with any particular client. For example, an adviser who intends to implement the financial plans he prepares for clients, in whole or part, through the broker or dealer or insurance company with whom the adviser is associated, should inform a client that in implementing the plan the adviser will also act as agent for the broker or dealer or the insurance company.[22]

An investment adviser who is also a registered representative of a broker or dealer and provides investment advisory services outside the scope of his employment with the broker or dealer must disclose to his advisory clients that his advisory activities are independent from his employment with the broker or dealer.[23] Additional disclosures would be required, depending on the circumstances, if the investment adviser recommends that his clients execute securities transactions through the broker or dealer with which the investment adviser is associated. For example, the investment adviser would be required to disclose fully the nature and extent of any interest the investment adviser has in such recommendation, including any compensation the investment adviser would receive from his employer in connection with the transaction.[24] In addition, the investment adviser would be required to inform his clients of their ability to execute recommended transactions through other brokers or dealers.[25] A financial planner who will recommend or use only the financial products offered by his broker or dealer employer when implementing financial plans for clients should disclose this practice to clients [26] and inform clients that the plan may be limited by the products offered by the broker or dealer. Finally, the Commission has stated that "an investment adviser must not effect transactions in which he has a personal interest in a manner that could result in preferring his own interest to that of his advisory clients." [27]

An investment adviser who structures his personal securities transactions to trade on the market caused by his recommendations to clients must disclose this practice to clients.[28] An investment adviser generally also must disclose if his personal securities transactions are inconsistent with the advice given to clients.[29] Finally, an investment adviser must disclose compensation received from the issuer of a security being recommended.[30]

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generally to the public as an investment adviser nor acts as an investment adviser to any investment company registered under the [Investment Company Act] * * *

[18] The antifraud provisions of some State statutes may apply to any person receiving consideration from another person for rendering investment advice even if the person rendering the investment advice is technically excluded from the State definition of investment adviser.

[19] In addition, section 206(3) of the Advisers Act generally makes it unlawful for an investment adviser acting as principal for his own account knowingly to sell any security to or purchase any security from a client, or, acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction. The responsibilities of an investment adviser dealing with a client as principal or as agent for another person are discussed in Advisers Act Rel. Nos. 40 and 470 (February 5, 1945 and August 20, 1975 respectively).

[20] *SEC* v. *Capital Gains Research Bureau*, 375 U.S. 180, 184 (1963) quoting Prosser, *Law of Torts* (1955), 534–535.

[21] *Id.* at 200.

[22] *See Elmer D. Robinson, supra* note 15. *See also In the Matter of Haight & Co., Inc.* (Securities Exchange Act Rel. No. 9082, Feb. 19, 1971), where the Commission held that a broker or dealer and its associated persons defrauded its customers in the offer and sale of securities by holding themselves out as financial planners who would, as financial planners, give comprehensive and expert planning advice and choose the best investments for their clients from all available securities, when in fact they were not expert in planning and made their decisions based on the receipt of commissions and upon their inventory of securities. *Accord Institutional Trading Corporation* (pub. avail. Nov. 27, 1972).

[23] *David P. Atkinson* (pub. avail. Aug. 1, 1977). *See also Corrine E. Wood, supra* note 14.

[24] *Id.*

[25] *Don P. Matheson* (pub. avail. Sept. 1, 1976).

[26] Elmer D. Robinson, supra note 15.

[27] *Kidder, Peabody & Co., Inc.*, 43 S.E.C. 911, 916 (1968).

[28] *SEC* v. *Capital Gains Research Bureau, supra* note 19, at 197.

[29] *In the Matter of Dow Theory Letters et al.*, Advisers Act Rel. No. 571 (Feb. 22, 1977).

[30] *In the Matter of Investment Controlled Research et al.*, Advisers Act Release No. 701 (Sept. 17, 1979).

Unlike other general antifraud provisions in the Federal securities laws which apply to conduct "in the offer or sale of any securities" [31] or "in connection with the purchase or sale of any security," [32] the pertinent provisions of Section 206 do not refer to dealings in securities but are stated in terms of the effect or potential effect of prohibited conduct on the client. Specifically, section 206(1) prohibits "any device, scheme, or artifice to defraud any client or prospective client," and section 206(2) prohibits "any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." In this regard, the Commission has applied sections 206(1) and (2) in circumstances in which the fraudulent conduct arose out of the investment advisory relationship between an investment adviser and its clients, even though the conduct does not involve a securities transaction. For example, in an administrative proceeding brought by the Commission against an investment adviser, the respondent consented to a finding by the Commission that the respondent had violated sections 206(1) and (2) by persuading its clients to guarantee its bank loans and ultimately to post their securities as collateral for its loans without disclosing the adviser's deteriorating financial condition, negative net worth, and other outstanding loans.[33] Moreover, the staff has taken the position that an investment adviser who sells non-securities investments to clients must, under sections 206(1) and (2), disclose to clients and prospective clients all its interests in the sale to them of such non-securities investments.[34]

V. Need for Interpretive Advice

The general interpretive guidance provided in this release should facilitate greater compliance with the Advisers Act and the investment adviser laws of the states. The staff of the Commission will respond to routine requests for no-action or interpretive advice relating to the status of persons engaged in the types of businesses described in this release by referring persons making the requests to the release, unless the requests present novel factual or interpretive issues such as material departures from the nature and type of services and compensation arrangements discussed above. Requests for no-action or interpretive advice from the staff of the Commission should be submitted in accordance with the procedures set forth in Investment Advisers Act Release No. 281 (Jan. 25, 1971). As to requests for no-action or interpretive advice from the states, persons should contact the various state securities departments to inquire as to their procedures.

List of Subjects in 17 CFR Part 276

Securities.

Accordingly, Part 276 of Chapter 11 of Title 17 of the Code of Federal Regulations is amended by adding Investment Advisers Act Release No. IA–1092, Statement of the staff as to the applicability of the Investment Advisers Act to financial planners, pension consultants, and other persons who provide investment advisory services as a component of other financial services, which supersedes IA–770.

By the Commission.

Jonathan G. Katz,

Secretary.

Date: October 8, 1987.

[FR Doc. 87–23881 Filed 10–15–87; 8:45 am]

BILLING CODE 8010–01–M

[31] Section 17(a) [15 U.S.C. 787q(a)] of the Securities Act of 1933 [15 U.S.C. 77a et seq.].

[32] Rule 10b–5 [17 CFR 240.10b–5] under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*]. *See also* section 15(c) [15 U.S.C. 78o(c)] of the Securities Exchange act of 1934.

[33] *In the Matter of Ronald B. Donati, Inc. et al.*, Advisers Act Rel. Nos. 666 and 683 (February 8, 1979 and July 2, 1979 respectively). *See also Intersearch Technology, Inc.*, [1974–1975 Transfer Binder] Fed. Sec. L. Rep. (CCH) Paragraph 80,139, at 85,189.

[34] *See Boston Advisory Group* (pub. avail. Dec. 5, 1976).

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[AID Regulation 1]

Amendment of Geographic Codes

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: A.I.D Regulation 1, "Rules and Procedures Applicable to Commodity Transactions Financed by A.I.D." is being amended to reflect the Agency's decision that Afghanistan, Iran, Libya, the People's Democratic Republic of Yemen (South Yemen) and Syria are excluded as eligible sources for procurement of any goods or services financed by A.I.D. The definitions of A.I.D.'s principal geographic codes are being amended accordingly.

EFFECTIVE DATE: May 20, 1987.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Ms. Kathleen J. O'Hara, Room 1600I, SA–14, Agency for International Development, Washington, DC 20523. Telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: The Agency has determined that this rule will not have a significant economic impact on a substantial number of small organizational units and small government jurisdictions. This rule is not a major rule for purposes of Executive Order 12291 and has been submitted to OMB in accordance with the executive order.

List of Subjects in 22 CFR Part 201

Commodity procurement, Foreign AID, Grant programs-foreign relations, Loan programs-foreign relations.

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY AID

1. The authority citation for Part 201 is revised to read as follows:

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended, 75 Stat. 445 (22 U.S. C. 2381).

2. In § 201.11, paragraph (b)(4), the summary of Code 899 is revised to read as follows:

§ 201.11 Eligibility of Commodities.

* * * * *

(b) * * *

(4) * * *

Code 899—"Free World": Any area or country, except the cooperating country itself and the following countries: Afghanistan, Albania, Bulgaria, Cambodia, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Iran, Laos, Libya, Mongolia, North Korea, People's Democratic Republic of Yemen (South Yemen), People's Republic of China, Poland, Romania, Syria, Union of Soviet Socialist Republic (USSR), and Vietnam.

* * * * *

3. In § 201.11, the summary of Code 941 in paragraph (b)(4) is amended by deleting "Afghanistan," "Iran," "Libya," "Syria," and "South Yemen."

Dated: October 8, 1987.

John F. Owens,

Procurement Executive.

[FR Doc. 87–23958 Filed 10–15–87; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Statement of Procedural Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of the statement of procedural rules.

SUMMARY: This document contains amendments to certain sections of the Statement of Procedural Rules (SPR) that relate to written protest procedures to obtain Appeals consideration of the findings of field examinations. The SPR sets forth the procedural rules of the Internal Revenue Service.

EFFECTIVE DATE: October 16, 1987.

FOR FURTHER INFORMATION CONTACT: George Bradley of the Legislation and Regulations Division, Office of Chief Counsel, 1111 Constitution Avenue, NW., Washington, DC 20224, Attn: CC:LR:T. Telephone 202-343-0231 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the SPR (26 CFR Part 601), issued under the authority contained in 5 U.S.C. sections 301 and 552. These amendments simplify the protest procedures through which taxpayers may obtain Appeals review of field examinations. Under existing procedures, a written protest is required in field examination cases if the amount at issue exceeds $2,500. As a result of these amendments, a written protest will be required for field examinations if the total amount at issue for any taxable period exceeds $10,000. In lieu of a written protest, a brief written statement of disputed issues will be required for field examination if the total amount at issue for any taxable period exceeds $2,500 but does not exceed $10,000. No brief written statement of disputed issues or written protest is required to obtain an Appeals office conference in office interview and correspondence examination.

These special amendments do not address any other provisions under § 601.105 or § 601.106, either directly or by implication. General amendments to the Statement of Procedural Rules will be the subject of separate documents.

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for procedural rules. Accordingly, the amendments to the Statement of Procedural Rules do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these amendments to the Statement of Procedural Rules is George Bradley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, other personnel of the Internal Revenue Service participated in developing the amendments in matters of both substance and style.

List of Subjects in 26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of information, Taxes.

Adoption of Amendments to Statement of Procedural Rules

Accordingly, 26 CFR Part 601 is amended as follows:

PART 601—[AMENDED]

Paragraph 1. The authority for Part 601 continues to read as follows:

Authority: 5 U.S.C. 301 and 552.

Par. 2 Section 601.105 is amended as follows:

1. Paragraph (c)(2)(iii) is revised.
2. A new paragraph (c)(2)(iv) is added.
3. Paragraph (d)(2) is revised.
4. The revised and added provisions read as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

* * * * *

(c) *District procedure*-(1) *Office examination.*

* * * * *

(2) *Field examination.* * * *

(iii) If for any taxable period the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 but does not exceed $10,000, the taxpayer, on request, will be granted an Appeals office conference, provided a brief written statement of disputed issues is submitted.

(iv) If for any taxable period the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $10,000, the taxpayer, on request, will be granted an Appeals office conference, provided a written protest is filed.

(d) *Thirty-day letters and protests*—(1) *General.* * * *

(2) *Protests.* (i) No written protest or brief written statement of disputed issues is required to obtain an Appeals office conference in office interview and correspondence examination cases.

(ii) No written protest or brief written statement of disputed issues is required to obtain an Appeals office conference in a field examination case if the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) is $2,500 or less for any taxable period.

(iii) A written protest is required to obtain Appeals consideration in a field examination case if the total amount of proposed tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $10,000 for any taxable period.

(iv) A written protest is optional (although a brief written statement of disputed issues is required) to obtain Appeals consideration in a field examination case if for any taxable period the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 but does not exceed $10,000.

(v) Instructions for preparation of written protests are sent to the taxpayer with the transmittal (30-day) letter.

* * * * *

Par. 3. Section 601.106 is amended as follows:

1. In paragraph (a)(1)(i), third sentence, the language "subdivisions (ii) through (iv)" is revised to read "subdivisions (ii) through (v)".
2. The concluding material in paragraph (a)(1)(ii), immediately following subparagraph (*c*), is revised.
3. Paragraphs (a)(1) (iii) and (iv) are redesignated (a)(1) (iv) and (v), respectively.
4. A new paragraph (a)(1)(iii) is added.
5. The revised and added material read as follows:

§ 601.106 Appeals function.

(a) *General.* (1) * * *

(ii) * * *

(*c*) * * *

in any case originating in the office of any district director situated in the

region, or in any case in which jurisdiction has been transferred to the region.

(iii) The taxpayer must request Appeals consideration.

(*a*) An oral request is sufficient to obtain Appeals consideration in (*1*) all office interview or correspondence examination cases or (*2*) a field examination case if the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) is $2,500 or less for any taxable period. No written protest or brief statement of disputed issues is required.

(*b*) A brief written statement of disputed issues is required (a written protest is optional) to obtain Appeals consideration in a field examination case if the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $2,500 but does not exceed $10,000 for any taxable period.

(*c*) A written protest is required to obtain Appeals consideration in a field examination case if the total amount of proposed additional tax including penalties, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest sought to be compromised) exceeds $10,000 for any taxable period.

(*d*) A written protest is required to obtain Appeals consideration in all employee plan and exempt organization cases.

(*e*) A written protest is required to obtain Appeals consideration in all partnership and S corporation cases.

* * * * *

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-24011 Filed 10-15-87; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 382

[DoD Directive 5134.1]

Under Secretary of Defense (Acquisition)

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This amendment is issued to add paragraph 20. to Appendix A of 32 CFR Part 382, which was erroneously omitted in the **Federal Register** on Tuesday, October 6, 1987.

EFFECTIVE DATE: February 10, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Becker, Office of the Assistant Secretary of Defense (Comptroller), the Pentagon, Washington, DC 20301, telephone (202) 697-0709.

List of Subjects in 32 CFR Part 382

Organization and functions (Government agencies).

PART 382-[AMENDED]

Accordingly, 32 CFR Part 382 is amended as follows:

1. The authority citation for Part 382 continues to read as follows:

Authority: 10 U.S.C. 133.

2. Appendix A is amended by adding paragraph 20. to read as follows:

Appendix A—[Amended]

* * * * *

20. With the exception of the determination of highly sensitive classified programs, which is retained by the Secretary of Defense, exercise the responsibilities and authorities of the Secretary of Defense to designate major defense acquisition programs, as defined in Title 10, United State Code, section 2430.

* * * * *

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

October 9, 1987.

[FR Doc. 87-23950 Filed 10-15-87; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 111

Implementation of Interim Changes in the Domestic Mail Manual Regarding Merchandise Return Service

AGENCY: Postal Service.

ACTION: Interim regulations and request for comments.

SUMMARY: Effective 12:01 a.m. October 25, 1987, the Postal Service will implement interim changes in the Domestic Mail Manual allowing registered mail service and merchandise return service to be used in conjunction with each other and allowing special handling and merchandise return service to be used in conjunction with each other. Implementing regulations have been developed and are set forth below.

DATES:

Effective date: October 25, 1987.

Comment date: Comments must be received on or before November 25, 1987.

ADDRESSES: Written comments should be directed to the Director, Office of Classification and Rates Administration, Rates and Classification Department, U.S. Postal Service, Room 8430, 475 L'Enfant Plaza SW., Washington, DC 20260-5350. Copies of all written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday, in the Office of Classification and Rates Administration, Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, (202) 268-5176.

SUPPLEMENTARY INFORMATION: The permanent Domestic Mail Classification Schedule (DMCS) does not provide for registered mail service and mechandise return service to be used in conjunction with each other or for special handling and merchandise return service to be used in conjunction with each other. On May 7, 1987, the United States Postal Service filed with the Postal Rate Commission a Request for a Recommended Decision on amending sections 14.060, 18.060, and 20.040 of the DMCS to authorize the use of registered mail service and merchandise return service in conjunction with each other and to authorize special handling and merchandise return service to be used in conjunction with each other. More than ninety days having elapsed since the Postal Service filed its request and the Rate Commission not having transmitted its recommended decision to the Governors, on October 6, 1987, the Board of Governors of the Postal Service adopted Resolution No. 87-8 implementing these changes on a temporary basis. 52 FR_____. This temporary classification change will make registered mail service available for use with articles returned First-Class or Priority Mail to permit holders under merchandise return service. Special handling will also be added as an option for use with merchandise return service for third- and fourth-class pieces. To implement these temporary classification changes, interim regulation changes have been developed. These regulations are needed as the use of registered mail service and merchandise return service in conjunction with each other, and the use of special handling and merchandise return service in conjunction with each other become available on October 25, 1987.

A general description of the interim regulations concerning registered mail service and special handling service is as follows:

As to Registered Mail Service

(1) Applications for new merchandise return service permits that indicate registered mail service will be used must be submitted to the post office where the mail will be returned. However, Postal Service headquarters must approve the applications.

(2) Current merchandise return service permit holders that wish to use registered mail service must submit a letter of request and sample label(s) to the post office where the permit is held. Such requests will also require approval by Postal Service headquarters.

(3) A separate merchandise return label format must be used that does not contain any other special service format elements, endorsements or markings. It is recommended that space be allowed to the right of the return address on the merchandise return label for placement of Label 200–A or B, *Registered Mail.*

(4) Merchandise return articles must be brought to the post office to be registered.

(5) The customer returning the article (not the permit holder) must declare the full value of the article at the time of mailing.

(6) Claims or inquiries for registered articles may be filed only by the permit holder and only at the post office where the permit is held.

As to Special Handling Service

(1) Current permit holders desiring to use special handling should submit sample labels to the post office where the permit is held in accordance with 919.22 of the Domestic Mail Manual (DMM). No special application procedures for new permits are required.

(2) The permit holder meets the format and other requirements in 919.421d(2) and 919.453 of the DMM.

(3) The customer must bring the article to a post office.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public before it puts into effect new or amended regulations which might have a substantial effect on the public. In this case, the applicable statute (39 U.S.C. 3641(a)) expressly permits implementation of the underlying mail classification change on 10 days notice in the **Federal Register.** Moreover, any further delay in introducing these services would unnecessarily disadvantage those who may wish to use them. Accordingly, the Postal Service finds it not in the public interest to follow its customary practice of publishing these rules as proposed rules for comment before they become effective. However, comments are requested on these interim rules, and any proposed changes to the regulations will be considered and acted upon, as appropriate, once the Rate Commission and the Governors of the Postal Service have completed their consideration of the permanent changes, so that final implementing rules (to replace the interim rules) can be considered.

In view of the considerations discussed above, the Postal Service hereby adopts on an interim basis the following revisions of the Domestic Mail Manual which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

PART 137—OFFICIAL MAIL

2. Section 137.276h is amended as follows:

137.2 Penalty Mail—Executive and Judicial Officers.

* * * * *

.27 Penalty mail indicia formats.

* * * * *

.276 Penalty reply mail.

* * * * *

h. Penalty merchandise return.

* * * * *

(1) *Description.* Merchandise return service allows a merchandise return permit holder to authorize individuals and organizations to send single piece First-Class (including Priority Mail), single piece third-class, and single piece fourth-class (parcel post, special fourth-class, and bound printed matter) to the permit holder. The permit holder pays the return postage and fees (see 919).

* * * * *

(3) *Label Format.* The one-part merchandise return labels available for use by Federal Government agencies must bear the address of one of the authorized agencies listed in 137.252 or one of their components. See Exhibit 137.276h(3)(a) for the format required when no special services are requested or when insurance and/or special handling are requested and Exhibit 137.276h(3)(b) when registered service *without* postal insurance is requested. The label must be printed in the format required by 919.4 with the following exceptions:

* * * * *

(4) *Special services—insurance.*

* * * * *

(c) The format in Exhibit 137.276h(3)(a) must be used for the merchandise return label. To request insurance, the following endorsement must be preprinted to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" statement.

Insurance Desired by Permit Holder for

$ _____

(value)

The value portion of the endorsement may be handwritten by the permit holder. The permit holder must indicate the specific dollar amount of insurance applicable to the article in the value portion of the endorsement.

[Renumber 137.276h(5) through (7) as 137.276h(8), (9), and (10) and insert the following.]

(5) *Special services—registered mail.* (a) Only the permit holder (government agency) may request that the mail piece receive registered mail service by preprinting the endorsement required in 137.276h(5)(c). Registered mail service may be obtained only on articles returned at First-Class or Priority Mail rates.

(b) Only registered mail service without postal insurance is available under penalty mail merchandise return procedures. (Agencies desiring to register merchandise return articles with postal insurance must follow the procedures in 919.)

BILLING CODE 7710-12-M

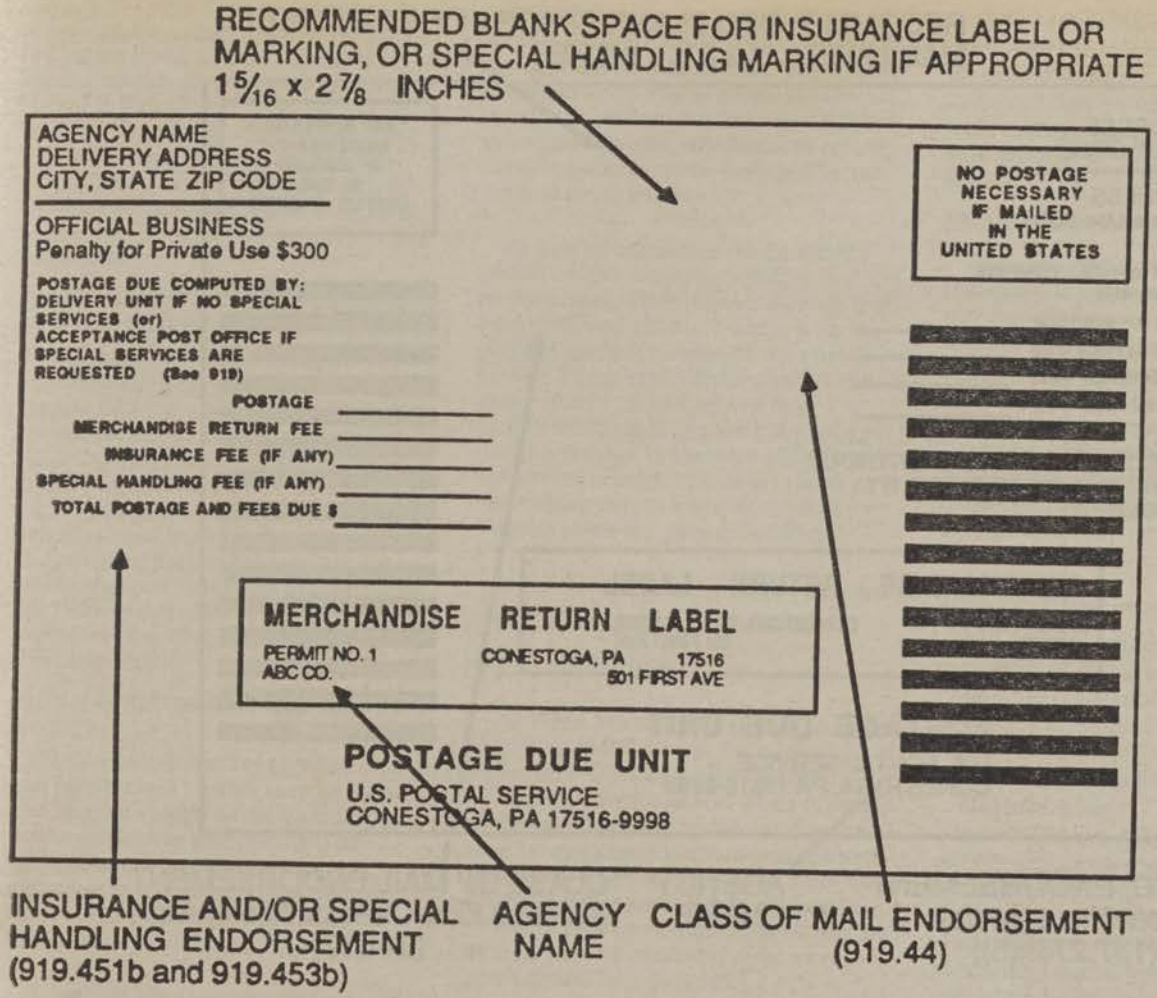

Exhibit 137.276h(3)(a)

Merchandise Return Label With No Special Services or With Insurance and/or Special Handling

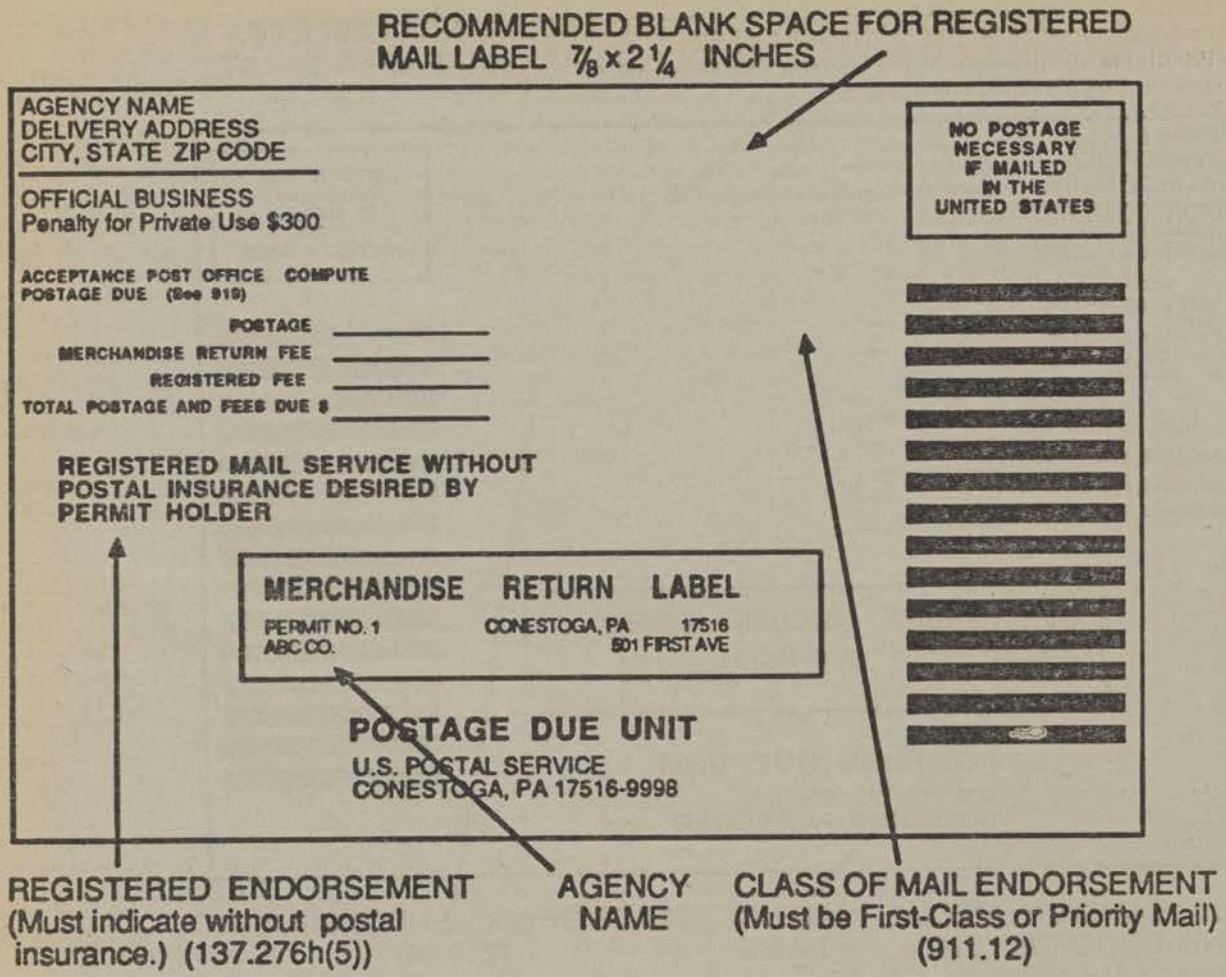

Exhibit 137.276h(3)(b)

Merchandise Return Label For Registered Mail Service Without Postal Insurance

BILLING CODE 7710-12-C

(c) When registered mail service is requested for single piece First-Class (including Priority) Mail, no other special service may be obtained. The format in Exhibit 137.276h(3)(b) must be used for the merchandise return label. The following endorsement must be preprinted to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" statement.

Registered Mail Service Without Postal Insurance Desired by Permit Holder

(6) *Special services—special handling.* Only the permit holder may request that the mailpiece receive special handling. The format in Exhibit 137.276h(3)(a) must be used for the merchandise return label. Third- or fourth-class items requiring special handling must have the following endorsement preprinted (see 919.41) or rubberstamped to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" Statement.

Special Handling Desired by Permit Holder

(7) *Combining special services.* Third- and fourth-class parcels may be insured and receive special handling if the mailer so desires and preprints or rubberstamps the appropriate endorsements and markings for both special services as required in 137.276h(4), 137.276h(6).

* * * * *

3. Section 149.41 is amended as follows:

PART 149—INDEMNITY CLAIMS

149.4 Registered mail claims.

.41 Claim filing instructions.

.411 Required forms. Except for articles registered in conjunction with merchandise return service, a customer may file a claim at any post office, classified station, or branch. Claims for articles registered in conjunction with merchandise return service may only be filed by the merchandise return permit holder and the claims must be filed only at the post office where the merchandise return permit is held. Form 565, *Registered Mail Application for Indemnity/Inquiry* (May 1982 or later), must be used to file a claim for loss or damage of registered mail insured by the Postal Service. Do not complete a separate Form 1510–B or 3841–A for registered claims. A claim has not been filed until a completed Form 565 has been received by the Postal Service.

.412 Evidence of loss or damage.

a. *Claims for Complete Loss Filed by the Mailer.* [Delete Last sentence and add the following to the end of this section.] Except for articles mailed with merchandise return service, proof may be supplied by any of methods (1) through (4) below. For matter registered in conjuction with merchandise return service, proof must be supplied by the method in (5) below.

* * * * *

(5) The merchandise return service permit holder must request that the customer complete items 2 through 9 of Form 565, and return it, along with the original mailing receipt, to the permit holder. The permit holder must complete items 10 and 11 and submit the completed form, along with the original mailing receipt, to the post office where the permit is held. The date in item 11 must show that 15 days or more have elapsed since the date of mailing.

* * * * *

4. Section 911 is amended as follows:

PART 911—REGISTERED MAIL

911.1 Description.

* * * * *

.12 What May Be Registered. [Add the following to the end of this section.] *Exception:* Official mail prepared in accordance with 137 and items returned under merchandise return service in 919 may be registered without prepayment of postage and fees. However, mail of a government department or agency for which insurance is requested cannot be sent as penalty mail and must have postage and fees prepaid.

* * * * *

911.2 Fees and Liability.

.21 Fees. (See Exhibit 911.21.)

.22 Payment of Fees and Postage. The fee and postage may be paid by ordinary postage stamps, meter stamps, or by permit imprints. The fee and postage on official mail of Federal Government agencies and departments may also be collected under the reimbursement procedures in 137.22. The fees and postage on items registered with merchandise return service are paid through a postage due account as set forth in 919.332.

* * * * *

.25 Declaration by sender.

* * * * *

.255 Merchandise return. The customer (not the permit holder) must declare the full value of articles presented for registered merchandise return service in accordance with section 911.251.

* * * * *

.26 Mail registered without prepayment.

* * * * *

.262 Merchandise return. Matter registered in conjunction with merchandise return service, if prepared in accordance with the requirements set forth in 919, may be sent by registered mail without prepayment of postage and fees.

[Renumber former 911.262 as 911.263]

.264 Indemnity. Except for matter registered in conjunction with merchandise return service, no indemnity will be paid for any matter registered without prepayment of postage and fees. If a Government department or agency desires indemnity coverage, both the postage and appropriate registry fee from column A, Exhibit 911.21, must be paid in full by stamps or meter stamps.

* * * * *

911.5 Inquiries on uninsured articles.

.51 Who may file. [Add the following to the end of this section.] *Exception:* For matter registered without postal insurance in conjunction with merchandise return service, only the permit holder may file an inquiry.

.52 How to file.

.521 Original inquiry. The mailer may not file any inquiry until 15 days after the date of mailing. An inquiry may be filed at any post office, classified station, or branch, except for inquiries concerning matter registered in conjunction with merchandise return service (see 919) which must be filed by the permit holder at the post office where the permit is held. Form 565, *Registered Mail Application for Indemnity/Inquiry* (May 1982 edition or later), must be used in processing an inquiry for uninsured registered mail. An inquiry may be filed in the following manner:

* * * * *

.521b This proof may be supplied by method (1), (2), or (3), below. *Exception:* See 911.521c for registered merchandise return service articles.

* * * * *

.521c A merchandise return permit holder must ask the customer to complete items 2 through 9 of Form 565, and return it, along with the original mailing receipt, to the permit holder. The permit holder must complete items 10 and 11 and submit the completed form, along with the original mailing receipt, to the post office where the permit is held. An inquiry may be filed no sooner than 15 days after the date of mailing.

5. Section 919 is amended as follows:

PART 919—MERCHANDISE RETURN

919.1 Description.

.11 General. Merchandise return service allows authorized permit holders to pay the postage and fees on single piece First-Class (including Priority Mail), single piece third-class, and single piece fourth-class (parcel post, special fourth-class, library rate, or bound printed matter) mail to be returned by their customers.

* * * * *

.13 Merchandise Return Label. The label used for this service must contain the delivery address of the postage due unit at the post office where the permit is held, the address of the permit holder, a space for the return address of the customer, and otherwise meet the format requirements in 919.4. *Note:* Mailers must preprint the class of mail on the label if they wish articles to be returned at other than single piece third-class or fourth-class parcel post rates. The mailer must also preprint endorsements indicating that registered mail service (for First-Class, including Priority Mail, pieces only), special handling (for third- or fourth-class pieces only), or insurance is to be provided for the return of the pieces. (See 919.451, 919.452, and 919.453.)

* * * * *

.16 Acceptance.

a. *Labels That Do Not Request Special Services.* Customers may mail articles using merchandise return labels that do not request any special services in any mail deposit receptacle, or at any other place designated by the postmaster for receipt of mail, within the delivery area of the post office shown in the return address of the label. If mailed at a post office outside the delivery area of the post office shown in the return address however, the articles must be brought to the window of a post office.

b. *Labels That Request Special Services.* Customers must bring articles bearing merchandise return labels that request special services (registered mail, insurance, or special handling) to a post office window. These articles may be mailed at any post office because they will be processed by an acceptance clerk.

* * * * *

919.2 Permits.

* * * * *

.22 Application. A Form 3625, *Merchandise Return Permit Application* (See Exhibit 919.2), must be submitted to each post office where the mail will be returned. Each application must be accompanied by copies of the merchandise return labels and copies of the instructions that will be furnished to the permit holder's customers. The applicant must write "Registered Mail" in the "Sub-Class" section of the application form(s) if articles will be returned from customers as registered mail. Once a permit is obtained, any changes to label formats, or any changes to the instructions permit holders provide to their customers, must be approved by the post office where the permit is held. A permit holder who desires to add the use of registered mail service under an existing permit must submit a letter of request to the post office where the permit is held, along with samples of the merchandise return labels, and a copy of the instructions to be provided to the permit holder's customers. The permit holder must not distribute labels that request registered mail service until written approval is received as outlined in 919.23.

.23 Processing Applications. Upon receipt of the application and the annual permit fee, the postmaster will complete the indicated section and forward it to the MSC Manager for approval unless registered mail service is requested. If registered mail service is requested, the postmaster must forward the Form 3625, or the letter requesting addition of registered mail service to an existing permit, along with the sample labels and instructions to customers, to the General Manager, Customer and Field Support Division, Office of Classification and Rates Administration, U.S.P.S. Headquarters, Washington, DC 20260–5361. Upon approval by the MSC Manager or the General Manager, Customer and Field Support Division, the application will be returned to the postmaster. The postmaster will issue the permit or issue a letter granting usage of registered mail service under an existing permit.

* * * * *

919.3 Postage and fees.

* * * * *

.33 Postage payment.

.331 Applicable rates and fees. The applicable single piece rate postage for First-Class (including Priority Mail), third-class, or fourth-class (parcel post, special fourth-class, library rate, or bound printed matter) will be charged the permit holder for each piece returned under merchandise return service. In addition, the applicable fees for registry service, special handling, or insurance will be charged the permit holder where return with such a service was indicated on the label by the permit holder. The customer may pay, at the time of mailing, the fee for a certificate of mailing, if such service is desired.

.332 Advance deposit account. Permit holders must pay postage and fees through a postage-due advance deposit account. Only when sufficient funds are in an advance deposit account to pay applicable postage and fees will articles be delivered under this service. Permit holders may use the same advance deposit for this service as they use for other postage due mail. (See 146.33.)

919.4 Format.

* * * * *

.42 Required format elements.

.421 Preprinted endorsements.

* * * * *

d. *Postage Due Computation Markings.*

(1) *With Registered Service.* When registered service is requested for single piece First-Class (including Priority) Mail, no other special service may be obtained. No special service information other than the options shown in this section may appear on merchandise return labels used to obtain registered service. The following information must be shown in capital letters above the merchandise return legend. (See Exhibit 919.4a.)

Acceptance Post Office Compute Postage Due

(See 919)

Postage $ _____
Merchandise Return Fee _____
Registered Mail Fee _____
Total Postage and Fees Due $ _____

Note: The endorsement required in 919.452 that indicates whether or not postal insurance is desired must appear below the "Total Postage and Fees Due" statement. Additionally, the First-Class or Priority Mail endorsement must appear on merchandise return labels that will be used to receive registered mail service (see 919.442).

(2) *With No Special Services or Services other than Registry.* The following information must be shown in capital letters above the merchandise return legend:

Postage Due Computed by: Delivery Unit if no Special Special Services or Acceptance Post Office if Special Services Requested (See 919).

Postage	
Merchandise Return Fee	$
*Insurance Fee, if any	$
*Special Handling Fee, if any	$
Total Postage and Fees Due	$

*The Insurance Fee and Special Handling Fee statements may be omitted if the permit holder does not choose to insure or obtain special handling for returned items. See 919.451 and 919.452 for additional markings and requirements for use of insurance and special handling.

* * * * *

.44 *Class of mail endorsements.*

* * * * *

.442 Articles will be returned as First-Class Mail or Priority Mail if the permit holder endorses the label to show either "First-Class" or "Priority Mail" as appropriate. The endorsements must be in letters at least ¼ inch high and must be printed or rubberstamped in the open space to the right and above the "Merchandise Return Label" legend. (See Exhibits 919.4 a and b.)

Note.—First-Class Mail (including Priority Mail) cannot be insured unless the contents contain third- or fourth-class matter and are so labeled as required in 913.12b. Registered Mail must be paid at First-Class or Priority Mail rates and the merchandise return label must be so endorsed. See 919.421d(1) and 911.12.

.443 Articles qualifying for the single piece special fourth-class rate, library rate, or bound printed matter rate will be returned at those rates, provided the appropriate identifying endorsement prescribed in 764.11, 725.1, or 767.1 is preprinted or rubberstamped in letters at least ¼ inch high to the right and above the "Merchandise Return Label" legend. (See Exhibit 919.4b.)

[Delete former 919.45 and add new 919.45 and 919.46]

.45 *Special services.*

.451 *Insured mail service.*

a. *Eligibility.* Only the permit holder may obtain insured mail service in conjunction with merchandise return service. The customer using a merchandise return label to return an article that does not have the appropriate postage due computation markings in 919.421d(2) or the endorsement required in 919.451b may not elect to obtain insured mail service. Only matter returned at the third- or fourth-class rates, or third- or fourth-class matter mailed at First-Class or Priority Mail rates may be insured. If the matter is to be returned at First-Class (including Priority Mail) rates of postage, the endorsement required by 913.12b must appear below the class of mail endorsement on the merchandise return label.

b. *Required Endorsement.* To request insured mail service, the permit holder must place the following endorsement and information on the merchandise return label:

Insurance Desired by Permit Holder for $_____ (value)

Except for the dollar amount of insurance requested (value), the endorsement must be preprinted (see 919.41) or rubberstamped to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" statement. The value portion of the endorsement may be handwritten by the permit holder. The permit holder must indicate the specific dollar amount of insurance applicable to the article in the value portion of the endorsement.

c. *Special Service Marking.* The permit holder must either:

(1) leave a clear space on the merchandise return label to the right of the return address for the placement of the numbered insured label or the insured elliptical stamp (in the manner prescribed in 121.44 and Exhibit 121.4), or

(2) instruct the customer to affix the merchandise return label to the article in a manner that will allow the acceptance clerk to place the insured label or marking on the article directly above the merchandise return label.

.452 Registered mail service.

a. *Eligibility.* Registered mail service may be obtained only on articles returned at First-Class or Priority Mail rates. Only the permit holder may obtain registered mail service in conjunction with merchandise return service by furnishing the customer a label having the appropriate postage due computation markings in 919.421d, and the appropriate endorsement in 919.542b. The customer using the merchandise return label to return an article may not elect to obtain registered mail service. However, when the customer has been provided a merchandise return label that properly indicates registered mail service is desired by the permit holder, the customer will be required to declare the full value of the article to be registered when it is presented at the post office.

b. *Required Endorsement.* To request registered mail service, the permit holder must place one and only one of the following endorsements on the merchandise return label:

Registered Mail Service Without Postal Insurance Desired by Permit Holder

OR

Registered Mail Service With Postal Insurance Desired by Permit Holder

The endorsement must be preprinted (see 919.41) or rubberstamped to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" statement. The First-Class or Priority Mail endorsement must also be preprinted or handstamped on merchandise return labels requesting registered mail service (see 919.442).

Note: The customer entering the article at a post office must declare the full value of the article on Form 3806, *Receipt for Registered Mail*, or on Form 3877, *Firm Mailing Book for Registered, Insured, COD, Certified and Express Mail.*"

c. *Special Service Marking.* The mailer must either:

(1) leave a clear space on the merchandise return label to the right of the return address for the placement of Label 200–A or B, *Registered Mail*, (in the manner prescribed in 121.44 and Exhibit 121.4), or

(2) instruct the customer to affix the merchandise return label to the article in a manner that will allow the acceptance clerk to place the registered mail label on the article directly above the merchandise return label.

.453 Special handling.

a. *Eligibility.* Special handling service can be obtained only for articles returned at third- or fourth-class rates. Only the permit holder may obtain special handling on pieces returned with a merchandise return label by furnishing the customer a label having the appropriate endorsement in 919.453b. The customer using the merchandise return label to return an article may not elect to obtain special handling.

b. *Required Endorsement.* To request this service, the permit holder must place the following endorsement and information on the merchandise return label to be attached or affixed to the article:

Special Handling Desired By Permit Holder

This endorsement must be preprinted (see 919.41) or handstamped to the left of and above the "Merchandise Return Label" legend and below the "Total Postage and Fees Due" statement.

c. *Special Service Marking.* The mailer must either: (1) leave a clear space on the merchandise return label to the right of the return address for the placement of the "Special Handling" marking required by 916.3, or

(2) instruct the customer to affix the merchandise return label to the article in a manner that will allow the acceptance clerk to place the "Special Handling" marking on the article directly above the merchandise return label.

.454 Combining special services. Third— and fourth-class articles may be insured and receive special handling if the mailer so desires and preprints or rubberstamps the appropriate endorsements and markings for both

special services as required in 919.421d(2), 919.451, and 919.453. Merchandise return pieces that receive registered service cannot receive any other special service.

.46 Illustrations of merchandise return labels. Permit holder's requirements and resources for making labels may vary. Exhibit 919.4a is a suggested example that would meet all address and endorsement requirements for articles to be returned with registered mail service. Exhibit 919.4b is a suggested example that would meet all address and endorsement requirements for articles to be returned with no special services or with insurance, special handling, or both.

BILLING CODE 7710-12-M

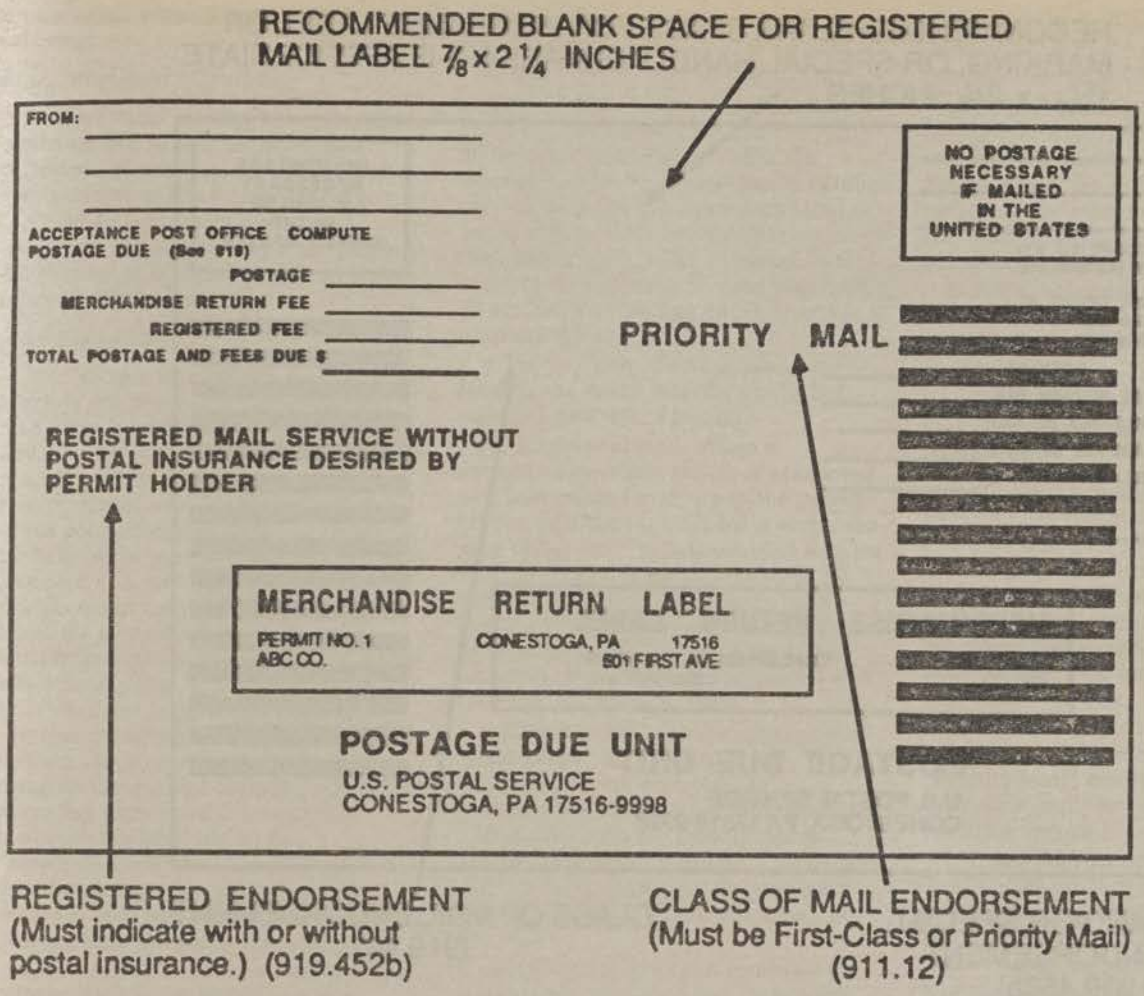

Exhibit 919.4a

Merchandise Return Label With Registered Mail Service

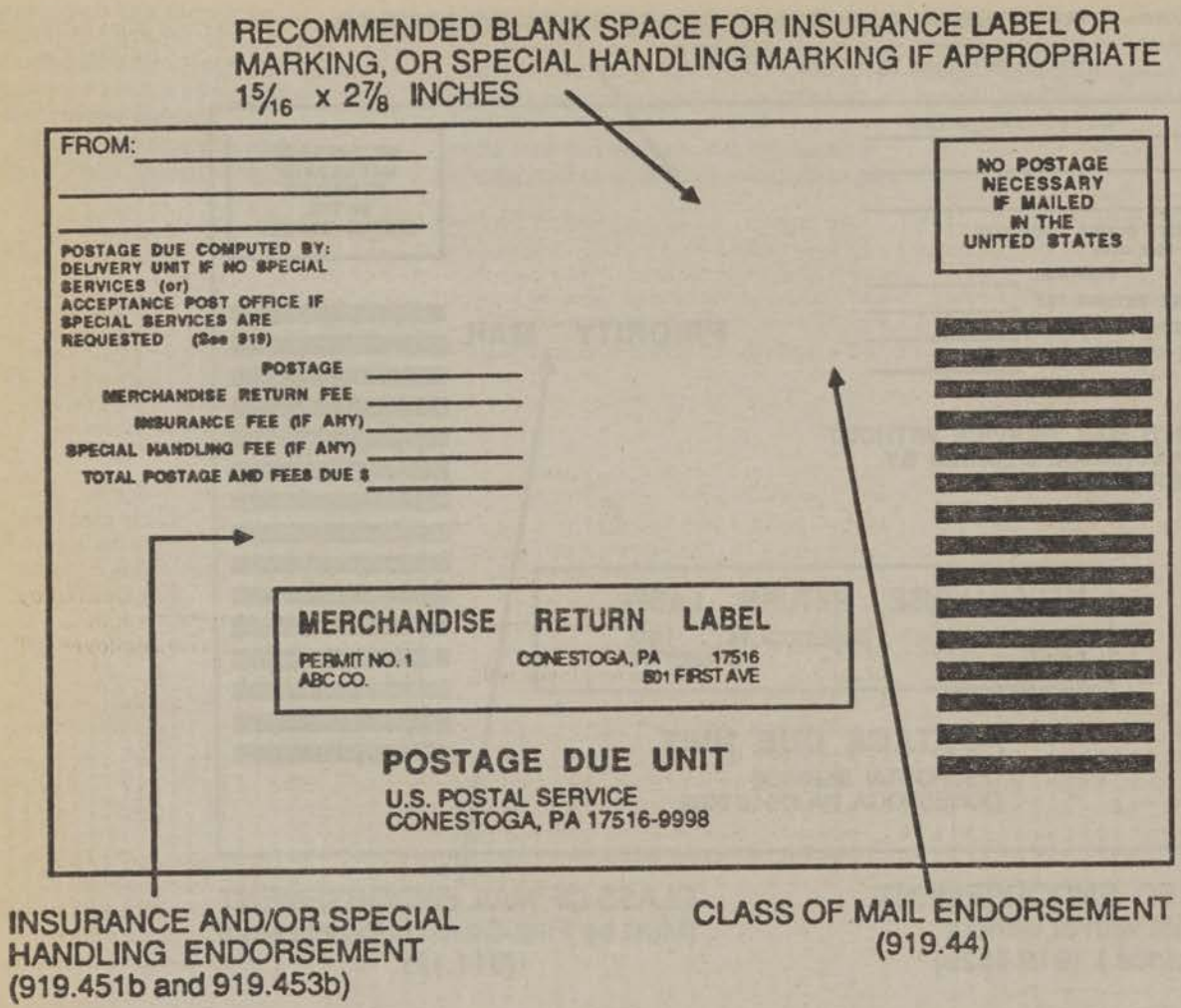

Exhibit 919.4b

Merchandise Return Label With No Special Services or With Insurance and/or Special Handling

BILLING CODE 7710-12-C

[Delete former 919.5 and 919.6 and insert the following]

919.5 Certificate of mailing.

.51 Customers mailing a merchandise return service article may obtain a certificate of mailing (see 931) at their own expense at the time of mailing.

.52 When customers desire a certificate of mailing, they must present the merchandise return article at a post office to obtain the receipt.

919.6 Acceptance.

.61 No special services. If no special services are requested, the customer may place merchandise return articles in any mail-deposit receptacle or any other place designated by the postmaster for receipt of mail within the delivery area of the post office shown in the return address of the merchandise return label. If mailed at a post office other than the one shown in the return address of the label, the merchandise return article must be brought to the window of a post office for mailing. When merchandise return articles requesting no special services are brought to a post office for mailing, the accepting clerk should not compute the amount of postage due. The accepting clerk should, however, postmark the label above the "Merchandise Return Label" legend so that the postage due unit where the permit is held can properly assess postage from the point of mailing.

.62 Insurance. When a merchandise return article is presented at a post office for return to the permit holder, and the return label is endorsed with the "Insurance Desired by Permit Holder for $_____" endorsement, the accepting Postal Service employee will take the following actions:

a. Look at the endorsement to see how much insurance the permit holder desires and enter the appropriate insurance fee for the coverage desired on the mailing label line "Insurance Fee, If Any."

b. Compute the postage based on the class of mail endorsement or weight of the article, as appropriate, and record it and the merchandise return fee on the appropriate lines on the merchandise return label. Total the postage and fees due and enter it on the line "Total Postage and Fees Due." (This information must also be shown on the receipt as indicated below.)

c. If the article is to be insured for $25 or less, stamp the merchandise return label or the item "Insured." Complete and postmark a Form 3813, *Receipt for Domestic Insured Parcel.* Give the receipt to the customer, and instruct the customer to keep the receipt as evidence of mailing until the article is accounted for.

d. If the article is to be insured for more than $25, complete and postmark Form 3813–P, *Receipt for Insured Mail, Domestic/International.* Affix the insured label with the insurance number on it to the merchandise return label or to the article. Give the receipt portion of the Form 3813–P to the customer, and instruct the customer to keep the receipt as evidence of mailing until the article is accounted for.

e. Postmark the merchandise return label in the space directly above the merchandise return legend.

.63 Registered mail. When a merchandise return article is presented at a post office for return to the permit holder, and the return label is endorsed with either the "Registered Mail Service Without Postal Insurance Desired by Permit Holder" or "Registered Mail Service With Postal Insurance Desired by Permit Holder" endorsement, the accepting Postal Service employee will take the following actions:

a. Check to see that the appropriate "First-Class" or "Priority Mail" endorsement appears on the merchandise return label. If it does not, inform the customer that the piece cannot be registered unless the postage and fees are prepaid by the customer (the merchandise return label may not be used).

b. Ask the customer to complete the appropriate portion of the Form 3806, *Receipt for Registered Mail.* The customer must declare the full value of the article on the Form 3806.

c. Look for the registered mail endorsement on the merchandise return label (919.452b) to determine if the permit holder desired registered mail service and, if so, whether insurance was desired. If the customer indicates registered mail service with postal insurance is desired on the Form 3806, the permit holder must have entered the registered mail endorsement requesting postal insurance on the merchandise return label.

d. Enter the appropriate registered mail fee for the declared value and type of coverage desired on the "Registered Mail Fee" line of the merchandise return label.

e. Compute the postage based on the class of mail endorsement or the weight of the article as appropriate, and record it and the merchandise return fee on the appropriate lines on the merchandise return label. Total the postage and fees due on the "Total Postage and Fees Due" line of the merchandise return label.

f. Postmark the merchandise return label in the space directly above the merchandise return legend.

g. Complete and postmark Form 3806, *Receipt for Registered Mail.* Write the words "Merchandise Return Service" in the margin of the Form 3806. Give the receipt to the customer and instruct the customer to keep the receipt as evidence of mailing the registered article.

h. Affix registered mail Label 200–A or B, *Registered Mail,* to the merchandise return label or to the article.

Note.—Articles sent via registered merchandise return service must meet all packaging and sealing requirements for registered mail.

.64 *Special handling.* When a merchandise return article is presented at a post office for return to the permit holder, and the return label is endorsed with the "Special Handling Desired by Permit Holder" endorsement, the accepting Postal Service employee will take the following actions:

a. Check the class of mail endorsement on the merchandise return label. (If it is endorsed "First-Class" or "Priority Mail" advise the customer that the article can not receive special handling service.)

b. Enter the appropriate third- or fourth-class postage based on the endorsement or weight of the article and record it on the merchandise return label. Record the merchandise return fee and special handling fee on the merchandise return label, and enter the total postage and fees due on the "Total Postage and Fees Due" line of the merchandise return label.

c. Place the "Special Handling" marking on the merchandise return label or on the article as appropriate.

d. Postmark the merchandise return label in the space directly above the merchandise return legend.

919.7 Delivery.

* * * * *

d. When numbered insured, or registered merchandise return articles are delivered, the delivering postal employee will obtain a delivery receipt for the articles on Form 3849–A, *Delivery Notice or Receipt,* Form 3849–B, *Delivery Reminder Receipt,* or Form 3883, *Firm Delivery Book—Registered, Certified and Numbered and Insured Mail.*

Note: Merchandise return articles received without a return address or postmark, that are subject to the parcel post or bound printed matter rates of postage, will be charged the appropriate rate for zone 4 in addition to other required fees.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided in 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-23986 Filed 10-15-87; 8:45]

BILLING CODE 7710-12-M

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 77; (FRL-3271-6)]

Revision to the Commonwealth of Puerto Rico Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces Environmental Protection Agency approval of the renewal of a visible emissions variance issued by the Commonwealth of Puerto Rico to the Owens-Illinois of Puerto Rico Corporation's Vega Alta glass making facility, ovens "A" and "B." The renewal maintains the allowable visible emissions limit as regulated under Commonwealth Rule 403, "Visible Emission," at 50 percent opacity for each furnace. This action will not result in an increase in particulate emissions.

EFFECTIVE DATE: This action will be effective December 15, 1987, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: All comments should be addressed to: Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of this SIP revision are available at the following addresses for inspecting during normal business hours:

Environmental Protection Agency, Air Programs Branch, Region II Office, Room 1005, 26 Federal Plaza, New York, New York 10278

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460

Environmental Quality Board, 204 Del Parque Street, Santurce, Puerto Rico 00910

FOR FURTHER INFORMATION CONTACT: William Baker, Chief Air Programs Branch Region II Office, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: On December 31, 1986 the Environmental Protection Agency (EPA) received from Puerto Rico a proposed revision to the Commonwealth's Implementation Plan. The Commonwealth requested EPA approval of its renewal of a visible emissions variance which it issued under the provisions of Rule 301, "Variances Authorized," of its "Regulation for the Control of Atmospheric Pollution." This variance was originally approved by EPA on September 3, 1982 at 47 FR 38887.

The effect of the variance is to maintain an average opacity limit at 50 percent applicable to ovens "A" and "B" of Owens-Illinois' Vega Alta glass plant. This limit is based on visible emission observation taken during stack tests which were conducted to determine compliance with the mass emission standard of Rule 407, "Process Sources." It represents a variance to the present average opacity standard of Rule 403, "Visible Emissions," Section A.1, which provides for 20 percent opacity limitation. Rule 403, Section A.2, requiring that visible emission not exceed 60 percent opacity for a period or periods of more than four minutes in any thirty-minute interval, also remains applicable to these sources.

The Commonwealth's submittals consist of an Owens-Illinois glass plant source emissions test report (including visible emission observations taken throughout the stack test), test evaluation information from the Environmental Quality Board (EQB), copy of one resolution of EQB, a certification that adequate public notice was provided by EQB and that no comment or request for public hearing was received, and a letter requesting renewal of the variance. The Commonwealth approved the variance for a three-year period from the date of EPA's approval.

EQB's analysis of the Owens-Illinois oven tests indicates that for three tests of oven "A" the allowable particulate emission rate was 12.3 lbs/hr, the actual particulate emission rate was between 7.2 and 8.7 lbs/hr, and the average opacity was between 46 and 56 percent. For three tests of oven "B," the allowable particulate emission rate was 12.5 lbs/hr, the actual particulate emission rate was between 9.3 and 10.0 lbs/hr, and the average opacity was between 47 and 52 percent. These data support EQB's conclusion that these sources would continue to meet applicable mass emission standards as long as average opacity does not exceed 50 percent.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding approval of this proposed plan revision is based on its meeting of the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective December 15, 1987.

Under 5 U.S.C. 605(b), I certify that this SIP revision will 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.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Puerto Rico was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 28, 1987.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations, is amended as follows:

Subpart BBB—Puerto Rico

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2720 is amended by adding new paragraph (c)(34) as follows:

§ 52.2720 Identification of Plan

* * * * *

(c) * * *

(34) Revision submitted by the Puerto Rico Environmental Quality Board on December 31, 1986, which grants a visible emissions standard variance to Owen-Illinois, Inc. Vega Alta plant.

(i) *Incorporation by reference.* Resolution and notification announcing a Certificate of Renewal to Commonwealth of Puerto Rico Law 403 of the Regulation for Control of Atmospheric Pollution; adopted on July 9, 1986.

(ii) *Additional material.* Documents submitted on December 31, 1986 in support of the above resolution.

[FR Doc. 87–22785 Filed 10–15–87; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–154; RM–4968, RM–5068, RM–5360, RM–5439, RM–5483 and RM–5495]

Radio Broadcasting Services; Wrightsville, Perryville and Maumelle, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document stays the opening of the filing window for FM Channel 290C2 at Perryville, Arkansas allotted in MM Docket No. 86–154. This window period for filing applications would have opened on October 9, 1987, and closed on November 9, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: The final rule for this document was published at 52 FR 32795, Aug. 31, 1987. This is a summary of the Commission's Order Granting Motion for Stay, MM Docket No. 86–154, adopted October 5, 1987, and released October 8, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–23846 Filed 10–15–87; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Ch. 9

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule amends the Department of Energy Acquisition Regulation (DEAR) to clarify certain policies and to reflect current procedures. This rule follows a notice of proposed rulemaking, published August 26, 1985, 50 FR 34656, and an amendment therefore, published October 28, 1985, 50 FR 43589. These revisions concern correcting the authority citation for issuance of this regulation, updating documentation, changes in reporting procedures, use of standard forms, expansion of existing guidance on interagency acquisition, prenegotiation objectives and price negotiation memorandum, clarification and guidance regarding the small business subcontracting program and updating solicitation provisions and contract clauses.

EFFECTIVE DATE: This final rule will become effective November 16, 1987.

FOR FURTHER INFORMATION CONTACT:

Richard C. Loeb, Office of Policy (MA–42), Procurement and Assistance Management Directorate, Washington, DC 20585, (202) 586–8190.

Paul J. Sherry, Office of the Assistant General Counsel, for Procurement and Finance, (GC–34), Washington, DC 20585, (202) 586–1526.

Supplementary Information:

I. Background

Under section 644 of the Department of Energy Organization Act, Pub. L. 95–91, (42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in the position. Accordingly, the Department of Energy Acquisition Regulation (DEAR) was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR Chapter 9.

The primary purpose of this rule is to revise the DEAR, as necessary, to supplement the Federal Acquisition Regulation (FAR), which is codified at 48 CFR Chapter 1. As a result, the following sections and subsections are affected. Section 901.102 is revised to update and correct the authority citation for issuance of this regulation. Section 902.100, "Definitions," is corrected to read 902.101, in order to conform to the numbering of the corresponding FAR section. Section 902.101 is revised to update the priorities authority under paragraph (e) of the definition of "Procurement Executive" and the definition of "Senior Program Official" to reflect current organizational usage. Subsection 904.601–70, "Procurement and Assistance Data System (PADS)," is revised to update reporting procedures and to require use of a standard form in lieu of a DOE form. Sections 912.300, 912.302 and 912.304 are updated to reflect the regulations, procedures and contract clauses required under the Defense Priorities and Allocations System. A new subsection 913.505–1, "Optional Form (OF) 347, Order for Supplies or Services, and Optional Form (OF) 348, Order for Supplies or Services Schedule—Continuation," is added and 913.505–2, "Agency order forms in lieu of Optional Forms 347 and 348," is removed. Sections 915.612, "Formal source selection," and 915.613, "Alternative source selection procedures," are revised to increase the threshold for use of Source Evaluation Board procedures. Section 915.807, "Prenegotiation objectives," has been added, and 915.808, "Price negotiation memorandum," has been revised to implement the FAR by providing additional items that must be addressed

in the prenegotiation plan and in the price negotiation memorandum. Revisions have been made to section 917.505, "Ordering procedures," and subsection 917.505–70, "Methods of financing employed by DOE." Subsection 917.505–71, "Cost reimbursement standards," has been revised to implement FAR 17.5, "Interagency Acquisition Under the Economy Act." Section 919.501, "General," has been revised to clarify the threshold for the Department's review and screening process for small business set-asides. A new Subpart 919.6, "Certificates of Competency and Determinations of Eligibility," is added. A new subsection 919.705–2, "Determining the need for a subcontracting plan" is added and subsection 919.705–5, "Awards involving subcontracting plans," is revised. Editorial changes have been made in subsections 952.204–2, "Security requirements," and 952.209–72, "Organizational conflicts of interest—special clause." Subsections 952.212–70, "Priorities and allocations for energy programs (solicitations)," and 952.212–71, "Priorities and allocations for energy programs (contracts)," are revised to implement the new Defense Priorities and Allocations System (DPAS) which supersedes the regulations of the Defense Materials System (DMS) and the Defense Priorities System (DPS). Subsection 952.219–9, "Small business and small disadvantaged business subcontracting plan," is revised to clarify the requirement for submission of Standard Form 294. A new subsection 952.225–70, "Buy American Act Notice," has been added to clarify Buy American Act applicability to DOE construction contracts. Subsection 970.0404–4, "Contract clauses," is revised with respect to security and classification requirements under atomic energy production contracts. Subpart 970.19, "Small Business and Small Disadvantaged Business Concerns," is amended to revise section 970.1901, "General," regarding the need for a subcontracting plan. Editorial changes have been made in subsections 970.5204–13, "Allowable costs and fixed-fee (CPFF management and operating contracts)," 970.5204–22, "Contractor procurement," and 970.5204–33, "Priorities, allocations and allotments." Section 971.103, "Documentation submittals," is revised to add a list of items that must be provided for Headquarters review for sealed bid awards.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive order, entitled "Federal Regulations," requires that certain regulations be reviewed by OMB prior to their promulgation. OMB Bulletin 85–7 exempts all but certain types of procurement regulations from such review. This rule does not involve any of the topics requiring prior review under the Bulletin and is accordingly exempt from such review.

B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates.

DOE certifies that this rule will not have a signficant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

The information collections in this rule have been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), and OMB's implementing regulations at 5 CFR Part 1320.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et seq.* 1976) or the Council on Environmental Quality regulations (40 CFR Part 1020) and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Public Hearing

The Department has concluded that this rule does not involve a substantial issue of fact or law and that the rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95–91, the DOE Organization Act, the Department does not plan to hold a public hearing on this rule.

III. Public Comments

Interested persons were invited to participate by submitting data, views or arguments with respect to this rule, as proposed. Comments were received from three universities, an organization representing universities conducting research, four DOE offices or employees, and the Office of Federal Procurement Policy. They are discussed below.

One comment was received pointing out that the authority citation given for Parts 902, 904, 913, 915, 917, 919, 952, 970 and 971 in the notice of proposed rulemaking included a reference to section 161 of the Atomic Energy Act of 1954, as amended (Act), whereas the reference in the present Code of Federal Regulations is to section 148 of that Act. Section 148 of the Act involves rulemaking authority available to the Secretary relating to the unauthorized dissemination of unclassified information pertaining to atomic energy defense programs. Section 161 of the Act involves a much more general grant of authority including, at paragraph (p), the authority to "make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act." Of the two, the reference to section 161 is the more appropriate reference for the purpose of a general authority citation. Neither is necessary however because the parallel reference to section 644 of the Department of Energy Organization Act contains the more recent generic rulemaking authority. Accordingly, the authority citation for the entire DEAR has been changed to reference section 644 of the DOE Organization Act, (42 U.S.C. 7254). In addition, because the DEAR is also issued under the authority of section 205(c) of the Federal Property and Administrative Services Act of 1949 (FPASA), as amended, (40 U.S.C. 486(c)), a citation of the Secretary's rulemaking authority under that Act is appropriate. DEAR section 901.102, "Authority," references both section 644 of the Department of Energy Organization Act and the FPASA. However, the U.S.C. citation for the FPASA contained in 901.102 is to 41 U.S.C. 252. This is the "Applicability" section of the FPASA rather than the rulemaking authority under which civilian agency acquisition regulations are issued. Accordingly, the U.S.C. citation has been changed to reflect the proper authority under which the DEAR is issued in accordance with the FPASA (40 U.S.C. 486(c)). As a result of the above-described changes, it is necessary to amend the authority citation for all parts of the DEAR. The

revised section 901.102 also reflects these changes.

Two comments were received suggesting that 902.101, as proposed, be changed to identify the Director, Office of Energy Research, as a Senior Program Official. This was accomplished by changing "Assistant Secretaries" to "Secretarial Officers" and by adding a reference to DOE 1325.1A which contains a list of Secretarial Officers, which includes the Director of Energy Research. Subsection 904.601–70, as proposed, would have changed the title and number of the subcontracting report form as well as change the form's due date from 15 to 25 days after the end of each fiscal quarter. No public comments were received on this proposed change. The Department, however, is concerned that it could not meet its own commitments to furnish timely contract data to others, such as the Federal Procurement Data System and Congress. For this reason, the original due date of 15 days after the end of the fiscal quarter has been retained.

No comments were received regarding the Department's proposed changes to Subpart 913.5. Accordingly the proposed language appears in the final rule without change.

No public comments were received regarding the changes proposed for Subpart 915.6, "Source Selection." Several comments were received from within the Department and one comment was received from the Office of Federal Procurement Policy. The Department had first proposed in the August 26, 1985 notice that several sections of this subpart be rearranged to more closely track the Federal Acquisition Regulation coverage of the subject. The proposal would have increased the threshold for source evaluation board applicability from actions exceeding $5 million to actions exceeding $10 million and would have excluded fixed price and architect-engineer acquisitions from this procedure. On October 28, 1985, the Department amended the original notice to eliminate the exemption for fixed-price and other acquisitions for which selection would be based solely on a published predetermined formula or on the lowest price. The changes initially proposed for Subpart 915.6 (i.e., those proposed in the August 26, 1985 proposed rulemaking) were the subject of much discussion. These discussions suggested a need for further study in this area. For this reason, the only changes being made in Subpart 915.6 are increases in the threshold for use of formal source selection procedures and alternative source selection procedures. The other proposed changes in Subpart 915.6 are not being made, and the remainder of DEAR 915.6 will remain unchanged by this rulemaking.

Four comments were received regarding section 915.807, "Prenegotiation objectives." One comment suggested that 915.807(d) was contradictory to the objectives of the Paperwork Reduction Act. The Paperwork Reduction Act calls for the reduction of paperwork burdens on the general public. The prenegotiation plan is not completed by any member of the general public so the concern is unfounded. The same commenter suggested that the duration(s) of the contract(s) rather than just their award date(s) would be more meaningful at 915.807(d)(2)(b). This comment was accommodated by substituting the words "performance period(s)" for the words "date(s) of award" at 915.807(d)(2)(b). Another comment suggested that the words "and the extent of competition in awarding subcontracts" be added to 915.807(d)(5)(d) immediately after the word "subcontracting." DOE does not agree with this comment. Our position is that the extent of competition in subcontracting cannot be accurately gauged prior to award of the prime contract. For this reason, we have chosen not to adopt the suggested language. One comment suggested that the detailed prenegotiation plan should be placed in an informal guide rather than in the DEAR in order that local variations can be adopted. The Department prefers to adopt the detailed plan, at the Departmental level, in order to promote greater uniformity in this area. An individual plan can vary from the prescribed format as indicated by the words of the last sentence of the introductory paragraph preceding the contents of the plan itself.

It was suggested that 915.808, "Price negotiation memorandum," be changed at subparagraph (a)(15) by deletion of the word "significant." This would remove the subjective characteristic of the requirement that significant departures from the prenegotiation objectives be documented. The suggestion would, however, result in a need to document *insignificant* departures from the prenegotiation objectives. The Department has elected not to adopt the suggestion.

A general comment was received to the effect that the detailed listing of interagency agreement contents at 917.504(b) was duplicative of information required for entry on DOE Form 1270.1 as directed by DOE Order 1270.1. DOE is in the process of revising DOE 1270.1. Accordingly, the listing of items supplementary to the FAR will be retained as it appeared in the proposed rule. It was suggested that subparagraph (b)(11) of 917.504, "Ordering procedures," be revised to eliminate the need for patent counsel to review each interagency agreement. This use of the language at (b)(11) is intended to make certain that patent counsel is utilized whenever necessary. Therefore no change was made. Subparagraph (b)(12) of this section was changed to note the new designation of the "Office of Scientific and Technical Information" in place of the old "Technical Information Center" and "minimum of two copies" was changed to "two copies" in subparagraph (b)(12). One comment noted that paragraph (d) of subsection 917.505–71 seemed to indicate that DOE does not automatically acquire title to the capital equipment acquired under an interagency agreement. As promulgated in this final rule, paragraph (d) makes clear that DOE reserves a right of first refusal to any capital equipment acquired under an interagency agreement.

A comment was received regarding Subpart 919.5, "Set-Asides for Small Business." It was requested that DOE specifically provide at subparagraph (g) that class set-asides are made and administered on an individual contracting activity basis only. The suggested change has been incorporated in this final rule.

Two commenters, one representing research universities, expressed objection to the proposed language at 919.705–2, "Determining the need for a subcontracting plan," because it imposes additional requirements unique to DOE on contractors where Federal-wide rules and standards have been established and that a deviation from the FAR is required; because OMB clearance is required since it would establish recordkeeping and reporting requirements for contracts covered by FAR; and because OMB Bulletin 85–7 requires prior review of this subsection by OMB. DOE disagrees with the commenters' interpretations of both the proposed language and the FAR instructions. The proposed DOE language was developed to make it clear that the large multi-million dollar, long-term, research contracts of DOE that are funded on an annual basis may require a subcontracting plan when subcontracting opportunities exist. For such contracts, it is known at the outset that there is a likelihood that DOE will fund the contract to a level that will exceed $500,000, even though the basic contract, and modifications thereto, are

individually less than $500,000. Although the ultimate funding level is not known at the time of initial award, provisions are included within the contract which indicate that there is a likelihood that DOE will continue funding for a period of time. The Department takes the position that DOE research contracts are included within the ambit of the instructions to contracting officers contained in FAR 19.705–2(a), i.e., "If the action includes options *or similar provisions* (emphasis added) include their value in determining whether the threshold is met." It is the Department's position that we would be remiss in continuing to exempt these large dollar contracts from the requirements of submitting a subcontracting plan when the contracting officer expects at the outset that subcontracting opportunities exist and that the contract funding will exceed $500,000. The Department interprets the FAR to include such situations and therefore we do not consider this provision to be an additional unique requirement of DOE requiring OMB review or deviation from the FAR. Therefore, the substance of the proposed language at DEAR 919.705–2 was not changed, however, it was modified to emphasize that the dollar threshold is an issue only if subcontracting opportunities exist.

The proposed rule contained a new section 925.205 concerning the use of a clause entitled "Buy American Act—Construction Materials." In light of the FAR coverage at 25.205, the proposed DEAR 925.205 has been withdrawn, along with the accompanying clause at 952.225–70.

The proposed rule contained an instruction at 970.0404–4, "Contract clauses," which required, at (a)(2), that all management and operating contracts contain a clause entitled "Additional Work, Defense Classified/Unclassified." The text of the clause, proposed to be set forth as 970.5204–4, would have required acceptance of any national defense work assignment, whether classified or unclassified, by a management and operating contractor. Numerous comments were received regarding this proposal. Most objected to the proposal. The Department withdrew the proposal on October 28, 1985, 50 FR 43589.

At 971.103, "Documentation submittals," it was suggested that the word "advertised" be changed to "sealed bid" to reflect new terminology necessitated by the Competition in Contracting Act. This was done.

List of Subjects in 48 CFR Ch. 9

Government acquisition.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC, on October 8, 1987.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

1. The authority citation for all parts of Chapter 9 is revised to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

PART 901—[AMENDED]

2. Section 901.102 is revised to read as follows:

901.102 Authority.

The DEAR and amendments thereto are issued by the Procurement Executive pursuant to a delegation from the Secretary in accordance with the authority of section 644 of the Department of Energy Organization Act (42 U.S.C. 7254), section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 486(c)), and other applicable law.

PART 902—[AMENDED]

902.100 [Redesignated as 902.101]

3. Subpart 902.1 is amended by redesignating 902.100 as 902.101. Newly redesignated 902.101 is further amended by revising paragraph (e) of the "Procurement Executive" definition, and by revising the definition for the "Senior Program Official" to read as follows:

902.101 Definitions.

* * * * *

"Procurement Executive" * * *

(e) Exercise priorities authority on behalf of the agency, in accordance with the provisions of the Defense Production Act of 1950 (50 U.S.C. App. 2071, *et seq.*), Defense Priorities and Allocations System Delegation 2, dated June 21, 1984, and applicable policies and regulations; and the Energy Conservation and Policy Act, Pub. L. 94–164.;

* * * * *

"Senior Program Official" is any of the individuals appointed as Secretarial Officers or Directors of DOE staff offices. (See DOE 1325.1A.)

PART 904—[AMENDED]

4. Subsection 904.601–70 is amended by revising paragraph (b)(3)(ii) to read as follows:

904.601–70 Procurement and Assistance Data System (PADS).

* * * * *

(b) * * *

(3) * * *

(ii) On a summary basis, by completion and submission of Standard Form 281, FPDS—Summary of Contract Actions of $10,000 or less. Summary reports shall be submitted within 15 calendar days after the end of each Federal fiscal quarter.

* * * * *

PART 912—[AMENDED]

5. Subpart 912.3 is amended by changing the title and text to conform to the requirements of the Defense Priorities and Allocations System. As revised, Subpart 912.3 reads as follows:

Subpart 912.3—Priorities and Allocations

912.300 Scope of subpart.

This subpart implements and supplements FAR Subpart 12.3, Priorities and Allocations, and implements the regulations and procedures of the Defense Priorities and Allocations System (DPAS) in solicitations and contracts in support of authorized national defense programs and those energy programs which maximize domestic energy supplies. (See 15 CFR Part 350.)

912.302 General.

(d) Programs which maximize domestic energy supplies are eligible for priorities and allocations support depending on an executive decision made on a case-by-case basis. Eligibility is pursuant to section 104(a) of the Energy Conservation and Policy Act, Pub. L. 94–163, which added a new section 101(c) to the Defense Production Act. Guidance is provided by 10 CFR Part 216 and Department of Energy publication DOE/MA–0192, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1985. Rated orders placed in support of authorized energy programs are equivalent to orders placed in support of authorized defense programs under the DPAS and receive the same preferential treatment throughout the industrial supply chain.

(e) Heads of Contracting Activities shall ensure that members of their staffs and contractors under their jurisdiction are advised of the provisions of the DPAS regulation and that the related procedures are followed to ensure adherence to the regulation throughout the industrial supply chain. Under DPAS, it is mandatory that the priority rating be extended through the industrial chain from supplier to supplier.

912.304 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 952.212–70, Priorities and Allocations (Atomic Energy) (June 1987), in solicitations that will result in the placement of rated orders for authorized DOE atomic energy programs.

(b) The contracting officer shall insert the clause at 952.212–71, Priorities and Allocations (Atomic Energy) (June 1987) in contracts that are placed in support of authorized DOE atomic energy programs.

(c) The use of the provisions at 952.212–70 and the clause at 952.212–71 is optional for industrial delivery orders of $1,000 or less.

(d) The contracting officer shall insert the provision at 952.212–70 (Alternate I), Priorities and Allocations (Domestic Energy Supplies) (June 1987), in solicitations that may result in the placement of rated orders for authorized energy programs.

(e) The contracting officer shall insert the clause at 952.212–71 (Alternate I), Priorities and Allocations (Domestic Energy Supplies) (June 1987), if it is believed the contract involves a program the purpose of which is to maximize domestic energy supplies.

PART 913—[AMENDED]

6. Subpart 913.5 is amended by adding a new subsection 913.505–1 and removing subsection 913.505–2. As revised, Subpart 913.5 reads as follows:

Subpart 913.5—Purchase Orders

913.505–1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule—Continuation.

(a)(2) Optional Forms 347 and 348 shall be used for purchase orders using small purchase procedures. The form shall not be used as the contractor's invoice.

(b)(2) An addendum of applicable clauses, including DOE Clause Set 319 which is provided to contracting activities by the Office of Policy, Procurement and Assistant Management Directorate, shall be used with each Optional Form 347.

PART 915—[AMENDED]

7. Subpart 915.6 is amended by revising paragraph (a) of section 915.612 to reflect a change in the threshold for use of formal source selection procedures, and by revising section 915.613 to reflect a change in the threshold for use of alternative source selection procedures. As revised, 915.612(a) and 915.613 read as follows:

Subpart 915.6—Source Selection

915.612 Formal source selection.

(a) Negotiated competitive acquisitions of less than $10 million are not subject to the SEB Handbook unless specifically required by the Procurement Executive. For acquisitions under $10 million, less formal procedures are used.

* * * * *

915.613 Alternative source selection procedures.

Source Evaluation Board (SEB) procedures shall be used for all negotiated competitive prime acquisitions expected to be $10 million or more, excepting acquisitions for architect-engineer services, and acquisitions specifically waived by the Procurement Executive. Guidance regarding the designation and operation of the SEB are set forth in the SEB Handbook.

8. Subpart 915.8 is amended by adding a new section 915.807 and by adding a new paragraph (a) to section 915.808 to read as follows:

Subpart 915.8—Price Negotiation

915.807 Prenegotiation objectives.

(d) The Head of the Contracting Activity shall assure that all prenegotiation objectives and proposed actions are documented in accordance with the requirements of FAR 15.807 and the following requirements of this section. The degree of documentation should be commensurate with the complexity and dollar value of the procurement. For those procurement actions of $250,000 and above the contracting officer shall prepare a written prenegotiation plan which shall include prenegotiation objectives for price and other contract requirements, as appropriate. The prenegotiation plan required by this section shall be included as section I of the price negotiation memorandum at 915.808. The prenegotiation plan should include, to the extent applicable, the information cited below.

Prenegotiation Plan

(1) *General.*
- (a) Procurement request number, solicitation, and contract number.
- (b) Offeror(s) involved in the negotiation. Include address and location where effort is to be performed.
- (c) Brief description of the work to be performed (reference to statement of work is not sufficient).
- (d) Type of solicitation (RFP, PON, PRDA, etc.) and type of contract being awarded.
- (e) Period of performance/delivery schedule.
- (f) Proposed funding schedule for term of contract.

(2) *Prior procurement history.*

Names of previous contractors, if previous awards made for same or similar work to be performed. Contract number(s) and performance period(s).

(3) *Solicitation data.*
- (a) Summary of selection process used, including number of firms solicited, proposals received, competitive range, name of selection official if SEB was used.
- (b) If noncompetitive, basis for approval and name and title of person approving the justification.
- (c) Discuss what considerations were given to socio-economic requirements.

(4) *Advisory reports.*

Identify, by title and date, the advisory reports received in support of the negotiations, i.e., audit reports, technical evaluation reports, cost or price analysis reports, and any other advisory report used in preparing the prenegotiation objectives.

(5) *Pricing objectives.*
- (a) A schedule showing the elements of the proposer's cost proposal, recommended adjustments (auditor, technical evaluation, etc.), and the negotiator's pricing objectives in columnar form.
- (b) Discussion of how previous procurements impact the pricing objectives of the instant procurement.
- (c) Appropriate comments justifying the negotiation objective for each element of cost. In discussing DOE's objectives indicate the position taken in advisory reports, if requested, and the proposed treatment of such advice/comments.
- (d) The extent of subcontracting and justification for subcontract price(s) provided by the prime contractor and the justification as viewed by the DOE negotiator.
- (e) Discussion of whether, and to what extent, negotiation will be based on actual costs expended.
- (f) Discussion of any special pricing techniques and the rationale for their use.
- (g) Discussion of how DOE's objective for fee and profit was established, including a copy of the weighted guideline analysis, if used. For construction contracts and construction management contracts, discuss how the profit or fee objective was established in accordance with the requirements of 915.971.
- (h) Discussion of incentive arrangements, cost or technical, if applicable, (i.e., share ratios, ceiling price, minimum/maxium fees.)
- (i) Discussion of the treatment given to facilities capital cost of money, if applicable, in establishing the fee/profit objective.
- (j) A summary statement regarding the reasonableness of the total price objective and appropriate discussion of the considerations used to determine the reasonableness of price.

(6) *Other issues and factors.*
- (a) Discuss any proposed special provisions.
- (b) Identify any anticipated deviations to regulations and the required approvals.

(c) Identify any unusual features of the Statement of Work.
(d) If applicable, identify any solicitation provisions which have been challenged by the offeror.
(e) Indicate if the Consolidated List of Debarred, Suspended, and Ineligible Contractors has been reviewed.
(f) Discuss whether the contractor has an approved purchasing and accounting system.
(g) Discuss any unique or peculiar features of the contract; e.g., cost sharing, facility ownership, options, etc.
(h) Discuss any deviations to regulations or exceptions suggested by the offeror and discuss proposed disposition.
(i) Discuss any results of pre-award surveys of the offeror's financial, accounting and other management systems.

915.808 Price negotiation memorandum.

(a) The Head of the Contracting Activity shall assure that all contract actions are adequately documented and shall establish internal review requirements therefor. While documentation may be simplified for lesser dollar value acquisitions, documentation of prenegotiation objectives and negotiation summaries shall be maintained in order to promote the discipline of adequate preparation for negotiations and to assist in supervisory review. For acquisitions of $250,000 and above, the price negotiation memorandum (PNM) shall be divided into two major sections: Section I, the prenegotiation plan and Section II, the post-negotiation summary. The prenegotiation plan prepared in accordance with 915.807 shall document the negotiation objectives established prior to the start of formal negotiations. The post-negotiation summary shall discuss the results of the negotiations leading to a final agreement, and, in a general sense, provide the results of the negotiation in terms of the extent to which prenegotiation objectives were met. In addition to the items listed at FAR 15.807 the following shall also be addressed in the PNM.

(11) Date and location of negotiations.

(12) Discussion of any issues raised during negotiations that were not addressed in the prenegotiation position.

(13) In the event that pricing or other contract terms cannot be justified to the satisfaction of the contracting officer but award is recommended because of compelling programmatic considerations, the PNM must fully document the efforts to obtain a more satisfactory agreement, including the extent to which the matter was escalated within DOE and the contractor's organization. The file must also show what consideration was given to alternate sources or other short or long-term alternatives (See FAR 15.803(d)).

(14) Indicate the date on which agreement was reached on the price, and the date the certificate of current cost or pricing data was signed, if applicable.

(15) Explain why the total price or estimated cost and fee are considered fair and reasonable if there was significant departure from the prenegotiation objectives.

PART 917—[AMENDED]

9. Subpart 917.5 is amended by revising section 917.504; by revising the title and paragraph (a) of section 917.505–70; and by amending section 917.505–71 by revising paragraphs (b) and (c) and adding new paragraphs (d) and (e), to read as follows:

Subpart 917.5—Interagency Acquisitions Under the Economy Act

917.504 Ordering procedures.

(b) DOE Form 1270.1, Order for an Interagency Acquisition, shall be used for interagency acquisitions. The order shall include an attachment addressing, as a minimum, the items listed at FAR 17.504(b) and the following:

(6) The parties to the interagency acquisition.

(7) Order number and/or modification number.

(8) Period covered by the interagency acquisition.

(9) Cost estimate of the interagency acquisition and the amount of funds to be provided by DOE including:

(i) The total etimated cost of the work for the period of time specified in the order;

(ii) The capital equipment, if any, approved for purchase under the subject acquisition; and

(iii) Limitations, if any, on the reimbursement of costs by DOE.

If DOE participates with another agency or agencies in sponsoring a project, the amount of contribution to be made by each agency and the basis for distributing the costs incurred shall be specified.

(10) Termination provisions that allow DOE to terminate the interagency acquisition upon 30 days written notice to the servicing agency. In the event of a termination, DOE may reimburse the servicing agency for costs actually incurred to the effective date of termination and for any commitments extending beyond the termination date (but not exceeding the expiration date of the order) that the servicing agency is unable to cancel.

(11) Appropriate patent provisions which recognize DOE's mission of achieving widespread availability and competitive commercial utilization of the benefits of DOE-funded research, development, and demonstration activities. Specific wording will vary depending on the agency and acquisition involved and must be obtained from the cognizant DOE patent counsel.

(12) Reporting requirements and technical data provisions, if appropriate, which require that technical reports prepared under the order to freely exchanged and made available for public sale, unless classified. Two copies of technical reports must be sent to the DOE Office of Scientific & Technical Information (OSTI), P.O. Box 62, Oak Ridge, TN 37830.

(13) Financial reports as determined by the contracting officer.

(14) Security provisions of 952.204, if appropriate, for those interagency acquisitions requiring access to/or generating classified information. (Revisions to the DEAR clauses will be required to effect the appropriate relationship between the servicing agency and DOE.)

917.505–70 Reimbursement by DOE.

(a) Payment methods to reimburse the servicing agency shall be specified in the interagency acquisition. Such specified payment methods shall be coordinated with the servicing finance officer to ensure that they are consistent with current Department of Treasury Regulations as implemented by DOE.

* * * * *

917.505–71 Cost-reimbursement standards.

* * * * *

(b) Direct costs are the costs that can be directly identified with work under the acquisition. Examples of such costs are salaries and wages, technical services, materials, travel, transportation, communications, and any facilities and equipment expressly approved for purchase under the interagency acquisition.

(c) Indirect costs shall be limited to the properly allocable portion of costs that cannot be charged directly to the work, but can be shown as mutually benefiting the effort covered by the interagency agreement as well as other work of the servicing agency. Justification for any such charges shall be required, and the basis of allocation must be reasonable. Where interagency acquisitions are entered into under authority of section 601 of the Economy Act of 1932, the servicing agency's

charge for any indirect costs may include appropriately allocable charges for "general administration" or "central agency overhead," but only to the extent specified in the acquisition.

(d) The servicing agency shall be responsible for maintenance, safeguarding, control, and accounting of capital equipment (items of equipment expected to have an extended period of service, generally a year or more and generally having a value of $1,000 or more) in a manner satisfactory to DOE. DOE reserves the right of first refusal for any capital equipment acquired under the interagency acquisition at completion or termination of the interagency acquisition.

(e) Unless authorized by the contracting officer in advance, the servicing agency shall not be reimbursed for the acquisition or condemnation of real property or any facility or plant construction or expansion.

PART 919—[AMENDED]

10. Subpart 919.5 is amended by revising 919.501 to read as follows:

Subpart 919.5—Set-Asides for Small Business

919.501 General.

(c) The Department has established an internal comprehensive review and screening process for acquisitions exceeding $10,000. The review is intended to enhance the prospect of participation by small business, small disadvantaged business, and women-owned small business concerns.

(g) The policy prescribed by FAR 19.501(g), which requires that a product or service acquired by a successful small business set-aside shall continue to be acquired on a set-aside basis, is applicable to DOE on a contracting activity-wide basis. The small and disadvantaged business specialist at a contracting activity shall maintain a list of such small business set-aside awards.

11. A new Subpart 919.6 consisting of section 919.602–1 is added to read as follows:

Subpart 919.6—Certificates of Competency and Determinations of Eligibility

919.602–1 Referral

(a)(2) The contracting officer shall coordinate with the small and disadvantaged business specialist and the SBA procurement center representative prior to referring a determination of nonresponsibility of a small business to the SBA Regional Office.

12. Subpart 919.7 is amended by adding a new subsection 919.705–2 and by adding a new paragraph (a)(5) to subsection 919.705–5 to read as follows:

Subpart 919.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

919.702–2 Determining the need for a subcontracting plan.

(a) It is the policy of DOE to comply with the spirit as well as the requirements of Public Law 95–507. FAR requires that options be considered in determining whether the dollar value of a contract meets the dollar threshold necessitating a subcontracting plan. Accordingly, if a contract includes options or *similar provisions* which the contracting officer knows at the time of award will result in an overall contract value exceeding $500,000, then, although the ultimate value of the contract may not be known at the time of initial award, a subcontracting plan will nevertheless be obtained *if* substantial subcontracting opportunities are determined to exist. Examples of such actions which may require a subcontracting plan are contracts for basic research, including special research contracts awarded pursuant to Subpart 917.71, which fund a portion of a project under the initial award, with subsequent research funded on an annual basis by contract modification. The plan should be applicable to the basic contract and then be modified, as appropriate, through the life of the contract.

(b) A subcontracting plan is generally not obtained from an offeror until selection of an awardee except in those cases where a plan is requested of all firms in a competitive range (see FAR 19.705–2(d)). When it is determined that a subcontracting plan is required in accordance with FAR 19.705–2, the contracting officer shall request development and submission for approval of a subcontracting plan which includes all of the elements listed in the contract clause at FAR 52.219–9 or shall determine in writing as required by FAR 19.705–2 that a subcontracting plan is not required because subcontracting opportunities do not exist.

(c) A copy of the determination required by FAR 19.705–2(c) shall be provided, prior to award, to the small and disadvantaged business specialist at the contracting activity.

919.705–5 Awards involving subcontracting plans.

(a)(5) Ensure that an acceptable plan is incorporated into and made a material part of the contract by including in every contract with a plan a provision which either incorporates the approved plan into the contract by reference, or makes the plan an attachment to, and thus a part of, the contract. Subsequent revisions to a plan, i.e., revised goals or other changes, may be incorporated by reference on approval of the contracting officer. The subcontracting plan must be included in the official contract file when the plan is incorporated into the contract by reference.

* * * * *

PART 952—[AMENDED]

14. The table of contents for Part 952 is amended by correcting the designation of "952.261–7" to read "952.216–7".

15. Subsection 952.204–2 is corrected by revising the first sentence in paragraph (a) of the Security clause, and by revising the parenthetical reference at the end of paragraph (i) of the clause, to read as follows:

952.204–2 Security requirements.

* * * * *

Security (April 1984)

(a) *Responsibility.* It is the contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. * * *

(i) * * * (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.;* 18 U.S.C. 793 and 794; and Executive Order 12356).

* * * * *

16. Subsection 952.209–72 is amended by revising paragraph (b)(2)(iii) of the Organizational conflicts of interest—special clause to read as follows:

952.209–72 Organizational conflicts of interest—special clause.

* * * * *

(b) * * *

(2) * * *

(iii) The contractor shall have, subject to patent, data, and security provisions of this contract, the right to use technical data it first produces under this contract for its private purpose consistent with the Rights in Data provisions of this contract.

* * * * *

17. Subsections 952.212–70 and 952.212–71 are revised to read as follows:

952.212–70 Priorities and allocations for energy programs (solicitations).

As prescribed in 912.304(a), insert the following provision in solicitations that will result in the award of a contract in support of DOE atomic energy programs:

Priorities and Allocations (Atomic Energy) (June 1987)

Contracts or purchase orders awarded as a result of this solicitation shall be assigned a [ ] DO-Rating; [ ] DX-Rating; and certified for national defense use in accordance with the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350) (Contracting officer check appropriate box).

Alternate I: As prescribed in 912.304(d), insert the following provision in solicitations in support of a program or project which may be determined to maximize domestic energy supplies:

Priorities and Allocations (Domestic Energy Supplies) (June 1987)

Contracts or purchase orders awarded as a result of this solicitation may be eligible for priorities and allocations support in accordance with 10 CFR Part 216 and section 101(c) of the Defense Production Act of 1950, as amended.

952.212-71 Priorities and allocations for energy programs (contracts).

As prescribed in 912.304(b), insert the following clause in contracts and purchase orders that are placed in support of authorized DOE atomic energy programs pursuant to the Atomic Energy Act of 1954, as amended:

Priorities and Allocations (Atomic Energy) (June 1987)

The Contractor shall follow the provisions of Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350) in obtaining controlled materials and other products and materials needed to fill this contract. *Alternate I:* As prescribed in 912.304(e), insert the following clause in contracts if they are placed in support of programs or projects which may be determined to maximize domestic energy supplies:

Priorities and Allocations (Domestic Energy Supplies) (June 1987)

(a) This contract may be eligible for priorities and allocations support, as provided for by section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201 *et seq.*) if its purpose is determined to be to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case-by-case basis with the decision being jointly made by the Departments of Energy and Commerce.

(b) DOE regulations regarding material allocations and priority performance under contracts or orders to maximize domestic energy supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR Part 216).

(c) Additional guidance is provided by DOE Publication MA-0192, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1985, as it may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Office of Scientific and Technical Information (OSTI), Post Office Box 62, Oak Ridge, Tennessee 37830.

18. In subsection 952.219-9 paragraph (d)(10) of the clause is amended by revising the paragraph through the word "December" to read as follows:

952.219-9 Small business and small disadvantaged business subcontracting plan.

* * * * *

(d)(10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit, not later than the 25th day of the succeeding month, Standard Form (SF) only, (DOE contractors need not submit SF 295) on a quarterly basis current as of the last day of March, June, September and December, * * *

PART 970—[AMENDED]

19. Subsection 970.0404-4 is amended by revising paragraph (a)(1) and by removing and reserving paragraph (a)(2), to read as follows:

970.0404-4 Contract clauses.

(a) * * *

(1) *Security and Classification, 970.5204-1.* This clause is required in management and operating contracts under section 41 (ownership and operation of production facilities) of the Atomic Energy Act of 1954, as amended; and all management and operating contracts which involve classified information.

(2) [Reserved]

* * * * *

20. Subpart 970.19 is amended by adding a new paragraph (i) in section 970.1901 to read as follows:

Subpart 970.19—Small Business and Small Disadvantaged Business Concerns

970.1901 General.

* * * * *

(i) Management and operating contracts shall include a subcontracting plan which is effective for the term of the contract. Goals for the contract shall be negotiated annually when revised funding levels are determined. The plan should include provisions for revising the goals or any other sections of the plan. Such revisions shall be in writing, approved by the contracting officer, and shall be specifically made a material part of the contract.

21. Subsection 970.5204-13 is amended by revising paragraph (d)(14) of the clause to read as follows:

970.5204-13 Allowable costs and fixed-fee (CPFF management and operating contracts).

* * * * *

(d) * * *

(15) Establishment and maintenance of bank accounts in connection with the work hereunder, including, but not limited to, service charges, the cost of disbursing cash, necessary guards, cashiers, and paymasters. If payments are made by check, facilities and arrangements for cashing checks may be provided without expense to the employees, subject to the approval of the contracting officer.

* * * * *

22. Subsection 970.5204-22 is amended by revising "Note A" to read as follows:

970.5204-22 Contractor procurement.

* * * * *

Note A: When appropriate, the words, "if required by the contracting officer," may be inserted in the third sentence of paragraph (a) after the first use of the word "shall."

* * * * *

23. Subsection 970.5204-33 is revised to read as follows:

970.5204-33 Priorities and allocations.

(a) The following clause shall be used in management and operating contracts for military and atomic energy construction, operations and other directly related activity, where the programs have been authorized pursuant to the Atomic Energy Act of 1954, as amended.

Priorities and Allocations (June 1987)

The contractor shall follow the rules and procedures of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350) in obtaining controlled materials and other products and materials needed for contract performance.

(b) The following clause shall be used in management and operating contracts in support of programs and projects which may be determined to maximize domestic energy supplies.

Priorities and Allocations—Domestic Energy Supplies (June 1987)

A program or project under this contract may be determined to be eligible for priorities and allocations support as provided for by Section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201 *et seq.*) if it is determined that its purpose is to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case-by-case basis with the decison being jointly made by the Department of Energy and Commerce.

DOE regulations regarding material allocation and priority performance under contracts or orders to maximize domestic energy supplies can be found at Part 216 of Title 10 of the Code of Federal Regulations (10 CFR Part 216).

Additional guidance is provided by DOE Publication MA-0192, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1985, as it may from time to time be revised. Copies may be obtained by written request

to: Department of Energy, Office of Scientific and Technical Information (OSTI), Post Office Box 62, Oak Ridge, Tennessee 37830.

PART 971—[AMENDED]

24. Section 971.103 is amended by adding new paragraphs (a) (3) and (4) to read as follows:

971.103 Documentation submittals.

(a) * * *

(3) *Prior to a sealed bid award.*

(i) Four copies of the successful bid.

(ii) Copy of proposed contract.

(iii) Record of bid opening and selection.

(iv) Copy of the solicitation.

(4) *After completing a sealed bid award.*

(i) Four copies of an award memorandum which documents that the award was made to the responsible, responsive bidder whose bid is most advantageous to the Government, price and other factors considered as provided in FAR 14.407.

(ii) One copy of any other documents the contracting officer believes would benefit the Headquarters review. (List of documents required for contract file are cited at FAR 4.803(a)).

* * * * *

[FR Doc. 87-23822 Filed 10-15-87; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 83-12; Notice 6]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Final rule; technical amendment.

SUMMARY: This notice constitutes a technical amendment of Safety Standard No. 108 to reflect the agency's intent in Footnote 3 to Figure 1b. The Footnote in part establishes a minimum separation distance between a turn signal lamp of certain minimum candela and the lower beam headlamp, "or from the lighted edge of any additional lamp installed as original equipment or used in lieu of the lower beam." The distance intended by the agency is between the turn signal lamp and the edge of the lower beam headlamp, or from the lighted edge of any additional lamp installed as original equipment which supplements the lower beam.

DATE: Effective date of the amendment is November 16, 1987.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA, Washington, DC (202-366-5280).

SUPPLEMENTARY INFORMATION: With the advent of the replaceable bulb headlamp, motor vehicle and lighting manufacturers have shown an interest in headlamp, designs which combine headlighting with other lighting functions such as parking lamps or fog lamps. Figure 1b of Standard No. 108 establishes the minimum and maximum allowable candle power values for several items of lighting equipment required as original equipment on motor vehicles, including yellow front turn signals. According to Footnote 3 to Figure 1b some of these values "apply when the optical axis (filament center) of the front-turn signal is at a spacing less than 4 in. (10 cm.) from the lighted edge of the headlamp unit providing the lower beam, or from the lighted edge of any additional lamp installed as original equipment or used in lieu of the lower beam." Manufacturers have asked the agency for interpretations of this language as it affects the spacing between turn signals and front lamps that combine headlighting with other functions. These requests have demonstrated that a literal reading of the language results in an overly restrictive interpretation and one which the agency did not intend.

For example, Koito Manufacturing Co. of Japan submitted a drawing depicting a headlamp and a parking lamp in a common chamber, upartitioned, consisting of a lens and a reflector. The parking lamp would be separate and outboard of the headlamp-parking lamp. Koito asked whether the 4 inches specified is to be measured from the edge of the effective area of the optical design of the headlamp or from the edge of the lens adjacent to the parking lamp. Because a parking lamp is an "additional lamp installed as original equiment," a literal interpretation requires that measurement be made from the edge of the lens adjacent to the parking lamp. However, the candela of the parking lamp is so low compared with that of the turn signal lamp, 500 minimum, that it will never conflict with it, and there is no safety reason requiring that measurement take it into account. In adopting Footnote 3 the agency had in mind lamps that are not covered by Standard No. 108 but which a manufacturer might wish to install as original equipment, such as fog lamps or passing lamps. Unlike parking lamps, these lamps supplement the lower beam headlamp, and this fact gave rise to the agency's erroneous phrase "or used in lieu of the lower beam." The agency is not aware of any State in which a lamp may be used in place of the lower beam during such time as headlamp use is required.

The agency has therefore concluded that a technical correction to Footnote 3 is required to reflect its true intent. It is amending the phrase "from the lighted edge of any additional lamp installed as original equipment or used in lieu of the lower beam" to read "from the lighted edge of any additional lamp installed as original equipment and which supplements the lower beam."

Because the amendment is corrective in nature, imposes no additional burden upon any person, and has no safety consequences, it is hereby found that notice and comment thereon are not necessary, and that for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest. The amendment is effective 30 days after publication in the **Federal Register.**

NHTSA has considered this amendment and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a regulatory evaluation is required. The amendment imposes no additional requirements nor alters the cost impacts of requirements already adopted.

NHTSA has analyzed this rule for purposes of the National Environmental Policy Act. The rule will have no effect on the human environment since it clarifies an existing requirement.

The agency has also considered the impact of this amendement under the Regulatory Flexibility Act. I certify that the amendment will not have a significant econmic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles, those businesses affected by the amendment, generally are not small businesses within the meadning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be affected by this amendment since prices will not be impacted.

PART 571—[AMENDED]

List of Subjects in 49 CFR Part 571

Motor vehicle safety.

In consideration of the foregoing Part 571 is amended as follows:

1. The authority citation for § 571.108 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Corrected]

2. Footnote 3 to Figure 1b is revised to read:

[3] Values apply when the optical axis (filament center) of the front turn signal is at a spacing less than 4 in. (10 cm.) from the lighted edge of the headlamp unit providing the lower beam, or from the lighted edge of any additional lamp installed as original equipment and which supplements the lower beam.

Issued on: October 9, 1987.

Barry Felrice

Associate Administrator for Rulemaking.

[FR Doc. 87-23979 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 61220-7033]

Foreign Fishing, Groundfish of the Gulf of Alaska

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

ACTION: Notice of inseason adjustment.

SUMMARY: This action reapportions surplus domestic annual processing (DAP) amounts of Atka mackerel to joint venture processing (JVP) in each of the Western and Central Regulatory Areas of the Gulf of Alaska. This action is intended as a conservation and management measure that provides for full utilitization of available groundfish resources off Alaska during 1987.

DATES: This notice is effective on October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (National Marine Fisheries Service, 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed in accordance with the Fishery Management Plan for Groundfish of the Gulf of Alaska, which was developed by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented by regulations appearing at 50 CFR 611.92 and Part 672. Under § 672.20(d)(1)(ii) of this Part, the Secretary of Commerce (Secretary), after consultation with the Council, may apportion to domestic annual harvesting (DAH) on such dates any amounts of any reserve that he determines to be needed to supplement DAH. Target quotes (TQs) for groundfish species in the Gulf of Alaska are established under § 672.20(a)(2). The sum of the TQs for all species must fall within the established optimum yield (OY) range for these species of 116,000–800,000 metric tons (mt) as described at 52 FR 7868 (March 13, 1987).

TQs are apportioned initially among domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF) for each species under §§611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S.fishermen deliver their catches to foreign processors at sea. The reserves for the Gulf of Alaska are 20 percent of the TQ for each species category. These amounts are set aside for possible reapportionment to DAP and/or to JVP if the initial apportionments prove inadequate.

The Regional Director has determined that U.S. harvesting vessels, which process their catch on board or deliver their catch to U.S. processors will only harvest 10 metric tons (mt) of Atka mackerel in each of the Western and Central Regulatory Areas of the Gulf of Alaska for the remainder of 1987. These amounts are expected to be taken as bycatch in other target groundfish fisheries. This determination is based on DAP catches of Atka mackerel to date and results of NMFS industry surveys which indicate the extent to which the Atka mackerel DAP would be processed during the remaining months of 1987. Although current reported DAP catches of Atka mackerel for 1987 are zero, the Regional Director projects that DAP catches will equal 10 mt during the remaining months of 1987. Currently, the DAPs for Atka mackerel for the Western and Central Areas are 80 and 75 mt, respectively. On October 2, 20 mt of Atka macherel were reapportioned from DAP to JVP in the Western Area (52 FR 37464, October 7, 1987).

Since DAP needs for Atka macherel are lower than the current allocation, and JVP needs for this species are higher than the current allocation, the Secretary agrees with the Regional Director and is reapportioning 70 mt and 65 mt of surplus DAP for Atka macherel to JVP in the Western and Central Regulatory Areas, respectively. This leaves 10 mt of Atka macherel for DAP for both the Western and Central Areas of the Gulf of Alaska. This action is taken under § 672.20(d)(2). The resulting reapportionments (see table below) will allow foreign processors receiving groundfish in joint venture operations to purchase and retain catches of Atka macherel from U.S. fishermen, thereby providing economic benefits to those U.S. fishermen.

Species	Area	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Atka mackerel	W	207	100	100	10	90	0	0
	C		100	100	10	90	0	0
	E		40	40	40	0	0	0
	Total		240	240	60	180	0	0

Classification

This action is taken under the authority of 50 CFR 611.92 and 672.20 and complies with Executive Order 12291.

The NOAA Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen delivering to foreign processors who otherwise would forgo amounts of Atka mackerel if those amounts remainded in DAP. An immediate opportunity to harvest Atka mackerel in JVP fisheries could result in

substantial economic gain. Interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 13, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-24055 Filed 10-13-87; 5:03 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restriction and request for comments.

SUMMARY: NOAA issues this notice modifying earlier restrictions to limit the levels of fishing for widow rockfish taken in the groundfish fishery off the coasts of Washington, Oregon, and California, and seeks public comment on this action. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and is necessary because biological stress to widow rockfish is expected to increase if landings are not restricted. This action is intended to lower fishing rates, reduce the risk of biological stress while allowing for unavoidable incidental catches in other fisheries, and reduce the probability of fishery closure before the end of the year.

DATES: Effective 0001 hours (Pacific Daylight Time), October 14, 1987, until modified, superseded, or rescinded. Comments will be accepted through October 28, 1987.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or to E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150, E. Charles Fullerton at 213-514-6196, or the Pacific Fishery Management Council (Council) at 503-221-6352.

SUPPLEMENTARY INFORMATION: At its September 16-18, 1987 meeting, the Council evaluated catch rates of widow rockfish and recommended to the Secretary of Commerce (Secretary) that when 95 percent of the 12,500 metric ton optimum yield (OY) quota is projected to be reached, the weekly trip limit will be lowered from 30,000 pounds to 5,000 pounds per vessel per trip, limited to no more than one landing a week above 3,000 pounds. As a result, the Secretary published a notice of fishing restrictions on October 7, 1987 (52 FR 37466) which announced his concurrence with the Council's recommendation and stated that this reduced trip limit will be implemented by separate notice in the **Federal Register**. All other provisions of the trip limit for widow rockfish announced at 52 FR 790 (January 9, 1987), as modified at 52 FR 15726 (April 30, 1987), which changes the fishing week from Sunday-Saturday to Wednesday-Tuesday, will remain in effect.

The best available scientific information as of October 6, 1987 indicates that 95 percent of the OY will be landed by October 14, 1987. Accordingly, the trip limit for widow rockfish is reduced to 5,000 pounds effective October 14, 1987, which is the beginning of the fishing week. The States of Washington, Oregon, and California are taking similar action effective October 14, 1987.

This reduction is intended to allow most incidental catches of widow rockfish to be landed, while greatly reducing target fishing on this species. If this action does not sufficiently control landings, additional restrictions may be necessary. If the OY is reached before the end of the calendar year, further landings of widow rockfish will be prohibited. The rationale and overall intent of this action are more fully discussed in the notice at 52 FR 37466.

Secretarial Action

For the reasons stated above and in the notice at 52 FR 37466, the Secretary announces the following:

(1) No more than 5,000 pounds (round weight) of widow rockfish may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of widow rockfish above 3,000 pounds (round weight) may be made per vessel in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Wednesday and ending 2400 hours Tuesday, local time.

(2) This restriction applies to all widow rockfish taken and retained 0-200 nautical miles offshore of Washington, Oregon, or California. All widow rockfish possessed from 0-200 nautical miles offshore of, or landed in, Washington, Oregon, or California are presumed to have been taken and retained from 0-200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

This limit applies to vessels of the United States, including those vessels delivering groundfish to foreign processors. Retention of this species by foreign fishing or processing vessels is limited by incidental percentage limits established under § 611.70.

U.S. vessels operating under an experimental fishing permit issued under § 663.10 also are subject to these restrictions unless otherwise provided in the permit.

Landings of groundfish in the pink shrimp, spot and ridgeback prawn fisheries are governed by regulations at § 663.28. If fishing for groundfish and pink shrimp, spot or ridgeback prawns in the same fishing trip, the groundfish restrictions in this notice apply.

Classification

The determination to impose this fishing restriction is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

This action is taken under the authority of 50 CFR 663.22 and 663.23, and is in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. If landings of widow rockfish are not immediately restricted, premature closure of the widow rockfish fishery will result. Accordingly, further delay of this action is impracticable and contrary to the public interest, and this action is published in final form effective October 14, 1987.

The public has had the opportunity to comment on these management

measures. The public participated in Groundfish Select Group, Groundfish Management Team, and Council meetings in August and September 1987 that generated the management actions endorsed by the Council and the Secretary, in addition to the Groundfish Management Team meeting in October 1987. A public comment period followed publication of the October 7, 1987, notice at 52 FR 37466 announcing this action. Further public comments will be accepted for 15 days after date of filing with the Office of the Federal Register.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: October 13, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-24054 Filed 10-13-87; 5:03 pm]

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Proposed Rules

Federal Register
Vol. 52, No. 200
Friday, October 16, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of marketing policy.

SUMMARY: This notice sets forth a summary fo the 1987–88 marketing policy for navel oranges grown in California and Arizona. The marketing policy was discussed and approved on September 16, 1987, by the Navel Orange Administrative Committee, which locally administers the marketing order covering California-Arizona navel oranges. The marketing policy contains information on crop and market prospects for the 1987–88 session.

DATE: Written suggestions, views, or pertinent information relative to the marketing of the 1987–88 California-Arizona navel orange crop will be considered if received by October 26, 1987.

ADDRESS: Interested persons are invited to submit written statements in triplicate to: Docket Clerk, Room 2085–S, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456. Such submissions should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC. 20090–6456; telephone: (202) 447–5697. Growers and handlers of navel oranges may obtain a copy of the marketing policy directly from the Navel Orange Adminstrative Committee. Copies of the marketing policy are also available from Mr. Cioffi.

SUPPLEMENTARY INFORMATION: Pursuant to § 907.50 of the marketing order covering navel oranges grown in Arizona and designated part of California, the Navel Orange Administrative Committee, hereinafter referred to as the "committee", is required to submit a marketing policy to the Secretary prior to recommending regulations for the ensuing season. The order, issued pursuant to the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended, authorizes volume and size regulations applicable to fresh shipments of navel oranges to domestic markets which are defined by the order to include Canada. Regulation of export shipments of navel oranges and navel oranges utilized in the production of processed orange products is not authorized under the order.

Section 907.50 of the marketing order reads as follows:

"(a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantities and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In formulating its marketing policy, the committee should give due consideration to the onset and duration of prorate, and size regulation. In the event that it becomes advisable to substantially modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph."

The committee adopted its marketing policy for the 1987–88 marketing season at its September 16, 1987, meeting. Various meetings to develop, discuss, and review the committee's marketing policy were held throughout the production area on August 18 and 25 in Los Angeles, California, September 3 in Lindsay, California, and September 10 in Phoenix, Arizona. In addition, meetings to discuss and review the marketing policy were held on September 22 in Visalia, California and October 6 in Redlands, California. Substantial numbers of industry representatives were present at many of these meetings. The marketing policy is intended to inform the Secretary and persons in the industry of the committee's plans for recommending regulation of shipments during the marketing season and the basis therefor. The committee evaluates market conditions and makes recommendations to the Secretary as to the quantity of navel oranges that can be shipped each week to domestic outlets during the season, without disrupting markets. Under certain conditions, the committee may recommend size regulations applicable to fresh domestic shipments.

In addition to providing the Secretary with information specified in the marketing order about crop and marketing conditions, the policy statement affords an opportunity for growers and handlers to gain a broad perspective of the industry as it relates to all prorate districts and supplies a view of the anticipated economic environment in which the total crop will be marketed. The committee identified an array of general considerations in formulating its 1987–88 marketing policy. It indicated that the industry is essentially stable, consisting of about 118,000 acres of navel orange trees. However, despite the general stability in planted acreage, there is a sizeable variation in year-to-year production for reasons beyond the control of growers and handlers, e.g., weather and alternate bearing tendencies. This inherent variability requires a high degree of flexibility in handling and marketing navel oranges within a single marketing season.

Another important characteristic of the navel orange to which the committee called attention is that the navel is primarily a fresh market orange, in contrast with other citrus varieties which have viable alternative uses. Juice from navel oranges develops a bitter off-flavor within a short time after it has been squeezed. This characteristic

precludes its use for juice except when blended with juice from other varieties of oranges, and in most recent years, prices received for navels sold to processors have produced negative returns in terms of on-tree prices.

The committee stated that the importance of the fresh market means that fruit quality is a primary consideration for navel orange growers. There are many factors affecting quality beyond the control of growers. For example, the varied climates in which navels are grown and the various weather conditions that occur produce a variety of skin texture and thicknesses of peel as well as a range of sizes of fruit.

Another major characteristic of navels considered by the committee in developing its marketing policy is the ability of the fruit to be held on the trees for an extended period. This has proven to be useful in extending shipments throughout the marketing season while narrowing fluctuations in short term volume. In many other crops, mature fruit can be harvested and stored for an extended marketing period. However, the marketing policy points out that navels are not amendable to this storage practice as they develop flavor characteristics making them unusable for any purpose. Therefore, the industry has developed a variety of strategies which extend the navel season. These include the use of growth regulators which can delay maturity for long periods, planting of early and late maturing varieties, and the use of frost protection devices.

In its 1987–88 marketing policy, the committee projected the California-Arizona navel orange crop at 49,000 cars (1,000 cartons at 37 1/2 pounds net weight each equals one car). This compares with last year's estimated total production of 71,900 cars. The National Agricultural Statistics Service's (NASS) September estimate for the 1987–88 crop was 52,000 cars for the State of California, which when combined with the committee's estimate of 1,100 cars for the Arizona desert valley, totals 53,100 cars for the entire production area.

The committee estimates District I, Central California, 1987–88 production at 41,500 cars compared to 60,300 cars produced in 1986–87. In District 2, Southern California, the crop is estimated to be 6,100 cars compared to 9,400 cars produced last year. In District 3, the Arizona-Calfornia desert valley, production of 1,100 cars is forecast, compared to 1,600 cars in 1986–87. In District 4, Northern California, a 300 car crop is projected compared to 525 cars last year.

The committee projected much larger orange sizes in the 1987–88 crop than the previous year. In fact, the projected average number of oranges per carton at the mid-point of the season indicates the largest average size on record. Because of the larger fruit sizes, the skin texture of the fruit is not expected to be as smooth or as thin as the past season. Fruit quality is expected to be near average, ranging from excellent to below average.

In estimating the proportion of the crop destined for domestic fresh market outlets, the committee stated "* * * the domestic market will absorb all the fruit that meets quality standards and is economically feasible to ship * * *" On this basis, the Committee estimated that shipments to domestic fresh outlets, including Canada, during the 1987–88 season would account for 36,600 cars. Last year a total of 47,621 cars were shipped to fresh domestic markets. Fresh export shipments are expected to total 5,000 cars compared to 6,069 last year. Processing and other dispositions are forecast at 7,400 cars compared to 18,184 cars last year.

Based on current projections, shipments are expected to begin at the end of October and finish in late May. The committee has developed a schedule of estimated weekly shipments covering the 1987–88 season.

The committee reports that Florida round orange production is expected to be 254,000 cars, about 6 percent greater than last year. In Texas, orange production for the 1987–88 season is expected to be 2,700 cars, an increase of more than 50 percent from last season. Production of apples is estimated at 230.7 million bushels in 1987–88 compared to 187.9 million bushels in 1986–87. The fresh winter pear pack is estimated at 10.1 million bushels in 1987–88 compared to 9.2 million bushels last year. Of increasing importance in the supply of competitive non-citrus fruit are "summer fruit" importations from Chile (nectarines, plums, peaches, grapes and apples), and it is expected that this upward trend will continue. General economic conditions are expected to be favorable.

In terms of total crop utilization, the committee expects 75 percent of the 1987–88 crop to be accounted for in domestic fresh markets compared with 66 percent in 1986–87; fresh exports are projected to use 10 percent of total 1987–88 utilization compared with 9 percent in 1986–87; processed and other uses would account for the residual 15 percent compared with 25 percent in the last season. Expressed in terms of actual changes in the volume of navels shipped or processed, domestic fresh market shipments would be down about 23 percent from 1986–87 estimates, export shipments would be down about 18 percent and processed and other utilization would fall approximately 59 percent.

The 1986–87 season average fresh equivalent on-tree grower returns for California-Arizona navel oranges as reported by the NASS were $3.70 per carton. This was about 72 percent of the equivalent season average parity of $5.16 per carton. The 1987–88 equivalent seasonal parity is projected to be $5.45 per carton.

Preliminary indications are that 1987–88 season grower returns for California-Arizona navel oranges may equal or exceed the equivalent seasonal parity. The Act authorizes regulations in an above parity situation. Section 602(4) of the Act provides that regulations may be issued "* * * to establish and maintain such orderly marketing conditions for any agricultural commodity * * * in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices." The committee's marketing policy states that recommendations for volume regulation at the onset of the season would be made for the purpose of creating conditions of orderly marketing pursuant to § 602(4) of the Act.

Section 907.52 of the naval orange marketing order provides authority for regulation in an above parity situation, stating: "* * * Such regulation may be made effective; as authorized by the Act, irrespective of whether the season average price for navel oranges is in excess of the parity price specified thereof in the act. * * *"

In discussing the possible need for prorate regulation early in the season, the marketing policy indicated that early varieties are reported to have a near normal crop and have not been adversely affected by unfavorable conditions that have affected later varieties (excessive temperatures and a dry winter). Consequently, the committee anticipates there will be abundant, normal supplies at the beginning of the season.

In view of the above, it is the committee's view that early shipments without volume regulation could be excessive and disruptive to the early market and to the market immediately following that time. The committee states that such conditions would be contrary to the purposes of the Act, and one of its objectives is providing for an orderly flow of fruit to the market, for the benefit of growers and consumers.

The committee anticipates that volume regulations likely will be recommended to the Secretary near the very early part of the season, perhaps as early as the first week ending in November. It points out that such recommendations, of course, will depend on the rate of the early harvest and anticipated market conditions at the time regulations are considered. The committee believes it is essential to the successful marketing of the entire crop that shipments be made in an orderly manner from the beginning of the season.

Section 907.51(b) of the marketing order identifies areas the committee should consider in recommending prorate regulation and reads as follows:

"In making its recommendations, the committee shall provide equity of marketing opportunity to handlers in all districts and shall give due consideration to the following factors: (1) Market prices for oranges, including market prices by grades and sizes; (2) supply of oranges on track at, and en route to, the principal markets; (3) supply, maturity, and condition of oranges in the area of production including the grade and size composition thereof; (4) market prices and supplies of citrus fruits from California, Arizona, and competitive producing areas, and supplies of competitive fruits; (5) trends and level in consumer income; and (6) other relevant factors."

In order to provide an opportunity for public input, the Department will accept written views and information pertinent to the marketing policy and the need for, or level of, regulation for the 1987–88 season. Due to the possibility of season average prices above the equivalent season parity, comments are invited on the appropriate levels of fresh oranges which can be made available to the fresh domestic market and the intraseasonal dispersion of shipments. Interested persons are also invited to comment on the possible regulatory and informational impact of this marketing policy and seasonal volume regulations on small businesses. This notice provides a 10-day period for the receipt of comments. This period is considered to be adequate due to the number of meetings held throughout the production area, both prior to and subsequent to the adoption of the marketing policy, at which such policy was reviewed and discussed by industry representatives and interested persons.

Publication of this summary of the marketing policy is to provide information as to potential regulations. This action does not create any legal obligations or rights, either substantive or procedural.

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

Dated: October 13, 1987.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 87–24051 Filed 10–15–87; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 129

Small Business Development Center Program

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration proposes to adopt the following comprehensive rule to govern the operations of the Small Business Development Center Program, a small business assistance delivery program. SBA intends that these proposed rules provide a framework for the effective and efficient operation of the program.

DATE: Comments will be accepted until November 16, 1987.

ADDRESS: Written comments should be addressed to Ms. Janice Wolfe, Deputy Associate Administrator for Business Development/Small Business Development Centers, 1441 L Street NW., Room 317, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Mr. J. Hardy Patten, (202) 653–6315.

SUPPLEMENTARY INFORMATION: The Small Business Development Center (SBDC) Program was originally established in 1980 by Pub. L. 96–302, which amends section 21 of the Small Business Act (15 U.S.C. 648). It was later amended by Pub. L. 98–395 in 1984. Many of the provisions set forth in this proposed rule are contained in one of the Public Laws or have stemmed from the operations of the program since its inception.

On October 23, 1986, at 51 FR 37580, SBA published proposed regulations governing the SBDC program. The public was afforded 60 days to comment on that proposal. By notice in the **Federal Register** on November 21, 1986, SBA extended that comment period by an additional 30 days (see 51 FR 42255). During the 90 days which SBA afforded the public to comment on the proposed SBDC regulations, SBA received approximately 200 comments in response to that publication. A detailed analysis of the issues raised by the public comment has been made a part of this Supplementary Information. SBA has now evaluated all of the public comments and these proposed regulations represent the results of that evaluation. SBA recognizes the complexity of some of the issues addressed in these rules, and is, therefore, publishing these revised rules in proposed form and soliciting public comment on the rules for 30 days.

Review of Issues Raised by Public Comments and Summary of Changes to the Proposed Regulation

SBA has carefully reviewed all of the over 200 comments received during the 90 day public comment period. Where appropriate, SBA has made changes to the proposed regulations to reflect the views of the commenters. Where SBA has not agreed with the comments regarding particular issues raised by the regulations, SBA's rationale for retaining the original proposal is given. In some cases, minor technical changes were made to correct omissions or clarify the intent of the original proposed rule.

Several commenters objected to SBA's statement in the Summary to the October 1986 proposed rule that one of the purposes of the rule was "to insure that the program operations are uniform nationwide." SBA certainly supports a diverse and flexible SBDC program which can accommodate the varied needs of small businesses across the nation. SBA also believes that administrative and financial requirements of the program, such as those addressed by the appropriate Office of Management and Budget Circulars, should be uniform where possible. To avoid any misunderstanding of the purpose of these regulations, the sentence at issue does not appear in the Summary to this proposed rule.

The comment letter received on behalf of the SBDC Directors Association objected to SBA's certification under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), that the October 1986 proposed rule, if promulgated in final form, would not have a significant economic effect *directly* on a substantial number of small entities. It was the view of the commenter that such economic effect need not be direct in order to trigger the RFA requirement that a Regulatory Flexibility Analysis be included in the preamble of the regulation.

SBA's interpretation of the RFA requirement is based on a U.S. Court of Appeals case, *Mid-Tex Electric Cooperative v. Federal Energy Regulatory Commission (Mid-Tex)*, 773 F. 2d 327, 340–343 (1985). In *Mid-Tex*, the Court held that, in complying with the RFA, an agency need only look to the economic impact on the small entities

subject to the regulation and not to the impact on those which might be indirectly affected by the regulation.

Section 129.10 Introduction.

Some commenters objected to the phrasing of this section because, in their view, the language did not clearly delineate the separate responsibilities of SBA and the SBDC Director in a decentralized program. The section has been amended to address that concern.

Subparagraphs (c)(2) and (3) discussing the relationships between SBDCs and other SBA-funded programs have been deleted in response to comments that such relationships should not be governed by regulations.

Section 129.11 Definitions.

Some new definitions have been added to this proposed section, as noted below. The subsections are proposed to be renumbered as necessary.

Several commenters noted that the definition of "cash match" (subsection (c)) was not consistent with an October 1986 SBA Notice on the subject. The definition has been amended to clarify that direct costs committed by the applicant as specific line item costs prior to funding for such items as personnel services and fringe benefits would be considered cash match for purposes of this program.

Some commenters objected to the definition of "conflict" (subsection (d)) because it failed to recognize that once a Cooperative Agreement has been signed, it governs all program matters to which a disagreement could relate. SBA agrees with this objection and has amended the subsection accordingly.

Many commenters disagreed with SBA's effort to restate the requirements of the OMB Circulars in these regulations, rather than cross-referencing the Circulars. The commenters would prefer simple references to the appropriate Circulars where necessary. SBA has adopted this approach and has referenced the OMB Circulars in amended subsections (e), (m), (n), and (u) defining Direct Costs, Indirect Costs, In-Kind Costs and Program Income, respectively. Subsection (u), Program Income, is a new definition, which was added to these proposed regulations for clarity.

SBA notes, however, that on June 9, 1987, the Agency published a proposed rule amending the provisions of OMB Circular A-102 concerning the administration of Grants and Cooperative Agreements with State and local governments. *See* 52 FR 21824. The proposed rule was based on a model regulation prepared by a task force of representatives of OMB and other interested agencies. A similar effort is underway regarding OMB Circular A-110. Once those regulations are adopted in final form, SBA intends to amend these regulations for consistency on Grants/Cooperative Agreement administration matters.

Several commenters questioned whether teaching a course outside of working hours would diminish the full-time status of an employee. SBA wishes to make clear that nothing in these regulations would preclude a full-time employee from teaching one course outside of the normal SBDC workweek. However, any full-time employee intending to teach two or more courses or to teach during the hours of operation of the SBDC would be expected to receive SBA approval prior to engaging in such activity. (See § 129.17(b)(4) Staff and Access Requirements.)

Subsection (j), Grants/Cooperative Agreement Appeals Committee was redefined generally. The amended definition would authorize the Administrator to appoint the membership of the Committee, in his or her discretion.

Minor technical changes are proposed to subsections (j), (k), and (l) defining the terms "Grants Management Branch Chief" and "Grants Management Officer."

Some commenters questioned SBA's definition of lobbying (redesignated subsection (q)), citing the difficulty of raising the statutorily required matching funds under the definition as proposed. SBA has no intention of limiting the ability of the SBDCs to acquire matching funds. Therefore, SBA proposes to amend the exceptions to the definition of lobbying (subparagraph (q)(2)(ii)) to permit lobbying to obtain matching contributions. It is the Agency's view that this change would be consistent with the requirements of the Small Business Act and with the Federal government-wide policy against subsidizing lobbying with Federal funds.

A definition of "Qualified Independent Public Accountant" (subsection (y)) was added to comply with the **Federal Register** requirements that, where possible, terms used in regulations should be defined in those regulations and not by reference to outside sources. (*See* § 129.21(e)(2)(ii).)

Subsection (dd) defines the term "SBDC State Director." Some commenters found the term misleading because some SBDCs are regional and not statewide. In the history of the program, "SBDC State Director" has come to mean the Director of the SBDC Network, regardless of its area of service. Therefore, SBA has retained the term in these proposed regulations. Further, this definition has been amended to include a statement clarifying that, as part of his or her full-time management duties, an SBDC State Director may manage other Federal and State government programs that are concerned with aiding small business in a manner otherwise authorized for SBDCs by the Small Business Act. Such management would be part of the State Director's full-time duties, and as such, would not be the basis of additional compensation. This clarification resulted from an Opinion of the SBA General Counsel of December 9, 1986, interpreting the statutory requirements that an SBDC employ a full-time director and that the SBDC "make full use of other Federal and State government programs that are concerned with aiding small business;" (*see* section 21(c)(2)(A) of the Small Business Act, 15 U.S.C. 648(c)(2)(A)).

Subsection (ff) defines the term "Subcenter Director." Many commenters noted that some subcenters do not require full-time managers. To require that a subcenter director be a full-time manager, as the October 1986 proposed regulations did, would be detrimental to the efficient operation of the program in some States. SBA proposed to adopt the changes to this definition recommended by the commenters and to delete the "full-time" requirement from the definition of subcenter director.

Some commenters thought that the definition of "working days" (subsection (gg)) inappropriately referenced Federal holidays and should have permitted State holidays or other holidays as agreed upon in the Cooperative Agreement. Since many lead SBDCs are State universities, some commenters believed that State holidays may be more appropriate. SBA agrees with this comment and proposes to amend the definition of working days to exclude Saturdays, Sundays and "those holidays designated in the Cooperative Agreement." In general, the Cooperative Agreements have allowed 12 holidays per SBDC each year. SBA expects that this practice will continue.

Section 129.13 Allocation of funds.

One commenter suggested that the third service category (increased services provided to areas already served by SBDCs established within the previous three years) and the fourth service category (increased services to areas already served by SBDCS established prior to the previous three years) be reversed. Since the priority of service categories (2) through (5) is to be determined for the individual SBDC based on the needs and goals of the

small business community to be served by that SBDC, no purpose would be served by reversing the service categories. Therefore, SBA did not adopt the suggested change.

Section 129.14 Application Procedure.

Several commenters expressed their view that application procedures should remain as flexible as possible and, therefore, should not be the subject of regulations. In order to provide the public with an overview of the application process without eliminating its flexibility, SBA proposes to modify the regulations to generally describe the process and to delete the specific application requirements previously found in § 129.14(b)(2).

Subsection (c) discusses amendments to the application. In response to some comments calling for clarification on this subject, SBA proposes to add a provision making clear that an applicant may submit an amendment to its application at any time for SBA's review. Further, SBA proposes to amend the provision to state that once the Cooperative Agreement is awarded, no amendment, whether submitted by the applicant on its own accord or in response to a request from SBA, is effective until it has been made a part of the Cooperative Agreement by the Grants Management Officer.

In response to public comment, SBA proposes to amend subsection (d), Competing Applications, to state clearly its policy that competing applications will be accepted in states with a currently operating SBDC only after the SBDC has been in operation for five years or more or when SBA has made a decision not to refund an existent SBDC for reasons of nonperformance, poor performance, a disregard for or violations of the regulations or any of the reasons listed in the regulation ("previously causes for terminations"). This proposed policy regarding acceptance of competing applications would apply to applications submitted by subcenters of the operating SBDC as well as by other eligible entities. The proposed policy reflects the agancy's experience that a five year start-up period is generally required for an SBDC to become fully operational. It also incorporates the Agency's view that to allow competing applications to be considered before the SBDC is established and absent a showing of one or more of the above-mentioned causes would be unfair to the SBDC.

One commenter suggested that subsection (e) be amended to allow the agency longer than seven months from the effective date of the Cooperative Agreement. It was the commenter's view that, in light of the filing deadlines on the quarterly reports (45 days after the end of the quarter), the regulation would require a decision not to refund to be made based on only one quarter's performance. SBA considered adjusting the timeframes as suggested by the commenter, but found it impractical to do so in light of the necessity for notice and an opportunity for the SBDC to correct its defective performance.

Another commenter objected to the fact that the procedures outlined in paragraphs (e) (1) through (5) which relate to decisions not to refund operating SBDCs do not incorporate an arbitration by an independent board. It is the agency's view that such arbitration is not called for because the proposed regulations would require notice to the SBDC of the reasons for the proposed decision and an opportunity to correct its deficiencies as well as an opportunity to discuss its case at the District and Regional Office levels before a final decison is made by the Central Office.

SBA proposes to adopt the suggestion of another commenter that the regulation clearly state a period for close-out of an SBDC once SBA has decided not to refund it. Therefore, SBA proposes to amend paragraph (e)(4) to provide for a period of 60 days after SBA has made a decision not to refund an SBDC for that SBDC to conclude its federally funded activities and to submit appropriate documents to the SBA District Office.

Several commenters questioned the purpose of subsection (i), which would require certain employees to submit completed Standard Forms 912 within 30 days of the issuance of the Cooperative Agreement. Such information would enable SBA to perform a criminal background check and are a standard requirement for many SBA programs where individuals are managing substantial Federal funds. SBA has attempted to minimize the proposed regulatory requirement as much as possible by limiting the group of employees to which it would apply and by not requiring its submission prior to the award of the Cooperative Agreement.

Several commenters found the Conflicts Resolution Policy set forth in subsection (k) to be cumbersome. SBA notes that subsection (k) describes the current system for resolving such conflicts which was developed at a joint meeting of SBA and the SBDC State Directors in 1984. While SBA agrees that some streamlining of those producers, as well as those governing disputes resolutions, may be in order, delaying publication of the entire regulation to do so did not seem prudent. SBA does intend to study these procedures over the next several months with an eye toward increasing their effectiveness and eliminating duplication where possible.

Subsection (1), dealing with financial disagreements, is proposed to be amended to shorten the decision process by making the decision of the Grants Management Officer a final decision and by eliminating an appeal to the Grants Management Branch Chief. SBA decided to propose these changes to make the process consistent with the contract dispute resolution procedures used by SBA and other Federal agencies. Moreover, the appeal process proposed in the October 1986 rule would not afford a separate and independent review of the matter since the Grants Management Branch Chief would be responsible in a supervisory capacity for the issuance of the initial decision and, in all likelihood, would be in agreement with that decision.

Section 129.15 Cooperative Agreement.

In response to public comment, SBA proposes to make several amendments to § 129.15 concerning the Cooperative Agreement.

SBA proposes to change subsection (b), Revision to the Cooperative Agreement, in one respect: To require the SBDC to notify SBA in the quarterly report of funding transfers within its budget for that quarter. The October 1986 proposed rule required notice of each transfer as it occurred. The notice requirement was included so that SBA and the SBDC would be aware of the SBDC's cumulative transfers exceeding the 5 percent point, which is the threshold required by OMB Circulars. The compromise adopted in this proposed rule was reached to accommodate the commenters' concern that the proposed reporting requirements were too burdensome, and SBA's interest in maintaining adequate controls on the expenditures of Federal funds and in complying with OMB's guidelines on financial administration.

For reasons discussed above under the procedure for resolving Financial Disagreements, (§ 129.14(1)), SBA proposes to amend subsection (c), Disputes, to eliminate the decision of the Grants Management Branch Chief and to provide for an appeal to a Grants/Cooperative Agreement Appeals Committee which is authorized to make a final decision. These proposed changes would be procedural in nature and would not affect the substantive rights of the recipient organization or the SBDC.

Several commenters would have preferred SBA's inclusion of a non-SBA party on the Grants/Cooperative Agreement Appeals Committee (G/CA Appeals Committee). SBA did not adopt this suggestion because SBA is primarily responsible for ensuring the proper use of Federal funds in the SBDC program and because involvement of non-SBA individuals would delay the decision process.

One or two commenters urged SBA to impose a time limit on the Committee for issuance of its decisions. SBA has determined that adoption of this suggestion is not advisable because of the substantially different time frames required for decisions where factfinding by the Office of Hearings and Appeals is required and for those where such factfinding is not required. It is expected that the Committee would issue its decision expeditiously.

Section 129.16 Suspension and Termination of the Cooperative Agreement.

This section has been deleted from these proposed regulations because SBA is presently working with the Office of Management and Budget and other agencies to develop regulations concerning government-wide Suspension and Debarment. Since this and other SBA programs will be subject to those regulations once adopted in final form, SBA will refrain from addressing the subject in these proposed regulations.

Section 129.17 (Redesignated as § 129.16) Small Business Development Centers (SBDCs).

Some commenters expressed the view that, except in three states, SBA is not authorized to fund more than one SBDC per State. Others stated their view that the recipient organization should also be consulted in a case where SBA is considering funding more than one SBDC in a given State. It is SBA's view that, although in most States one SBDC is appropriate, there may be instances where the small businesses of the State are better served by funding more than one. In those instances, SBA would be authorized to fund more than one SBDC. Therefore, the first comment was not adopted. However, SBA is in partial agreement with the second comment and proposes to amend the regulation to permit consultation with an existent SBDC about the respective areas of service, once a decision has been made to fund more than one SBDC in a given State. SBA also proposes to add a requirement to subparagraph (ii) that determinations of service areas must be consistent with the State plans, in States where such plans exist.

Proposed paragraph (3) of subsection (a) addressed the procedure to be used when, during the budget year, an SBDC would like to add a subcenter or satellite location which was not specified in its proposal. The provision is proposed to be amended to clarify that this procedure would be required only for such subcenters funded in whole or in part by Federal funds. In response to public comment that such procedure would unnecessarily stifle service to small businesses through satellite locations, SBA also proposes to delete satellite locations from the application of the provision.

SBA proposes to amend subsection (b) by deleting and adding certain paragraphs as noted below. The paragraph numbering has also been corrected to conform to the changes.

SBA proposes to amend paragraph (2) of subsection (b) to incorporate SBA's policy that each SBDC develop a written conflict of interest policy and advise each employee annually of such policy. This amendment is consistent with some public comment which objected to SBA's proposed definition of conflict of interest and which expressed the view that the term should be defined locally.

SBA proposes to amend paragraph (3) of subsection (b) to permit the SBDC Director to manage other Federal or State programs aimed at assisting small business in a manner otherwise authorized for SBDCs under section 21 of the Small Business Act. It would be encouraged, but not required, that each SBDC State Director make full use of one or more other Federal or State-funded small business development programs. The SBDC State Director would be permitted to manage the program if necessary to make full use of it. However, prior SBA approval would be required before an SBDC State Director could commit to undertake such responsibility.

SBA proposes to add a new paragraph (4) to subsection (b) which addresses the question of an SBDC State Director or any other full-time employee teaching one or more academic courses. SBA's rationale for this policy is discussed above in the section concerning the definition of "full-time employee", § 129.11(i).

Some commenters objected to previously proposed paragraph (7) (new paragraph (8)) which would require daily time and attendance records on all part-time SBDC and subcenter employees and a certification in the quarterly report by the SBDC Director that each full-time employee dedicated 100 percent of his effort during that quarter to the SBDC program. Based on past experience where SBA has had difficulty accounting for the hours worked by some part-time employees, the method set forth in the October 1986 proposed version remains unchanged in this proposal. Both the method adopted for part-time employees and that adopted for full-time employees are consistent with cost principles set forth in the appropriate OMB Circulars.

New paragraph (9) (previously proposed paragraph (8)) is proposed to be amended in response to public comment to eliminate the requirement that satellite locations operate on a 40-hour week basis or during the normal business hours of the recipient organization. The requirement remains unchanged for the Lead SBDC and for the subcenters. SBA proposes this change to accommodate the nature of satellite locations which are often temporary or short-term in nature.

Several commenters asked that SBA clarify the meaning of the term "client awareness" as used in previously proposed paragraph (3) of § 129.17(c). SBA proposes to reword the provision (new § 129.16(c)) to make clear that when publicizing other Federal and State government small business programs which it participates in, the SBDC is required to note that the program is separately or cooperatively funded, as appropriate.

In response to a comment from SCORE/ACE (Service Corps of Retired Executives/Active Corps of Executives), a separate SBA management assistance delivery program, SBA proposes to amend paragraph (4) of subsection (c) by deleting references to SCORE/ACE participants which inaccurately characterized them as resources of the SBDC.

Several commenters also objected to a provision of paragraph (4) which required the SBDC Director to *ensure* that resources funded through the SBDC were not providing services identical to those otherwise provided to their service area. The commenters believed that an absolute guarantee would be impossible for an SBDC Director to make. The regulation is proposed to be amended to require the SBDC Director to make a good faith effort to determine that duplication is not occurring with SBDC funded services.

The same comment applies to paragraph (1) of subsection (d), Services. SBA proposes to amend that provision in an identical manner.

SBA proposes to further amend subsection (d) to delete a reference to publicity, which is addressed in

subsection (e) of this section, and to clarify the requirements: (1) That training funded by the Cooperative Agreement not duplicate other training in the service area, and (2) that, prior to beginning the training, the SBDC submit for the approval of the Project Officer a statement describing the nature and extent of training that was not anticipated in the Cooperative Agreement, but will be funded in whole or in part by SBDC program funds.

A few commenters recommended the deletion of previously proposed paragraph (9) (new paragraph (10)) which is concerned with organizing vacation schedules to maintain the operations of the SBDC and subcenters. SBA believes that consistent staffing is important to the quality operation of an SBDC network and therefore, has not adopted the recommendation.

SBA proposes to add a new subsection (e) which would require all publicity relating to SBDC funded activities to prominently list SBA as a funding agency and would describe other publicity requirements. Several commenters noted that provisions of the October 1986 proposed rule dealing with training incorrectly included more generalized requirements for publicity. SBA has created this new subsection to correct that oversight.

SBA received a few comments on previously proposed paragraph (e) (new paragraph (f)), Research. One comment noted that research projects do not always present themselves during the budgeting cycle of the SBA. Another comment found the requirement that the SBDC review the national research projects to avoid duplication to be impossible to satisfy as there is no centralized record of such projects at this time. SBA proposes to adopt both of these comments and to amend the proposed regulation accordingly.

Section 129.17 (previously designated § 129.18) SBDC Clients.

Several commenters objected to the paperwork burden that would result from subsection (a), Eligibility, which would require the SBDC to ensure that it served only small businesses. In the interest of minimizing the paperwork requirements to the extent possible, SBA proposes to amend subsection (a) to prohibit an SBDC from knowingly providing assistance to a business which is not considered small under SBA's regulations (13 CFR Part 121) and to permit the SBDC State Director to refer a questionable case to the appropriate Regional Office for a size determination if the Regional Administrator deems it appropriate.

Some commenters suggested that SBA amend proposed subsection (b) to emphasize the role of the annual Program Announcement and the negotiation process which occurs prior to issuance of the Cooperative Agreement. SBA proposes to adopt this comment and to amend subsection (b) accordingly.

Section 129.18 (previously § 129.19) Advisory Boards.

SBA received several comments concerning Advisory Boards. One commenter did not believe that each SBDC should be required to establish a separate advisory board it another body in the State was available for a similar purpose. Several commenters did not feel it was appropriate to require an SBDC to seek a member of SBA's SCORE/ACE organization to participate in its State SBDC advisory board.

For the following reasons, SBA did not adopt the first comment, but proposes to adopt the second comment concerning advisory boards: First, SBA believes that an advisory board which has as its sole purpose providing advice to the SBDC network in its State will have a greater and more beneficial impact on the operations of the program than one which has more diverse issues as its focus. Second, although SBA encourages cooperative efforts among all of its program participants, SBA agrees that such relationships need not, in this instance, be the subject of regulations.

Section 129.19 (previously § 129.20) Financial Aspects of the Program.

Several commenters suggested that SBA remove due dates from subsection (a) Budgeting, and allow them to be contained in the program announcement for greater flexibility. SBA has not adopted this comment. SBA believes that the public, including SBDCs, should be apprised of submission dates which must be met to ensure timely funding of an SBDC.

Some commenters were concerned that the October 1986 proposed regulation did not require the Office of Procurement and Grants Management (OPGM) to issue a continuation of funding in a situation where timely refunding of a Cooperative Agreement will not occur through no fault of the SBDC. Others suggested that two weeks notice of refunding was insufficient for planning purposes. In addition, a few commenters objected to the letter of continued funding lapsing in 120 days from issuance, citing certain instances where the funding should continue beyond the 120 days.

After reviewing these comments, SBA proposes to make the following changes to paragraph (a)(1) of redesignated § 129.19, Budget Proposal. Subsection (a) is proposed to be reworded to require a letter of continued funding to be issued and received at least two weeks prior to the end of the budget period where all approvals have been received by OPGM in a timely fashion. More advance notice would not be required because OPGM would be able to issue a notice of award in the time remaining in the budget period if more than two weeks was available for processing. SBA also added a provision permitting the letter of continued funding to remain in effect past 120 days where SBA and the SBDC are in the process of resolving a conflict or a dispute.

SBA proposes to amend the general requirements section to reference the Program Announcement concerning certain costs and to delete provisions concerning those costs becuse the requirements are set forth in the Program Announcement.

Subparagraph (vi), SBDC and Subcenter Closures, has been redesignated §129.16(b)(11) but otherwise remains unchanged from the previously proposed rule.

Some commenters suggested that SBA amend redesignated § 129.19(a)(3), Transfer of Funds, to incorporate proposed revisions to applicable OMB Circulars on the subject. Since proposed amendments to the appropriate OMB circulars may change significantly before they are finalized, SBA proposes to retain the requirements of the existing circulars and to make appropriate changes when final OMB revisions are published.

Redesignated § 129.19(a)(4), Carryover of Funds (Unobligated, unexpended Federal dollars) is proposed to be amended in subparagraphs (i), (iii), and (iv) for clarity.

Some commenters suggested that redesignated § 129.19(b) be amended to refer only generally to the statutory funding formula because it may be subject to change. SBA proposes to adopt that suggestion.

Some commenters noted that § 129.19(b)(2) (as redesignated) was not consistent with agency policy on cash match. This inconsistency was inadvertent and has been corrected in this proposed rule.

This paragraph is proposed to be further amended to accommodate the view expressed by several commenters that certain state appropriation cycles do not permit verification of cash match prior to submission of a timely SBDC budget proposal, or in some cases, prior

to the first day of the budget period. The regulation is proposed to be amended to require such verification prior to the first day of the budget period where possible, and where the state budget cycle would not permit total compliance by the first day of the budget period, the revised regulation would require verification of matching funds prior to the use of the Federal funds to which the match relates. For example, in situations where a state legislature does not appropriate until March and the SBDC is on a calendar year budget, the SBDC would be expected to submit a budget proposal in March of the previous year and would be able to verify only as much match from the state as was appropriated until March of the following year. Under the revised proposal, the SBDC would be required to verify the remainder of the match as soon as the state's budget cycle permits, but in no case would the SBDC be authorized to expend more Federal funds than it had matched on a one to one basis.

Some commenters expressed their view that an SBDC should be able to use verified spent and unspent overmatch to offset any confirmed audit disallowance relating to the budget year in which the overmatch occurred. The October 1986 proposed regulation permitted only verified unspent overmatch to be used for such purposes. Since SBA wishes to encourage overmatching in the SBDC program, the suggestion of the commenters is proposed to be adopted and § 129.19(b)(2), as redesignated, is proposed to be amended accordingly.

Some commenters objected to SBA's inclusion of impermissible source of matching funds in the regulation (§ 129.19(b)(vi)) because they are listed in the pertinent OMB Circulars. SBA has retained them in this proposed rule because questions regarding these sources have arisen in the past.

The definition of program income, previously found in subparagraph (4)(i) of § 129.20(b), is proposed to be abbreviated to reference the appropriate OMB circulars and is proposed to be included § 129.11, Definitions. SBA, upon internal agency comment, proposes to amend subparagraph (4)(ii) of this subsection, as redesignated, to clarify that income received through cosponsored activities would be considered program income for reporting purposes on Financial Reporting Form 269.

The public response was almost unanimously opposed to the portion of previously proposed § 129.19(b)(5), as redesignated, which would have allowed SBDCs to charge fees for counseling with SBA's prior approval. Therefore, SBA proposes to delete that sentence from the paragraph.

SBA received several comments opposing previously proposed § 129.19(c)(3), Travel, which would have required the employees of the SBDC to abide by the Federal Travel Regulations. Commenters suggested that a more appropriate standard would be the written travel policies of the recipient organization which sponsors the SBDC since the SBDC employees are not, strictly speaking, Federal employees, but rather employees of the sponsoring organization. SBA proposes to adopt this comment and has amended this proposed regulation appropriately. In addition, minor changes are proposed to subparagraph (v) to require proposed out-of-state travel which exceeds the budgeted amount for travel to be submitted to the Project Officer for approval.

Many commenters addressed paragraph (4) of this subsection which concerns dues payments to civic, business, technical and professional organizations. Some objected to SBA's absolute prohibition of SBDC program funds being used to pay dues to organizations that may lobby, citing the benefits to the small business community of the SBDCs' membership in certain types of organizations, such as Chambers of Commerce. To accommodate this concern, subparagraph (v) of the regulation is proposed to be amended to permit up to $250 of dues payments per organization per year without a certification by the SBDC Director or Chief Financial Officer regarding lobbying. SBA recognizes that most such organizations charge minimal membership fees and that, although a small fraction of such dues may be spent for lobbying, it is not administratively feasible to trace such small amounts by their use within each organization.

However, the Agency remains committed to ensuring that the Federal and matching funds dedicated to the program are spent to further program interests in legally permissible ways. Therefore, this proposal would require a certification from the SBDC Director or Chief Financial Officer as a part of the budget submission that organization dues in excess of the minimal threshold would not be used directly or indirectly for lobbying as defined in § 129.11(q) of this regulation.

A few commenters objected to the requirement in proposed subparagraph (iv) of a separate written justification for dues payments exceeding $2,000 per organization per year which are paid with program funds. As stated in the preamble to the previously proposed rule, payments from program funds exceeding $2,000 per year per organization should be separately justified because such payments would represent substantial amounts of program funds which should be spent only to further program purposes consistent with the rules and policies of the SBDC program.

Section 129.20 (previously § 129.21) Evaluation of the SBDC Program.

Some commenters noted that paragraph (2) of § 129.20(b) (as redesignated), Client Control Records, should be amended to require projected client results only for long term counseling clients. For reasons of confidentiality with the small business client, other members of the public objected to paragraph (6) of this subsection relating to which documents retained by the SBDC must be made available to SBA upon request. To prevent such documents from being duplicated by other SBA personnel for reasons unrelated to the SBDC and its assistance, the public suggested that the regulation permit such records to be duplicated for SBDC performance reviews and audit purposes only.

SBA proposes to adopt both suggestions in these proposed regulations.

A few commenters requested a longer time for the final filing date of the quarterly report. SBA has proposed to allow the SBDCs 45 days following the end of the quarter to submit their reports. SBA also proposes to abbreviate paragraph (2) of that subsection. Since most of the requirements are set forth in the Cooperative Agreement with each SBDC, SBA proposes to delete all of the requirements of paragraphs (2) and (3) as redundant of the provisions of the Program Announcement.

In response to several comments on the relationship of the Single Audit Act (31 U.S.C. 7501, *et seq.*), to the audit authority of SBA's Inspector General, SBA proposes to amend redesignated § 129.20(e)(2), Audits, to clarify that, in his or her discretion, SBA's Inspector General may condust financial or compliance audits of an SBDC even where a single audit of the recipient organization has been performed. The Single Audit Act encourages agencies to accept the findings of the single audit team, but does not proscribe agencies from conducting their own audits when deemed necessary.

The paragraph is also proposed to be amended in response to public comment to clarify that the Office of Inspector General would assume the costs of any

audit of an SBDC that it requried the SBDC to have performed by a qualified independent public accountant.

Subparagraph (v) of § 129.20(e)(2) is proposed to be deleted from the final rule as duplicative of subparagraph (iii) of that paragraph.

Some commenters questioned on what basis SBA could know that someone was "about to engate in actions which would constitute a violation of the Small Business Act * * *." Redesignated § 129.20(e)(3), Investigations, is proposed to be amended to clarify that SBA may conduct an investigation where information is received which indicates that such a violation is about to occur.

SBA proposes to make minor amendments to redesignated § 129.20(f) to more accurately reflect the scope of on-site reviews of SBDCs.

Compliance With Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Paperwork Reduction Act (44 U.S.C. ch. 35) and the Administrative Procedure Act (5 U.S.C. 552 et seq.)

Executive Order 12291

For the purposes of E.O. 12291, SBA has determined that this proposed rule is not a major rule because it would not, if adopted in final form, have an annual effect on the economy of $100 million or more. The total SBDC budget for FY 1987 was $35 million. The non-Federal equal matching requirement added another $35 million to the program budget. Although many of the SBDCs are partially funded by non-Federal contributions over and above the matching requirement, it is unlikely that those contributions would equal the $30 million or more needed to exceed the $100 million threshold of a major rule.

Moreover, this rule would not be likey to result in a major increase in costs for consumers, individual industries, Federal, States, or local government agencies, or geographic regions, or to have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based businesses to compete with foreign-based businesses in domestic or export markets. Therefore, it would not be a major rule for purposes of E.O. 12291.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) (RFA), SBA certifies that this proposed rule will not, if promulgated in final form, have a significant economic impact directly on a substantial number of small entities. If adopted in final form, these regulations would set forth the policies and operational requirements of the SBDC program, which affect only the SBDCs or their sponsoring organizations directly. The vast majority of entities potentially affected by this rule would not be considered small for purposes of the Regulatory Flexibility Act.

In a 1985 case, *Mid-Tex Elective Cooperative v. Federal Energy Regulatory Commission*, the U.S. Court of Appeals for the District of Columbia held that indirect impact on small business is not properly considered for purposes of the FRA. 773 F.2d 327, 340–343 (1985).

Paperwork Reduction Act

All reporting and recordkeeping requirements of this regulation which require approval by the Office of Management and Budget under the Paperwork Reduction Act are published in Part 133 of this title. Anyone wishing to comment on such requirements may send written comments as specified under the ADDRESS caption of this rule, or to Robert Neal, SBA Desk Officer, Room 3228 New Executive Office Building, 726 Jackson Place, Washington, DC 20503.

Administrative Procedure Act

SBA is publishing this regulation in proposed form to afford the public a 30-day period in which to comment on changes made to the rules proposed in October 1986. Although the issues raised by this revised proposed rule were presented in the October 1986 proposed rule and many public comments were adopted, SBA wishes to allow further opportunity for public input.

List of Subjects in 13 CFR Part 129

Active Corps of Executive (ACE), Service Corps of Retired Executive (SCORE), Management assistance, Small Business Development Centers, Small Business, Federal assistance, Volunteers.

Accordingly, pursuant to the authority contained in section 5(b) and 21 of the Small Business Act (15 U.S.C. 634(b) and 648), Part 129, Title 13 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 129 continues to read as follows:

Authority: Secs. 2, 7(i), 7(j), 8, and 21 of the Small Business Act, as amended (15 U.S.C. 631, 636(i), 636(j), 637(b), 648); section 302(c)(2), Domestic Volunteer Service Act, Pub. L. 93–113, 87 Stat. E.O. 11871, dated July 18, 1975.

2. Sections 129.1 through 129.5 are designated as Subpart A—General and §§ 129.6 through 129.9 are designated as Subpart B—Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE)—Payment of Out-of-Pocket Expenses to Volunteers.

3. A new Subpart C is added to read as follows:

Subpart C—Small Business Development Centers (SBDCs)

Sec.

Subpart C—Small Business Development Centers (SBDCs)

§ 129.10 Introduction.

(a) The Small Business Development Center (SBDC) Program is a Small Business Management and Technical Assistance Service being approved under the program authority and responsibility of the SBA. The program is a partnership between the SBA and the State-endorsed organizastion receiving SBA appropriated funds as well as other funds being provided by other sources. It is a decentralized program where SBA delegates operational management of the program to SBA regional and district office personnel. The implementation of the program is accomplished through a Cooperative Agreement wherein SBA and the SBDC negotiate the types of services to be performed by the SBDC during a given time period.

(b) *Purposes.* (1) The SBDC program is designated to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity, and management improvement, thereby assisting in furthering economic development.

(2) SBDCs are intended to be responsive to local needs in providing assistance to the small business community as mutually identified by the SBA Project Officer and the SBDC State Director.

(c) *Relation of an SBDC to SBA.* The SBDC Program shall be under the general management and oversight of SBA, but with recognition that a partnership exists between SBA and each SBDC for the delivery of assistance to the small business community. However, the final authority for the

selection of SBDCs, the terms of the Cooperative Agreement, and the establishment of program policy rests with SBA.

§ 129.11 Definitions.

(a) *Applicant Organization or Applicant.* That entity which applies to sponsor a lead SBDC, as defined in paragraph (q) of this section. After funding is approved and the entity enters into a Cooperative Agreement with SBA, the applicant organization is then referred to as the recipient organization.

(b) *Budget period.* Generally, a 12-month period in which expenditure obligations are incurred, which coincides with either the calendar year or the Federal fiscal year and which is annually reviewed for renewal upon submission and subsequent negotiation of a proposed Cooperative Agreement and upon appropriation of the necessary funds by Congress.

(c) *Cash match.* Non-Federal funds allocated specifically to the SBDC equaling the Federal contribution and under the direct management of the SBDC State Director or, for accounts relating to subcenters, under the direct management of subcenter directors. At no time may cash match include indirect costs, overhead costs or in-kind contributions. Cash match may include direct costs committed by the applicant organization (personnel services, fringe benefits, consultants, etc.), only to the extent that such costs are committed as part of the specific direct line item costs verified by the certifying representative prior to funding. Cash match shall not include:

(1) Funds contributed from other Federal sources;

(2) Program income or fees collected from recipients of assistance; or

(3) Amounts committed by the applicant organization for unidentified and/or contingent costs in the budget proposal.

(d) *Conflict.* For purposes of this subpart, conflict means any preaward disagreement or problem between an SBDC, an applicant organization or a recipient organization and SBA regarding any matter relating to the SBDC application or application process.

(e) *Direct costs.* See definition set forth in Office of Management and Budget (OMB) Circulars A–21, A–87 or A–122, as appropriate.

(f) *Dispute.* For purposes of this Subpart, dispute means any disagreement or problem between an SBDC or the recipient organization and SBA concerning one or more elements of the SBDCs Cooperative Agreement.

(g) *Financial disagreement.* For purposes of this subpart, financial disagreement means a problem or disagreement relating to the budget proposal of an SBDC or applicant organization which arises prior to the award of the Cooperative Agreement. Upon issuance of the Cooperative Agreement, any disagreement relating to the SBDC's budget will be treated as a dispute. (See § 129.11(f).)

(h) *For-profit organization.* Any entity organized for profit.

(i) *Full-time employee.* An employee of the recipient organization who is assigned to work at the SBDC 40 hours per week or the full customary work week of the recipient organization.

(j) *Grants/Cooperative Agreement Appeals Committee.* The six-member Committee responsible for, among other things, resolving appeals arising in disputes between a recipient organization or an SBDC and the SBA after the Cooperative Agreement for that budget period has been awarded. The membership of the Committee is designated by the Administrator. (See, Disputes, § 129.15(c).)

(k) *Grants Management Branch Chief.* The Chief of SBA's Grants Management Branch, who supervises Grants Management Officers. The Grants Management Branch Chief is the person responsible for overseeing fiscal compliance of the SBDC Program with the terms of the Cooperative Agreement.

(l) *Grants Management Officer.* A certified specialist in SBA's Grants Management Branch within the SBA Office of Procurement and Grants Management who awards the Cooperative Agreement and oversees the implementation and operation of Federal grants involving SBA.

(m) *Indirect costs.* See definition set forth in Office of Management and Budget (OMB) Circulars A–21, A–87 or A–122, as appropriate.

(n) *In-kind contributions.* These are valued according to OMB Circulars A–102 or A–110, as appropriate.

(o) *Key SBDC employee.* Any employee of an SBDC having managerial, oversight or substantive control over the activities of the SBDC or any SBDC subcenter.

(p) *Lead SBDC.* The entity which serves as the administrative headquarters of the SBDC network for the purpose of coordinating the delivery of assistance to the small business community. A lead SBDC may also function as a subcenter and provide assistance directly to the small business community.

(q) *Lobbying.* (1)(i) Any attempt to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

(iii) Any attempt to influence:

(A) The introduction of Federal or State, legislation; or

(B) The enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or state or local legislature (including efforts to influence State officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Any attempt to influence:

(A) The introduction of Federal or State legislation, or

(B) The enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any demonstration, march, rally, fund-raising drive, lobbying campaign or letter writing or telephone campaign; or

(v) Any legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in proscribed lobbying.

(2) However, the following activities are excepted from the definition of lobbying:

(i) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract, or other agreement through hearing testimony, oral or written statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under

this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

(ii) Any lobbying proscribed by paragraph (q)(1)(iii) of this section to influence State legislation in order to obtain matching contributions, to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

(iii) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

(r) *Overmatched amount.* That amount of indirect, in-kind or cash contributions by the recipient organization or by a third party to the recipient organization which exceeds the required non-Federal contribution to the program budget of an amount equal to the Federal grant.

(s) *Part-time employee.* An employee of the recipient organization who is assigned to work at the SBDC less than 40 hours per week or less than the full customary work week of the recipient organization.

(t) *Program announcement.* SBA's annual publication of items which an applicant organization must address in its application in order to be considered for SBDC funding by SBA.

(u) *Program income.* Gross income earned by the recipient from federally supported activities, as defined in OMB Circulars A–102 and A–110.

(v) *Program Officer or SBA Program Officer.* The person in SBA's Central Office of SBDCs assigned to oversee the operations of certain SBDCs.

(w) *Project Officer or SBA Project Officer.* Generally the person in the SBA district office designated by the SBA District Director and appointed by the SBA Office of Procurement and Grants Management who monitors and oversees the Cooperative Agreement and the ongoing operations of the SBDC located in the geographic area served by the district office. The Project Officer is usually the Assistant District Director for Business Development within a particular district office, but can also be an SBA employee directly responsible to the District Director. In circumstances where the SBDC will cover multiple SBA districts, an SBA employee who reports to someone other than the district director may be designated the Project Officer, with concurrence from the Deputy Associate Administrator for Business Development/Office of Small Business Development Centers.

(x) *Project period.* The period of time beginning on the day of award and normally continuing in twelve (12) month increments until terminated by SBA. A project period will normally consist of a number of budget periods.

(y) *Qualified independent public accountant.* Certified public accountant or public accountant licensed on or before December 31, 1970, or persons working for a certified public accounting firm or a public accounting firm licensed on or before December 30, 1970.

(z) *Recipient organization.* That organization which enters into a Cooperative Agreement with SBA after applying to be admitted into the SBDC Program.

(aa) *Resources.* SBDC lead center, subcenter or satellite staff, as well as professional consultants, Chambers of Commerce, members of professional associations, qualified student counselors, SBI student teams, university faculty, volunteers or other Federal, State or local personnel qualified to offer small business assistance.

(bb) *Satellite.* Location other than a subcenter used by an SBDC network for program delivery.

(cc) *SBDC Network or SBDC Program.* The combination of the lead SBDC and the SBDC subcenters and satellite locations.

(dd) *SBDC State Director.* Regardless of the area of service of the SBDC, the person with the highest full-time management position within the organization of any SBDC. As part of his/her full time management responsibilities, the SBDC State Director may manage other Federal and State government programs that are concerned with aiding small business in a manner otherwise authorized for SBDCs under the Small Business Act. Implementation of the Program and ultimate responsibility for the operation of an SBDC rests with the SBDC Director.

(ee) *SBDC Subcenter.* An entity which is directly responsible to the lead SBDC for the delivery of assistance to the small business community. A written agreement must govern the relationship between a lead SBDC and its subcenter.

(ff) *Subcenter Director.* The person with the highest management position within an SBDC subcenter. The Subcenter Director runs the day-to-day operations of an SBDC subcenter and is programmatically responsible to the SBDC State Director.

(gg) *Working days.* For purposes of this subpart, those days excluding Saturdays, Sundays and those holidays designated in the Cooperative Agreement.

§ 129.12 Entities eligible to establish an SBDC.

(a) The following entities are eligible to enter into a Cooperative Agreement with the Small Business Administration for the purpose of establishing or continuing the operation of a Small Business Development Center:

(1) Any State government or any of its agencies;

(2) Any regional entity;

(3) Any State-chartered development, credit or finance corporation;

(4) Any public or private institution of higher education;

(5) Any land-grant college or university;

(6) Any college or school of business, engineering, commerce, or agriculture;

(7) Any community or junior college; or

(8) Any entity formed by two or more of the above entities.

(b) SBDC subcenters are not required to meet the eligibility requirements of a lead SBDC.

§ 129.13 Allocation of funds.

(a) The Deputy Associate Administrator for Business Development/SBDCs shall be responsible for the allocation of program funds. The DAA/BD/SBDC will consider recommendations by each Regional Administrator for the allocation of funds within the states within his/her region and from appropriate District Directors. Funds shall be allocated based on applicants' abilities to provide services in the following service categories:

(1) Maintainance of existing services to areas already served by SBDCs,

(2) Provision of service to new areas in States and regions already serviced by SBDCs,

(3) Increases in services provided to areas already served by SBDCs established within the previous three years,

(4) Increases in services to areas already served by SBDCs established prior to the previous three years,

(5) Establishment of service to areas in States and regions not already serviced by SBDCs.

(b) The most important service category is maintenance of existing services to areas already served. The other service categories shall be weighted as deemed appropriate by the DAA/BD/SBDCs.

(c) In determining the allocation of funding among applicants for funding and refunding, significant factors shall include:

(1) Whether or not previous Federal funding has reached the statutory

funding cap (the greater of $200 thousand or the pro rata share of a $65 million program based on the population to be served by the SBDC as compared to the total population of the United States);

(2) The ability of the applicant to contribute matching funds;

(3) The amount or precentage of total funds allocated to each of the service categories in the preceding fiscal year;

(4) The amount of funding per capita already provided, or to be provided, in the areas served; and

(5) For applicants who have been previously funded, the quality of the performance in the previous year.

§ 129.14 Application procedure.

(a) *General.* (1) An eligible entity may apply to participate in the Small Business Development Program by submitting an application and three copies of the proposal to the SBA district office covering the State or region in which the applicant proposes to provide service. The application shall include a signed Application for Federal Assistance (SF 424). The application shall not be inconsistent with any area-wide plan providing management assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. The application shall indicate what officials are authorized to amend the application with regard to all or particular parts of such application.

(2) An application for the initial funding only of an SBDC must include a letter of endorsement by the Governor of the State in which the SBDC will operate or his delegatee.

(b) *Contents—General.* The application shall set forth the eligible entity or entities participating in or to participate in the program, a list of the centers and subcenters by name and address, the geographic areas to be serviced, the resources to be used, the services that will be provided, the method for delivering the services, including a description of how and what extent academic, private and public resources will be used, a budget, a State or Regional Advisory Board and other information set forth in the Program Announcement.

(c) *Amendment.* The applicant should make every effort to ensure that the application is complete when filed. Authorized SBA officials at the district, regional and Central Office levels may request that the applicant amend an application. At any time, as SBDC may file an amendment for SBA's review. Any amendment shall be signed by the official authorized to do so on the regional application. No application amendment submitted after the Cooperative Agreement has been entered in effective until it is incorporated into the Cooperative Agreement by the Grants Management Officer.

(d) *Competing applications.* (1) Except as provided in paragraphs (d)(1)(i) through (viii) of this section, an existing SBDC will be refunded to provide service to an area it is already servicing in preference to a competing application provided that it has operated for less than five years. An SBDC will not be refunded if there has been clear showing of nonperformance, poor performance, a disregard for or violation of these regulations, or any of the following reasons:

(i) A willful or material failure to perform under the Cooperative Agreement under other public agreements or under these regulations.

(ii) Conduct within an SBDC indicating a lack of business integrity or honesty which affects the present responsibility of that SBDC.

(iii) Conviction of or civil judgment against the SBDC Director, any subcenter Director or any key SBDC employee for:

(A) Fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public or private agreement; or

(B) Bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction or justice, receiving stolen property, or theft.

(iv) As defined by the SBDCs written conflict of interest policy, a conflict of interest or self-dealing by the SBDC Director, any subcenter Director, or any key employee.

(v) Improper use of letter of credit.

(vi) Failure of the SBDC Director to work at the SBDC on a full-time basis.

(vii) Failure of an SBDC, its subcenters, or the recipient organization to consent to audits or investigations or to maintain required documents and records.

(viii) Any other cause not otherwise specified which seriously and adversely affects the operation or integrity of an SBDC or the SBDC program

(2) Where an existing SBDC has operated five years or more, where an existing SBDC will not be refunded, or where no SBDC has been funded and SBA receives more than one application for a particular region or State, the relevant SBA District Office shall decide which application to pursue based upon which application more closely responds to the needs of the small business community in the area to be served by that SBDC. Where the applications cover more than one SBA district, the appropriate SBA regional office shall make the decision in consultation with the Deputy Associate Administrator for Business Development/SBDCs.

(3) Where two or more applications are received for the same geographical area, the Project Officer shall encourage agreement between the competing applicants to establish and operate an SBDC through their combined efforts. Should agreement not be reached, paragraph (d)(2) of this section applies.

(e) *Decisions not to refund previous program participant.* In situations where the SBA District Office has sufficient evidence of an SBDC's nonperformance poor performance, a disregard for or violation of these regulations or any of the reasons set forth in § 129.14(d)(1) (i) through (viii), the SBA District Office shall notify the SBDC State Director and any other appropriate official of the recipient organization of its intention not to refund the SBDC. This notification must be forwarded to the recipient organization no later than five months prior to the expiration of the current Cooperative Agreement then in existence. However, when the District Office has sufficient evidence of an SBDCs disregard of or violation of these regulations or of any other cause(s) listed in § 129.14(d)(1) (i) through (viii), the SBA District Office may waive the notification period with the concurrence of the Regional Office, the Deputy Associate Administrator for Business Development/SBDCs, and the Grants Management Officer.

(1) This notification shall specifically cite the reasons for the proposal not to refund the SBDC and allow the recipient organization a 60-day period within which to make changes and adjustments in its operations to correct the problem cited in the notice, and to report to the SBA District Office officially, in writing, on the results of such changes.

(2) If the recipient organization is unwilling or unable to resolve the specific problem areas to the satisfaction of the SBA district office within the 60-day time frame, the Project Officer shall describe, in writing, any issue raised and clearly state the positions of his office and the SBDC. The Project Officer shall refer such description and any supportive documentation to the appropriate regional office within ten calendar days of the close of the 60-day period.

(3) If the regional office cannot resolve the matter within 15 calendar days of receipt, it shall refer the issue and its position in writing along with any

supporting documentation to the Deputy Associate Administrator for Business Development/SBDCs for final resolution.

(4) The Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee shall transmit the final resolution in writing to the recipient organization, the SBDC State Director, the Project Officer, the Grants Management Officer and other appropriate SBA Regional and District Office personnel within 15 calendar days of receipt. If the Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee determines that available evidence clearly indicates nonperformance, ineffective performance, or an unwillingness to implement suggested changes to improve performance, the SBA district office shall pursue proposals from other organizations interested in applying for SBDC designation. The SBDC shall have sixty days to conclude operations and to submit close-out documents to the appropriate SBA District Office.

(5) Provided that competing applications are being accepted, nothing herein precludes a subcenter of the previously funded recipient organization from applying for designation as the recipient organization.

(f) *Notice of applications under Executive Order 12372.* Applicants submitting proposals to SBA for operation of an SBDC are bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs."

(1) To ensure compliance with this Executive Order and SBA's regulations pursuant thereto (13 CFR Part 135), SBA will publish a Notice in the **Federal Register** to provide public awareness of the pending application of presently existing SBDCs for refunding and of the pending application for funding of proposed SBDCs. The Notice shall describe the SBDC program, highlighting the area proposed to be served by the applicant and the proposed amount of funding.

(2) A copy of such Notice will be simultaneously furnished to each affected State single point of contact, which has been established under Executive Order.

(g) *Application review*—(1) *District Office.*

The responsibility of assuring that an application is acceptable rests initially with the district office having jurisdiction in the State or region which the SBDC proposes to serve primarily. The district office in that State or region shall request and obtain such amendments to the application as are necessary or desirable to ensure that: (i) The requirements of these regulations and SBA policies are met, and (ii) the SBDC will respond to the needs of small businesses in the area to be served by the SBDC in a cost effective manner and in concert with other small business assistance efforts. Such needs will be determined by the appropriate SBA District Office after consultation with the SBDC State Director. Once the application is complete to the satisfaction of the district office, the district office shall forward its recommendation, either to approve or disapprove, in writing to the appropriate Regional Administrator, and shall submit the application, as amended, for review by that regional office.

(2) *Regional Office.* The regional office shall review the application to determine its conformity with the requirements of the regional operating plans and priorities, the SBDC regulations, and the national policies and priorities of the Agency. The regional office, through the Project Officer in the district office, may request amendments to the application, if necessary, to better accomplish the goals of the program. When the application, as amended, has been thoroughly reviewed by the regional office, that office shall issue a written recommendation to approve or disapprove and shall specify the reasons therefore. The regional office shall forward a copy of the application, the district office's recommendation, and its recommendation to the Central Office for review.

(3) *Central Office.* (i) The Office of SBDCs, in consultation with the Office of General Counsel, shall assure the conformity of the application to the statutory and regulatory requirements, national priorities, and policies of the SBA. The office may request, through the region and district offices, amendments to the application related to such requirements, priorities and policies, if necessary, to better accomplish the goals of the program.

(ii) The Office of Procurement and Grants Management shall negotiate and determine the reasonableness, allowability and allocability of all dollars committed to assure the conformity of the application with the statutory, financial and regulatory requirements, OMB Circulars, and procurement and grants management policies which it administers. It may request amendments to the application related to such responsibilities.

(iii) The Deputy Associate Administrator for Business Development/SBDCs may approve, conditionally approve, or reject any application. If the application is rejected, the Central Office shall simultaneously communicate the reasons therefor to the applicant, the regional office and the district office. If the approval is conditional, the conditions shall be set forth in the Cooperative Agreement. Upon approval or conditional approval, a Cooperative Agreement shall be issued.

(h) Within 30 days of the issuance of a Cooperative Agreement, the State Director, each Subcenter Director and any employee with authority to commit funds must complete and submit SF 912 to SBA's Office of Personnel and Physical Security, Room 203, 1441 L Street, NW., Washington, DC 20416.

(i) *Pre-award audits.* Any SBDC may be subject to a preaward audit prior to the issuance of or continuation of the Cooperative Agreement. All applicant organizations that propose to enter the Program for the first time will be subject to a preaward audit. The purpose of a preaward audit is to verify the adequacy of the accounting system, the allowability of the proposed costs and the proposed matching contribution, including, the source(s) of the matching contributions.

(j) *Conflicts Resolution Policy.* All conflicts will be resolved pursuant to SBA's Conflicts Resolution Policy.

(1) Every effort shall be made to resolve programmatic conflicts at the SBA district office level. The SBDC Director, or proposal developer in the case of a first-time SBDC, shall direct all such questions or conflicts to the SBA Project Officer.

(2) In those infrequent instances in which issues and problems cannot be resolved at the SBA district office level within 15 calendar days, and no agreement has been reached between the parties to extend the resolution period, the issue will be referred, in writing, by the Project Officer or the SBDC Director/proposal developer to the appropriate SBA regional office for resolution. Upon receipt, the Regional Administrator, or his delegatee, shall ensure that good faith attempts had been made by both parties to resolve the issue. If so, the regional office will confer with the SBDC Director's supervisor and attempt to mediate the issue within 15 calendar days of receipt. If not, the regional office will return the issue to the district office for further resolution efforts.

(3) If the regional office and the SBDC Director's supervisor cannot resolve the matter within the specified time, the issue will be referred, in writing, to the

Deputy Associate Administrator for Business Development/SBDCs for final resolution. Upon receipt, the Deputy Associate Administrator for Business Development/SBDCs or his/her delegatee, shall ensure that good faith attempts had been made at the district and regional office levels to resolve the conflict. If so, the Deputy Associate Administrator for Business Development/SBDCs shall confer with the person associated with the SBDC who has supervisory authority over the SBDC Director's immediate supervisor and the SBDC Director to resolve the issue. If not, the Deputy Associate Administrator for Business Development/SBDCs shall return the issue to the appropriate office for further resolution efforts. As soon as practicable, a final decision regarding the conflict is made by the DAA/BD, in writing, to the SBDC and SBA regional and district offices.

(k) *Pre-award financial disagreement.* After 30 days of attempted resolution of a financial disagreement, any applicant that wishes to resolve such disagreement or issue concerning its application must submit a written statement describing the matter to the appropriate Grants Management Officer in the Office of Procurement and Grants Management, with a copy of such statement provided simultaneously to the Project Officer. The Grants Management Officer must issue final written determination to the applicant within 15 calendar days of receipt of the statement. Copies of the determination must be sent to cognizant SBA offices.

§ 129.15 Cooperative Agreement.

(a) *General*—(1) *Description.* Upon approval of the initial or renewal application, the recipient organization and SBA enter into a Cooperative Agreement. The Cooperative Agreement sets forth the programmatic and fiscal responsibilities of the recipient organization and the SBA, and describes the scope of the project to be funded as well as the budget of the program year covered by the Cooperative Agreement. These responsibilities are described in greater detail throughout this part.

(2) Principles for determining administrative requirements are contained in the following Office of Management and Budget Circular and are applicable to the Cooperative Agreement: A–110 (for programs administered by educational institutions and nonprofit organizations), and A–102 (for programs administered by State and local governments).

(b) *Revision to Cooperative Agreement.* A revision to the Cooperative Agreement may be requested in writing, by either the recipient or SBA. Such revision will normally relate to changes in the scope of work, or funding, during a project year. For example, the recipient may wish to transfer dollars from one line item category to another. Should the transfer, together with any other transfers made during that program year, not exceed 5 percent of the approved total budget, prior approval from SBA is not required, however, the SBA Office of Procurement and Grants Management must be notified of the transfer in the quarterly report submitted by each SBDC. Should the amount of transfer exceed 5 percent, either singly or in conjunction with other transfers, then prior SBA written approval and a written revision to the approved budget is required. Any revision to the Cooperative Agreement must have approval of the cognizant SBA field offices and the DAA/SBDC. All revisions shall be issued by the Grants Management Office.

(C) *Disputes.* (1) All communications relating to disputes under the Cooperative Agreement must be transmitted to SBA's Office of Procurement and Grants Management, with a copy of such transmittal provided simultaneously to the Project Officer.

(2) *Disputes resolution procedure.* (i) Any recipient organization or SBDC that wishes to resolve a dispute concerning one or more elements of its Cooperative Agreement must submit a written statement describing the subject of the dispute together with evidence of such dispute to the appropriate Grants Management Officer in the Office of Procurement and Grants Management, with a copy of such statement and evidence to the Project Officer. The Grants Management Officer must respond to such dispute within 30 calendar days of receipt of the descriptive statement.

(ii) If the recipient organization or the SBDC receives an unfavorable decision regarding the dispute, they may make a final appeal to the SBA Grants/Cooperative Agreement Appeals Committee. The appeal must be received within 30 calendar days of the date of the Grants Management Officer's letter by the Chairman, SBA Grants/Cooperative Agreement Appeals Committee, Room 600, 1441 L Street NW., Washington, DC 20416. A copy of the appeal shall also be sent to the Director, Office of Procurement and Grants Management.

(iii) There is no prescribed form for submission of an appeal. Formal briefs and other technical forms of pleading are not required. However, appeals must be in writing and should be concise and logically arranged. Appeals are required to contain at least the following:

(A) Name and address of appellant;

(B) Identity of the SBA office/program and the Cooperative Agreement/Grant;

(C) A statement of the grounds for appeal, with reasons why the appeal should be sustained;

(D) Any documents or other evidence in support of the appeal not previously furnished the Grants Management Officer;

(E) A request for the specific relief desired on appeal; and

(F) A statement as to whether or not a hearing is requested, and if requested, the reasons why a hearing would materially assist in resolving the dispute. Requests for hearing will not usually be granted unless significant material facts are substantially in dispute.

(iv) If a request for a hearing is denied, or no request is made, the Committee will reach a decision on the merits of the appeal as soon as practicable. The Committee may solicit additional information or material before reaching its decision.

(v) If a request for a hearing is granted, the Committee will issue appropriate written instructions to the appellant pertaining to the hearing. Following the hearing, the Committee will reach a decision as soon as practicable. The Committee may solicit additional information or material before reaching its decision.

(vi) The Chairman, with advice from the Office of General Counsel, will prepare a written final decision to be transmitted to the appellant with a copy to the Director, Office of Procurement and Grants Management.

(vii) *Expedited Dispute Appeal Process.* When a dispute which may affect refunding arises within 120 days of the end of the budget period, the Committee, in consultation with the Office of Procurement and Grants Management, by an affirmative vote of two members, may agree to shorten all response times as necessary to reach final resolution of the dispute before the timely issuance of a new Cooperative Agreement. At any time during the appeal process, either the appellant or the Project Officer may submit a written request to use an expedited process.

§ 129.16 Small Business Development Centers (SBDCs).

(a) *Area of service and location of SBDCs*—(1) *Area of service.*

(i) The area of service for any SBDC shall be the State in which it is located. In exceptional circumstances, more than one SBDC may be located in any State

in which, in the determination of the Deputy Associate Administrator for Business Development/SBDCs, in consultation with the appropriate Regional Administrator, it is necessary or beneficial to effectively implement the program and to provide services to all interested small businesses.

(ii) Where more than one SBDC is to be located in a given State, the Deputy Associate Administrator for Business Development/SBDCs, in consultation with the Regional Administrator and the recipient organizations, shall determine in writing the general geographic areas to be served by the SBDCs in that State. Such determination shall be consistent with the State plan. Each SBDC shall provide assistance and services to those small businesses of the State located in the general geographic area to which it is assigned.

(iii) According to the terms of the Cooperative Agreement, certain SBDCs may be permitted by the Deputy Associate Administrator for Business Development/SBDCs, after consultation with the appropriate Regional Administrator, to provide advice, information and assistance to small business concerns located outside the State in which the SBDC is located if the small business is located within a close geographic proximity to the lead SBDC or an SBDC subcenter.

(2) *Location of lead SBDCs, subcenters and facilities.* The facilities and staff of each SBDC network shall be located in such places as to provide maximum accessibility and benefits to the small businesses which the network is intended to serve.

(i) Lead SBDCs and subcenters should be structured to serve major small business population areas of the State.

(ii) SBDC program outreach shall be established by all SBDCs in such locations as mutually determined by the SBDC Director and the SBA Project Officer to provide maximum accessibility and benefits to the small business community. The proper location of the SBDC and subcenters will be annually reviewed by the SBDC Director and Project Officer and the addresses and telephone numbers of existing or new locations will be noted in the annual Cooperative Agreement. Subcenters and satellite locations should be primarily located in the heart of some local communities.

(3) *Subcenters not in the application.* A request for any subcenter not in the original proposal and to be funded in whole or in part by Federal funds must be submitted as an amendment to the Cooperative Agreement to the appropriate SBA district office, and shall be processed according to the procedures used for approving amendments to applications.

(b) Staff and access requirements. (1) Each SBDC shall operate as an independent organization within the receipt organization.

(2) Each SBDC shall have—

(i) A full-time staff, including a full-time Director;

(ii) Access to business analysts to counsel, assist, and inform small business clients;

(iii) Access to technology transfer agents to provide state of the art technology to small business through coupling with national and regional technology data sources;

(iv) Access to information specialists to assist in providing information searchers and referrals to small business;

(v) Access to part-time professional specialists to conduct research or to provide counseling assistance when the need arises;

(vi) Access to laboratory and adaptive engineering facilities; and

(vii) A written conflict of interest policy and shall advise each employee of such policy annually.

(3) The SBDC Director shall, consistent with the Cooperative Agreement and the budget approved therein by SBA, have the authority to make expenditures under the SBDCs budget, including any funding from other Federal or State programs. The SBDC Director shall implement and manage the activities and services of the SBDC program, and, where applicable and approved by SBA, such other Federal and/or State programs that are concerned with aiding small business in a manner otherwise authorized for SBDCs under the Small Business Act.

(i) The Director's position shall be the highest full-time management position established within the organization of any SBDC.

(ii) In a university setting, the SBDC Director shall be directly accountable for the performance of the SBDC to an official of the university at a Dean's level or higher.

(iii) In a nonuniversity setting, the SBDC Director shall be directly accountable for the performance of the SBDC to an official of the state-endorsed organization at a level equivalent to or higher than that of a Dean at a university.

(4) Any full-time employee may teach one course during non-business hours of the SBDC; however, prior approval by the Project Officer is required to permit a full-time employee to teach more than one course or to teach during business hours of the SBDC.

(5) All paid SBDC staff positions shall be limited to those essential to operate the program. Essential positions are those positions required to:

(i) Direct or maintain the efficient operation of the program;

(ii) Provide counseling and training to small business clients when other resources providing these services are not readily available; or

(iii) Further individual program objectives.

(6) All new SBDCs must submit to the district office a current résumé of each key employee as part of its application. At least annually, ongoing SBDCs shall submit a roster of their key employees, and résumés of new key employees only.

(7) SBDCs shall not establish administrative support positions which cannot be justified to the Project Officer by the services to be provided.

(8) The SBDC shall maintain daily time and attendance records on all part-time SBDC and subcenter employees. The SBDC State Director shall certify in the quarterly report that each full-time SBDC employee dedicated 100 percent of his effort during that quarter to the SBDC program.

(9) Lead SBDCs and subcenters shall operate on a 40 hour week basis, or during the normal business hours of the recipient organization, throughout the calendar year provided that such business hours are adequate to insure the services are delivered to the small business community.

(10) Vacations shall be arranged so that the continuity of SBDC and subcenter operations is not disrupted, except where there is a total shutdown of the host organization's facilities where the SBDC or subcenter is located (i.e., shutdown of administrative officers, public services, utilities, etc.)

(11) *SBDC and subcenter closures.* (i) The applicant SBDC is responsible for enumerating all anticipated center and subcenter closures whether for holidays or shutdown of the host organization, in its annual formal proposal. Otherwise, the SBDC must submit such dates to the Project Officer as soon as possible.

(ii) Closures above and beyond those enumerated in the proposal shall result in an appropriate reduction of the SBDCs budget, except for unique unanticipated circumstances (e.g., snow days, building power or heat failure).

(A) The SBDC Director must notify the appropriate SBA Project Officer in the quarterly report of any SBDC or subcenter closure beyond those enumerated in the proposal. If the reason for the closure is a unique unanticipated circumstance, the specific

rationale for the closure must be furnished in the written notice.

(B) If the closure will be for an extended period of time (more than three days), the SBDC Director must notify the Project Officer within 24 hours.

(c) *Resources.* (1) SBDCs shall concentrate on developing and coordinating the unique resources of the university system, the private sector, and Federal, State and local governments to provide services to the small business community which are not readily available from existing small business support systems in the SBDC service area.

(2) Each subcenter shall be governed by a written agreement with the SBDC. Such agreement shall contain all of the basic terms and conditions of the Cooperative Agreement.

(3) To the extent possible, SBDCs shall make full use of other Federal and State government programs that are concerned with aiding small business. Such programs must be kept separate in funding and recordkeeping. Moreover, publicity of such programs must note that they are separately or cooperatively funded, as appropriate.

(4) SBDC services shall be provided to small businesses:

(i) with the knowledge that many entities both public and private also assist small business in various ways and that better coordination in and through SBA will yield better results for small business. Although the type of resources will differ from location to location, SBDC personnel should make themselves aware of services being provided by such resources as professional consultants, Chambers of Commerce, members of professional associations, qualified student counselors, SBI student teams, university faculty, volunteers and other Federal, State or local entities so that SBDC services will not duplicate those services already being provided at adequate levels and so that the SBDC will be in a position to work cooperatively with the resources available within its area of service.

(ii) Every effort should be made by the SBDC Director to attain a balanced use of resources as negotiated with the Project Officer and reflected in the Cooperative Agreement.

(iii) The SBDC Director is responsible for the development of new resources that will assist small business within the area to be served by that SBDC and is to provide upon request, technical assistance to current resources that will assist them in expanding their services, to the small business community. The SBDC Director must report the progress the SBDC has made to develop new resources in the annual report. The SBDC Director should endeavor to determine that newly acquired resources are not receiving financial compensation from the SBDC program for services which are identical to those already being provided to the area small business community under provisions of another local, State or Federal contract, grant or Cooperative Agreement or other salaried or fee paid arrangements. Proposed services by such new resources must be in addition to pre-existing support provided to the small business community.

(5) SBDCs shall also utilize qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services to small businesses. Such private sector resources shall be compensated for their services. These qualified small business vendors shall be classified in conformity with appropriate SBA size standards as provided in 13 CFR Part 121.

(6) SBDCs are encouraged to use qualified volunteers to provided services to small business.

(7) Laboratories operated and funded by the Federal Government shall cooperate with SBA in developing and establishing programs to support SBDCs by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. These laboratories shall be reimbursed through an SBDCs budget for any such services utilized.

(8) SBA and SBDCs may request the cooperation of the National Science Foundation in developing and establishing programs to support the centers.

(9) SBDCs may request the cooperation of the National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration on developing and establishing programs to support the centers.

(d) *Services.* (1) Each SBDC shall endeavor to ensure that the assistance it provides does not duplicate or replace existing services.

(2) SBDCs shall provide assistance to small businesses within the area of service designated or approved by SBA.

(3) In close coordination with SBA, the SBDC Director shall promote the SBDC and its services to the target markets identified in the Cooperative Agreement.

(4) SBDC services shall be tailored as closely as possible to meet the local needs of small business owners and potential small business owners. Primary services to be provided shall include, but not be limited to, management and technical assistance through one-to-one individual counseling and training of small businesses.

(i) *Counseling.* SBDCs shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, business planning, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, capital formation, procurement assistance, innovation and research, new product development, product analysis, plant layout and design, computer application, and other disciplines required for small business growth and expansion, increased productivity, and management improvement, and for decreasing industry economic concentrations.

(ii) *Training.* Each SBDC shall ensure that quality training to improve the skills and knowledge of existing and prospective small business owners is provided throughout its SBDC network.

(A) All training offered by an SBDC pursuant to the Copperative Agreement shall be carefully planned with the SBA Project Officer to avoid duplication with the training efforts presented by other Federal, State, local, and private organizations and by SBA.

(B) In those cases where the SBDC recognizes a need for training that was not planned at the time of the negotiation of the Cooperative Agreement, the SBDC shall submit to the Project Officer for his/her approval the particulars of the proposed training prior to the commencement of the training. Such training shall not duplicate other training services being provided in the SBDC service area.

(iii) SBDCs shall assist in technology transfer, research, and coupling from existing sources to small businesses.

(iv) SBDCs shall coordinate and conduct research into technical and general small business problems for which there are no ready solutions. SBDCs are also authorized to coordinate and conduct research concerning market needs.

(v) SBDCs shall maintain a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help

address the various needs of the small business community.

(vi) *Other required services.* Each SBDC shall:

(A) Maintain current information concerning Federal, State, and local regulations that affect small businesses, including all regulations promulgated by SBA, and counsel small businesses on methods of compliance. Counseling and technical support shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

(B) Provide and maintain a comprehensive library that contains current information and statistical data needed by small businesses. Such library must contain, among other things, current copies of the Small Business Act, as amended, Small Business Investment Act of 1958, as amended, Title 13 of the Code of Federal Regulations, and the Commerce Business Daily.

(C) Conduct in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

(D) Maintain lists of local and regional private consultants to whom small businesses can be referred.

(vii) *International Trade Center.* As mutually determined by the SBA Project Officer and SBDC State Director, an SBDC may establish an International Trade Center within the SBDC to increase the export capabilities of small businesses with products which are potentially marketable internationally; Provided such Center does not duplicate services provided by the International Trade Administration, the Department of Commerce or other Federal, State or local trade assistance programs. The International Trade Center will coordinate and utilize public and private resources to provide assistance to current and potential small business exporters. Its specialists will help business people with the various aspects and complexities of exporting and foreign investment, and assist them in developing an export marketing plan for the sale of their products(s) overseas. International Trade Centers should have the capability to do the following:

(A) Evaluate client's export capability;

(B) Identify and analyze client's international trade needs and problems;

(C) Provide counseling in international trade techniques, procedures, and opportunities;

(D) Establish an operational relationship with Federal, State, and local organizations essential to improving international trade;

(E) Develop and conduct seminars on opportunities and procedures involved in exporting, importing, joint ventures, and licensing; and

(F) Provide a manual of step-by-step procedures and sources of international trade information, where appropriate.

(5) Every SBDC and subcenter must continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

(6) *Legal services restrictions.* Legal advisory information shall not be provided to assist clients involved in litigation or other actions against the Government's interest. Legal information services shall not be used to represent any client in any action. Legal services other than providing basic business law information require the endorsement of the State Bar Association and the approval of SBA.

(e) *Publicity.* SBA must be prominently displayed as a sponsor/co-sponsor and/or funding Agency on all materials (training or other type of materials) and on all publicity initiated or funded by the SBDC. "Prominently displayed" shall be no less than that which is being displayed for the SBDC or other cooperating entities. The verbiage or display pertaining to SBA placement shall be submitted to the Project Officer for approval prior to finalization.

(f) *Research.* Research projects performed by an SBDC and agreed to by SBA Project Officer shall be listed, where possible, in the annual Cooperative Agreement and shall have direct benefit to the State and/or local small business community served by the SBDC. Research activities should not be considered a primary focus of SBDC operations and should be undertaken only when a specific identifiable need exists for this service within the small business community and a plan for using the research results to meet the need has been developed. A description of the results of such projects shall be included as an attachment to the quarterly report for the quarter in which the project is completed. Insofar as possible, research undertaken should not be duplicative of other available research.

§ 129.17 SBDC clients.

(a) *Eligibility.* Subject to available resources, any existing or potential small business owner or primary officer of a small concern may receive assistance from an SBDC. The SBDC may not knowingly provide assistance to businesses which are not considered "small" under Part 121 of this title. When in doubt, the SBDC Director may refer the question of size to the appropriate Regional Office for a size determination if the Regional Administrator deems it appropriate.

(b) *Delivery of assistance.* (1) SBDCs shall provide assistance to eligible clients who independently become aware of the availability of SBDC assistance. SBDCs shall also provide assistance to target groups and to eligible clients referred by SBA.

(2) It is recognized that program and service priorities are set from time to time by Congress and the Administration. These priorities reflect the concerns and the needs of small business as seen by the Legislative and Executive branches of Government. The SBDC, as a partner with SBA, must reflect national priorities in delivering its services to the small business sector. The Central Office will communicate these priorities through the program announcement and other issuances of the Central Office.

(3) Within these standards, the Region will determine the most appropriate manner in which to implement national priorities on a regional level. The Region will also determine regional priorities that are not inconsistent with the national priorities and will communicate this plan to the various district offices within the Region for inclusion in the Cooperative Agreements through the negotiation process. Consistent with the regional plan, the district office will determine the most appropriate means of implementing the priorities along with district level priorities.

(4) The District Office, through the Project Officer will consider the implementation of those national, regional and district priorities as the most critical items to be negotiated in the Cooperative Agreement.

§ 129.18 Advisory Boards.

(a) *National SBDC Advisory Board.* (1) The SBA is required to establish a National SBDC Advisory Board consisting of nine members who are not part of the Federal work force, appointed by the Administrator of SBA. Three members of the National SBDC Board shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. All Board members serve three year terms.

(2) The National SBDC Board shall elect a Chairman and shall advise, counsel, and confer with SBA's Deputy Associate Administrator for Business Development/SBDCs on policy matters pertaining to the operation of the SBDC

program. The Board shall meet, with the Deputy Associate Administrator for Business Development/SBDCs, at least semiannually at the call of the Chairman.

(b) *State/Regional SBDC Advisory Boards.* (1) Each SBDC shall establish an advisory board to advise, counsel, and confer with the SBDC Director on all policy matters pertaining to the operation of the center, including how local and regional private consultants may participate with the SBDC.

(i) Such as advisory board shall be referred to as a State SBDC Advisory Board in a State having only one SBDC.

(ii) Such an advisory board shall be referred to as a Regional SBDC Advisory Board in a State having more than one SBDC.

(2) These boards shall represent the entire service area and each shall be composed predominantly of small business owners and representatives of small business associations.

(3) First-time SBDCs are required to establish a State or regional SBDC Advisory Board no later than the second budget period.

(c) *Local Advisory Boards.* The SBDC State Director shall encourage subcenters to establish local SBDC Advisory Boards to advise, counsel, and confer with the Subcenter Director on matters pertaining to the operation of the subcenter. However, a local Advisory Board need not be established for each subcenter.

(d) A State/Regional or local SBDC Advisory Board member may also be a member of the National SBDC Advisory Board.

(e) *Travel of Advisory Board Members.* Travel of any Board member for official Board activities may be paid for out of the SBDC's budgeted funds.

§129.19 Financial aspects of the program.

(a) *Budgeting—(1) Budget proposal.* (i) the SBA Project Officer shall send the Program Announcement to the SBDC nine months prior to the close of its budget period.

(ii) *Submission.* The budget proposal for the upcoming budget period must be submitted to the SBA district office by the SBDC State Director, or by the proposal developer in the case of a first-time SBDC application, for appropriate review and ultimate approval of the Grants Management Branch Chief. (See §129.14, Application Procedure.) To ensure timely funding of existent SBDCs, the SBDC Director of any SBDC operating on a Federal fiscal year budget must submit to the Project Officer a draft budget proposal by March 15 and a final budget proposal, acceptable to the Project Officer, by June 1, of the preceding budget year. Similarly, for any SBDC operating on a calendar year budget, the SBDC Director must submit a draft budget proposal to the Project Officer by June 15 and a final budget proposal, acceptable to the Project Officer, by September 1, of the preceding budget year.

(iii) In a case where refunding will not occur in a timely fashion through no fault of the SBDC and where the Office of Procurement and Grants Management has received appropriate programmatic and budgeting approvals at least 45 days prior to the expiration of the budget year, the Office of Procurement and Grants Management shall issue a letter advising the SBDC of continued funding based on availability of funds. Such letter should be received by the SBDC at least two weeks prior to the close of the current budget period.

(iv) A letter of continuation may be issued when refunding of an SBDC is anticipated. Except in cases described below, the continuation letter shall lapse in 120 days of its issuance if the recipient organization and SBA have not entered a new Cooperative Agreement. In cases where the SBDC and SBA are in the process of resolving a conflict or a dispute, the continuation letter shall not lapse until a final decision is issued on such conflict or dispute.

(v) *General requirements:* The budget proposal must include all items required by the Program Announcement:

(vi) SBA requires, as a minimum, that 80 percent of the Federal dollars provided must be allocated to direct costs of program delivery. In the case where indirect costs are waived by the applicant organization, in order to meet the matching funds requirement, 100 percent of the Federal dollars must be allocated to program delivery. In a case where some, but not all, indirect costs are waived to meet the matching funds requirement, the lesser of the following may be allocated as indirect costs of the program; and charged to Federal dollars:

(A) 20 percent of Federal dollars provided to the program, or

(B) That amount remaining after the waived portion of indirect costs is subtracted from the total indirect costs.

(vii) *Subcenter costs.* (A) As a separate attachment to the budget, the SBDC shall include separate subcenter budgets indicating individual subcenter costs charged to the recipient and their applicable indirect base and rate.

(B) The amount of Federal cash, in-kind and indirect costs for each subcenter shall be indicated.

(2) *Budget revisions.* (i) Revision may be requested at any time and requires approval of the appropriate district office, regional office, the Central Office of SBDCs and the Office of Procurement and Grants Management within the time frames prescribed by OMB Circulars A-102 and A-110, attachment K and J respectively, as appropriate.

(ii) All procedures for revisions must conform to the requirements of the applicable OMB Circular. (See § 129.15(b)(2).)

(3) *Transfer of funds.* (i) Line item to line item transfer of 5 percent or less of the total approved costs in the budget may be transferred without SBA approval. However, all transfers to the line items relating to out-of-state travel and capital equipment require SBA approval.

(ii) Transfer of greater than a cumulative 5 percent requires prior written approval of the Grants Management Branch Chief.

(4) *Carryover of funds (unobligated, unexpended Federal dollars).* (i) An SBDC may not carry over unobligated, unexpended Federal funds allocable under the Cooperative Agreement to recurring expenses, e.g., salary, travel, supplies, etc., from one budget period to the next. However, an SBDC, subject to SBA approval, may carry over unexpended Federal funds allocated under the Cooperative Agreement to non-recurring, bona fide needs of the SBDC (e.g., start-up costs of a new subcenter), provided that the SBDC obligated the funds during the time period covered by the Cooperative Agreement through which such funds were made available. The Grants Management Officer will determine whether funds may be so carried over, in consultation with the Grants Management Branch Chief and the Project and Program Officers.

(ii) An SBDC may carry over unobligated, unexpended matching funds from one budget period to the next, provided that during the budget period the SBDC had used matching funds on a one-to-one ratio with Federal funds. (i.e., for every dollar of Federal funds expended, one dollar of matching funds is expended). An SBDC cannot claim that it utilized all Federal funds first, and that all unobligated, unexpended funds are matching funds.

(iii) Any funds provided to the SBDC budget by the recipient organization in excess of the required match (overmatch) which have not been obligated or expended may be carried over to the succeeding budget period.

(iv) When the final financial report is issued, the Grants Management Officer will deduct all unobligated, unexpended Federal funds from the letter of credit. Upon closing out the Cooperative Agreement, any unobligated,

unexpended Federal funds will be deobligated by SBA (i.e., returned to the Treasury).

(b) *Receipts*—(1)*Grants—Amount of Grant.* No recipient of funds shall receive a grant which would exceed the greater of—

(i) $200,000, or

(ii) Its pro rata share as determined by the statutory formula.

(2) *Matching funds.* (i) As a condition of any grant or amendment or modification thereof, the applicant organization must provide for an additional amount equal to the amount of the Federal grant. This amount (matching funds) is subject to the following restrictions:

(A) The amount must be provided from sources other than the Federal Government;

(B) It may not include any fees collected from the recipients of assistance, or other program income;

(C) The additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program;

(D) Indirect costs or in-kind contributions shall not exceed 50 percent of the non-Federal additional amount;

(E) The remaining 50 percent will be cash match provided by the applicant, and may include no indirect or in-kind contributions.

(ii) At the close of the phase-in periods indicated below, indirect and in-kind matching contributions shall not exceed 50 percent of the non-Federal matching requirement and not less than 50 percent of the matching contribution shall be cash match. This requirement is effective as follows:

(A) If the applicant is located in a state which received its initial grant to be performed before August 1, 1984, then this requirement applies to grants effected on or after October 1, 1987.

(B) If the applicant is located in a state which received its initial grant to be performed after August 1, 1984, and prior to October 1, 1986, then this requirement applies to grants to be performed on or after October 1, 1988.

(C) If the applicant is located in a state which received its initial grant effective after October 1, 1986, then this requirement applies as of October 1, 1986.

(iii) All sources of matching contributions must be identified as specifically as possible. In the case of cash, it shall be identified by name and account number in the budget proposal and certified by the appropriately authorized official of the applicant organization. The account containing such cash must be under the direct management of the SBDC Director. If the State is providing such cash, and if the State appropriation cycle permits, the SBDC must verify that such funds will be obligated by the State prior to the first day of the budget period. In situations where State appropriation cycles preclude total compliance prior to the first day of the budget period, the SBDC shall verify that sufficient upfront cash match will be available from the State or other sources prior to use of Federal funds.

(iv) The Office of Procurement and Grants Management is responsible for determining acceptable match.

(v) *Restrictions in overmatched amounts.* (A) SBDCs are encouraged to furnish more than the required equal match. Once approved as part of the budget, such amounts (overmatch) become part of the recipient organization's contribution to that year's SBDC program.

(B) If such overmatched amounts are used for program delivery during the budget period for which they were pledged, they may not be applied to the matching funds requirements of the subsequent budget period. If such overmatched funds are not used for program delivery during the budget period for which they were pledged, they may be carried over to meet the match requirements of the subsequent budget period. Such overmatched amounts must be included in the budget presentation for the subsequent budget period.

(C) Any cash match (overmatch) committed to the program over and above the amount required by law shall be budgeted to support the level of effort approved by both parties for the Cooperative Agreement year in which the "overmatch" is applied. Verified, unspent dollars of "overmatch" may be applied to the following continuation year(s) if these "overmatch" funds are budgeted to support the proposed, approved level of effort. Verified "overmatch" dollars may be used as a credit to offset any confirmed audit disallowances applicable to the budget period in which the "overmatch" exists. Offsetting funds shall be considered obligated and not allowable as match for past or future budget periods.

(vi) *Impermissible sources of matching contributions.* Under no circumstances may the following be used as sources of the matching contribution of the recipient organization.

(A) Uncompensated student labor;

(B) SCORE, ACE, or SBI volunteers;

(C) Program income;

(D) Pre-existing training courses or programs, unless the SBDC is expanding or enhancing the course or program;

(E) Funds, indirect or in-kind contributions from any other Federal program, including SBA supported companies or corporations, notwithstanding the allowability of such sources for matching purposes under their own enabling legislation.

(3) *Funding.* (i) Letter of credit is the preferred method of funding SBDCs. Withdrawal of cash from the U.S. Treasury for advances to recipient SBDC organizations shall be deposited in an interest bearing account and, in the case of other than State government sponsored SBDCs, such interest must be reported and returned annually to SBA.

(ii) SBDCs may also be funded by reimbursement for work performed. (SBDCs operating without a letter of credit.)

(A) In order to voluntarily use the reimbursement method of funding, an SBDC must submit written justification to the Project Officer identifying why the letter of credit method would be inappropriate.

(B) In order for an SBDC to be reimbursed, the Project Officer must certify that the SBDC was operating for the period of time claimed.

(C) The reimbursement method may be initiated by SBA, if the Agency determines that its use will be in the best interests of the Government.

(4) *Program income.* (i) Treatment of program income for SBDCs based in universities or nonprofit organization SBDCs is subject to the provisions of Attachment D, of OMB Circular A–110. Treatment of program income for SBDCs based in State or local governments is subject to provisions of Attachment E of OMB Circular A–102.

(ii) Program income, including any interest earned on program income, must be used to further program objectives. It cannot be used to satisfy the match requirements. Each SBDC must report in detail receipts and expenditures of program income, including any income received through co-sponsored activities on Financial Reporting Form SF 269 as outlined in § 129.20(d).

(A) The phrase "to further program objectives" means expanding the quantity and quality of services, resources and outreach provided by the SBDC.

(B) The Project Officer is responsible for determining whether an SBDC is furthering program objectives; and

(C) This determination is based, in part, on the required narrative in the

financial report indicating how such income was used by the SBDC.

(iii) Any unused program income will be carried over to be utilized to further program objectives in the subsequent budget year.

(5) *Fees.* SBDC clients may be charged a reasonable fee to cover program costs in connection with training activities sponsored or cosponsored by the SBDC, or costs associated with specialized services.

(c) *Expenses.*—(1) *Cost principles.*

(i) Principles for determining the allowable costs of SBDCs are contained in Office of Management and Budget Circulars A–21 (cost principles for grants, contracts, and other agreements with educational institutions), A–87 (cost principles for programs administered by State and local governments), and A–122 (cost principles for nonprofit organizations).

(ii) The principles are designed to provide that the Federal Government and federally-assisted programs bear their fair share of total costs, determined in accordance with generally accepted accounting principles, except where restricted or prohibited by law.

(iii) The Director of each SBDC shall have the authority to make expenditures under the center's budget.

(iv) No portion of the Federal program funds used by an SBDC may be used for lobbying activities, either directly or indirectly through outside organizations.

(A) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs.

(B) Organizations shall submit as part of their annual indirect costs rate proposal a certification that the requirements and standards of this paragraph have been complied with.

(C) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable lobbying complies with the requirements of the appropriate OMB Circular.

(D) Time logs, calendars, or similar records documenting the portion of an employee's time that is treated as an indirect cost shall not be required for the purposes of complying with paragraph(c)(1)(v) of this section, and the absence of such records which are not kept pursuant to the discretion of the grantee or contractor, will not serve as a basis for disallowing claims of allowable costs by contesting estimates of unallowable lobbying time spent by employees during any calendar month unless:

(*1*) The employee engages in lobbying for more than 25 percent of his compensated hours of employment during that calendar month; or

(*2*) The organization has materially misstated allowable or unallowable costs within the preceding five year period.

(2) *Salaries.* (i) Generally, the salary of the SBDCs Director, SBDC Subcenter Director and the salaries paid to SBDC staff members shall be comparable to annualized salaries established for similar positions in the area served by that particular SBDC or subcenter as agreed to by the SBA Project Officer and specified in the Cooperative Agreement.

(ii) Recruitment and salary increases for SBDC Directors, subcenter Directors and staff members shall conform to the administrative policy of the recipient organization.–

(3) *Travel.* (i) Transportation costs shall be at coach class and per diem rates, including lodging, shall not exceed those authorized by the written travel policies of the host instititution by that institution.

(ii) All travel must be separately indentified in the proposed budget as in-State, out-of-State, and unplanned.

(iii) In order for any travel to be approved by SBA, it must be in accordance with the written travel policies of the recipient organization and directly attributable to specific work of the SBDC or incurred in the normal course of administration of the program.

(iv) All proposed travel by the SBDC Director and the SBDC staff must be reasonable, justified in writing, and included in the SBDC's proposed annual budget. Such justification must indicate the estimated cost, number of persons traveling, and the benefit to be derived by the small business community for the proposed travel. A specific amount, based on past experiences, where appropriate, must also be included in the budget for any unplanned travel. A justification in greater detail is required for unplanned out-of-State travel.

(v) Any proposed unplanned out-of-State travel that exceeds the approved budgeted amount for travel must be submitted to the Project Officer for approval on a case-by-case basis. Any such submission must contain a written budget revision and written narrative explaining the need for such travel and the relation of such travel to the efficient operation of the SBDC.

(vi) Travel outside the United States must have prior approval by the Administrator on a case-by-case basis.

(4) *Dues.* (i) Costs of the SBDCs membership in civic, business, technical, and professional organizations are allowable expenses. As such, the use of Federal funds in payment of such dues is permitted, provided that the requirements of paragraphs (c)(4)(ii), (iii), (iv) and (v) of this section are met.

(ii) All such payments must be anticipated in the budget proposal, be approved by SBA, be fully described, and be reasonable and realistic in relation to the benefits derived, as determined by SBA's Office of SBDCs and Office of Procurement and Grants Management.

(iii) The benefits derived from this expenditure must be fully explained.

(iv) Notwithstanding the above, annual dues exceeding $2,000 per organization per year which are paid by an individual SBDC network from Federal or matching funds to any professional, technical, business or civic organization must be separately justified, detailing benefits received for this expenditure.

(v) No portion of annual dues exceeding $250 per organization per year paid from Federal or matching funds may be used directly or indirectly for lobbying activities by the organization receiving such funds. As part of the budget proposal, the SBDC Director or, where appropriate, the Chief Financial Officer and the SBDC Director shall certify that no portion of annual dues exceeding $250 per organization per year are paid from program funds are being used directly or indirectly for lobbying activities.

§ 129.20 Evaluation of SBDC Program.

(a) *SBA review authority.* (1) SBA shall monitor and oversee the Cooperative Agreement and ongoing operations of each SBDC to ensure the effective and efficient use of Federal funds for the benefit of the small business community.

(2) In order to properly evaluate the SBDC Program, SBA shall require each SBDC to keep records as set forth below in this section, and to submit quarterly and annual performance and financial reports, as specified in paragraphs (b) and (c) of this section respectively. Those reports and the clients' evaluations of services provided will be reviewed to:

(i) Determine the quality of services provided by the SBDC;

(ii) Determine the completeness and accuracy of SBDC records; and

(iii) Compare the actual SBDC accomplishments with the SBDC performance objectives, such as the Planned Milestone Accomplishment Chart submitted with the proposal for funding or refunding which are listed in the Cooperative Agreement.

(3) SBA representatives are authorized to make on-site visits to SBDCs and SBDC subcenters to inspect SBDC records and clients files, and to analyze and evaluate training, counseling and any other activities. As a courtesy, SBA representatives should generally advise the SBDC Director or Subcenter Director at least two weeks prior to the planned visit. The Project Officer shall review these records on a regular basis to verify that SBDC staff are adequately documenting the necessary files.

(b) *Client control records.* (1) The lead SBDC shall maintain control records as necessary.

(2) Subcenters and lead SBDCs which provide services to small business shall maintain detailed, complete and accurate client activity files, specifying counseling, training and other assistance provided. These records must clearly identify and locate the client, set forth the client's management problems, reflect the SBDC service provided, including the client's evaluations of services received, and for counseling of long duration, project the client results anticipated.

(3) Each SBDC shall report on SBA Standard Form 888 the number of training programs, the number of attendees, and the attendee demographic data and certain financial information, and each shall submit the client evaluations or a summary of those evaluations.

(4) Individual client counseling files are to be maintained for each client and entered into the Management Information System.

(5) One-time files should be concise, but sufficient to ensure that thorough program audit and evaluation practices can be applied. Substantive counseling should be well documented to enable an outside party to assess the adequacy of services provided.

(6) All SBDC and subcenter records shall be made available to SBA for review upon request. Such records may be duplicated for SBDC performance reviews and audit purposes only.

(c) *Performance reports.* (1) Each SBDC shall provide three quarterly and one annual programmatic report to the appropriate SBA Project Officer. Quarterly reports must be submitted (post-marked) no later than 45 days following the end of the quarter; annual reports must be submitted no later than 90 days following the end of the program year. All reports are to be submitted in an original and two copies.

(2) Information required in quarterly and annual performance reports is set forth in the annual Program Announcement.

(d) *Financial reports.* (1) Each SBDC shall provide three quarterly and one annual financial report to the appropriate Project Officer. Quarterly reports must be submitted (post-marked) no later than 45 days of the month following the end of the quarter; preliminary annual reports must be submitted no later than 90 days following the end of the budget year. The final annual reports must be submitted no later than 120 days following the end of the budget year. All reports are to be submitted in an original and two copies.

(2) The required financial reports are set forth in the Cooperative Agreement and include at a minimum the following:

(i) Report of Federal Cash Transactions (SF 272);

(ii) Financial Status Report (SF 269); and

(iii) Request for Advance or Reimbursement (SF 270), as applicable.

(e) *Audits and investigations*—(1) General—. (i) *Access.* At all reasonable times, SBA may inspect, examine and copy in the office of either the SBDC, its subcenters, the respective sponsoring organization or entity, its accountants, attorneys and consultants, or its subcontractors, if any, all documents, files, books, records and other materials relevant to SBA's Small Business Development Center Program. These records shall be maintained for a period of three years beyond the term of the Cooperative Agreement plus such additional time as may be required to settle cost disallowances or claims for which the SBDC may seek recovery from SBA or to resolve any litigation claim or audit begun within the three year period. Such records shall include but not be limited to the following:

(A) The Cooperative Agreement and all amendments;

(B) The application;

(C) All documents submitted by the SBDC clients applying for management assistance;

(D) All information made, used or maintained by the SBDC in connection with the provision of management assistance;

(E) All records of any transaction for which the SBDC makes payments pertinent to the Federal funds, matching funds, and expenditures related to program income spent to further the program objective, including but not limited to all invoices, payroll records, project ledgers, general ledgers, detailed supporting allocations, travel vouchers, subgrants, contracts or subcontracts, and any other pertinent documents;

(F) All records of any transaction relating to receipt of cash from fees or other sources, including but not limited to receipts, bills, settlement agreements, judgments, arbitration decisions and any other pertinent documents;

(G) Legal opinions and memoranda or other advice prepared by an attorney and paid for by the SBDC from the Federal funds, matching funds, or program income funds.

Failure of an SBDC, its subcenters, or the respective sponsoring organizations to maintain such records or to consent to such inspection, examination or copying, will be grounds for SBA to refuse to renew or continue cooperative agreements or to make advance payments until such time as the SBDC or other entity consents to such access. *See* § 129.14(d)(1) (i) through (viii).

(2) *Audits.* (i) All audits will be conducted, supervised, or coordinated by the Office of Inspector General.

(ii) All audits, to the extent practicable, shall be conducted in accordance with generally accepted auditing standards of the Comptroller General of the United States, as published in *Standards for Audit of Government Organizations, Programs, Activities and Functions (Yellow Book)* and in accordance with generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants.

(iii) Whenever possible, financial and compliance audits will be conducted as a single audit of a recipient organization pursuant to OMB Circular A–102, A–110, or A–128. Such audits will be conducted annually, to the extent practicable, and at least once every two years. However, at the discretion of the Inspector General, audits may be performed of selected SBDCs even though single audits may have been performed. SBA also reserves the right to require an SBDC to have the financial and compliance audit performed by a qualified independent public accountant, as defined by § 129.11(d) of this part and submitted to the SBA Office of Inspector General, pursuant to audit guidelines issued by the Office of Inspector General. In such cases where the Office of Inspector General requires such audits, that office will assume all costs associated with the audit. Audit work papers made in connection with such audits must be available and produced for review upon request of the Office of Inspector General.

(iv) Requests for compliance audits of SBDCs may be made to SBA's Office of Inspector General by the Office of SBDCs. Requests for financial audits of SBDCs may be made to the Office of Inspector General by the Office of Procurement and Grants Management.

(3) *Investigations.* SBA may conduct such investigations as it deems necessary to determine whether a person has engaged in any acts or practices which constitute a violation of the Small Business Act of 1953, as amended (15 U.S.C. 631, *et seq.*), or any rule or regulation under that Act or of any order issued under that Act, or of other applicable Federal law. In circumstances where SBA receives information indicating that any such violation is about to occur, SBA may conduct such investigations as it deems necessary.

(f) *On-site reviews.* (1) An on-site evaluation of each SBDC shall be conducted by SBA at least once every two years. At least one, but no more than two, representative(s) of another SBDC shall participate in each such evaluation on a cost-reimbursement basis.

(i) This evaluation will include a thorough analysis of the records, procedures, organizational structure, management, and services of the SBDC. The evaluation will be both qualitative and quantitative, will measure the effectiveness of the program, and will make an assessment of the benefits accruing to the areas served.

(ii) The SBDC Director and the apropriate Project Officer shall be advised of the scheduled evaluation at least one month before the date of the evaluation.

(iii) The evaluation team shall send a copy of the evaluation with recommendations for improving the program to the SBDC Director, appropriate Project Officer, and other appropriate SBA officials.

(2) In addition, on-site financial evaluations of each SBDC shall be conducted, as needed, by the SBA Grants Management Branch Chief or his delegatee. Representatives of other SBDCs may not participate in such evaluations.

Dated: September 23, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-23921 Filed 10-25-87; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 140

Debt Collection

AGENCY: Small Business Administration

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to amend its Debt Collection Regulations to make them consistent with those published by the Office of Personnel Management (OPM). For policy reasons, government-wide consistency is advisable in the debt collection area. The amendments will permit SBA to collect debts of employees of other Federal agencies via salary offset and make certain other technical corrections.

DATE: Comments must be received on or before November 16, 1987.

ADDRESS: Comments should be addressed to Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street NW., Room 700, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Martin D. Teckler, Deputy General Counsel, (202) 653-6642.

SUPPLEMENTARY INFORMATION: On July 2, 1984, the SBA published a Final Regulation regarding Debt Collection, 49 FR 27138, that was later amended on October 2, 1984, 49 FR 38931. We have now been asked to conform our Regulations with an OPM Final Regulation referred to as Pay Administration (General), published July 3, 1984, 49 FR 27470. Accordingly, SBA proposes to amend Part 140 consistent with the OPM Pay Administration (General) Regulation in the following respects: (1) The definition of "debt", (2) the sections governing the collection of debt by salary offset when an employee has terminated his or her employment, and (3) to provide for the assessment of interest, penalties and administrative costs and also a non-waiver of rights provision.

In addition, at the time SBA published its Regulations, it had no agreements with other agencies to permit the sharing of debt collection efforts. SBA is now working with other agencies to find Federal employees who have defaulted on their obligations to SBA. Similarly, other agencies are interested in pursuing their debtors who are employees of SBA. Therefore, SBA is proposing to amend those portions of Part 140 of Title 13 of the Code of Federal Regulations which relate to salary offset.

1. Definitions

Section 140.2(c) excludes intra-agency overpayments due to normal processing delays from the definition of "debt."

SBA proposes to amend § 140.2(c) by deleting this language, so that it is consistent with the compatible section of OPM Final Regulation, Pay Administration (General), 5 CFR 550.1103. Section 550.1103 does not include this language. The preamble, 49 FR 27470 (1984), of § 550.1103 addressed these two "exclusions" as "adjustments" and determined that such adjustments for four pay periods or less should not be treated as "exclusions" from the definition of debt. OPM regarded such adjustments as voluntary and therefore, pursuant to 5 U.S.C. 5514, as not *involuntary* adjustments for purposes of salary offset. As a result, the reference to exclusions which were at one time included in § 550.1103 were later deleted from the OPM Final Regulation.

Although these "exclusions" are included in SBA Regulation, § 140.2(c), § 140.2(c) is still consistent with § 550.1103. The added "exclusions" in § 140.2(c) do not alter the meaning of what was intended in both Regulations as to the definition of debt, amounts due and owing the United States from sources which include loans insured or guaranteed and all other amounts due and owing the United States from fees, leases, rents, etc. Nevertheless, the two subsections are proposed to be deleted from § 140.2(c) for consistency.

SBA proposes to add a new paragraph (g) to § 140.2 to define "employee". The current SBA Regulations do not define employee, but appear to be limited to employees of the Small Business Administration. The new definition is proposed to include any person whose salary is eligible for offset pursuant to 5 U.S.C. § 5514.

2. Section 140.4, General

The term "SBA employee" is proposed to be deleted in this section. In its place, SBA proposes to use the term "employee" unless further clarification is required. The word "SBA" or "Agency" is proposed to be changed to "agency" or "paying agency" where required to permit collection by another agency of debts owned to SBA.

3. Payments Made to Employees at the Time of Separation or Thereafter

SBA proposes to amend § 140.4(a)(4) to clarify which payments due a former employee are subject to salary offset, 5 U.S.C. 5514, and which should be collected under administrative offset, 31 U.S.C. 3716. A final salary check and lump sum payments at the end of employment may be offset under this section. The proposed regulation clarifies that salary offset procedures will be used in this situation only if regular salary checks were being offset during employment. Other post-employment payments, such as a civil service annuity, must be offset pursuant to administrative offset, even if salary offset was in effect prior to the employee's retirement or other separation.

The proposed regulation also clarifies that the employee, or former employee,

shall be given only one opportunity to challenge an offset. Salary offset is a subcategory of administrative offset. The procedural rights under this section, salary offset, are more extensive than those under § 140.5, administrative offset. Therefore, a former employee who had a hearing, or an opportunity for hearing prior to salary offset will not be given a § 140.5 administrative offset "review" upon separation.

4. Technical Correction

In paragraph (a)(4)(ii) of § 140.4, the term "retirement" is proposed to be changed to "retired". "Retired pay" is a term of art which applies to certain members of the armed forces. The Comptroller General has rules that such retired pay is subject to salary offset. "Retirement pay", on the other hand, is not a technical term and could be misunderstood to mean a civil service annuity which is not subject to salary offset but must be collected through administrative offset.

5. Interest, Penalties, Administrative Costs; Non-Waiver of Rights

Section 140.4 does not provide for the assessment of interest, penalties and administrative costs and does not provide for a non-waiver of rights provision.

SBA proposes to amend § 140.4 by adding two new subsections (f) and (g). The new subsections (f) and (g) are proposed to be added so that § 140.4 is consistent with OPM Final Regulation, Pay Administration (General), 5 CFR § 550.1104(n), (o).

Section 140.4 is *not* consistent with § 550.1104(n). Section 140.4 does not provide for the assessment of interest, penalties and administrative costs that are provided for in § 550.1104(n). As stated in § 550.1104(n), "* * * [t]hese charges and the waiving of them must be prescribed in accordance with 4 CFR 102.13 [FCCS]." 4 CFR 102.13 provides for agencies to assess interest, penalties, and admnistrative costs on debts owed to the United States pursuant to 31 U.S.C. 3717, and sets forth the procedures by which agencies shall access these charges.

In addition to interest, penalties and administrative costs being omitted from § 140.4, a non-waiver of rights provision was also omitted. Section 550.1104(o) "[p]orvide[s] that an employee's involuntary payment, of all or any portion of a debt being collected under 5 U.S.C. 5514 must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary."

Therefore, § 140.4 is proposed to be amended to incorporate these provisions.

6. Procedures When SBA Seeks To Collect a Debt

SBA proposes to amend paragraph (b) to clarify that this paragraph applies when SBA is attempting to collect debts owed by federal employees to SBA.

A new paragraph (c) is proposed to explain how SBA will nofity the debtor's paying agency of the debt. The procedures described are those required by OPM.

7. Deductions for The Account of Another Agency From The Salary of an SBA Employee

A new paragraph (d) is proposed to explain the procedures which another agency must follow when requesting SBA to deduct payments from the salary of an SBA employee.

For the purposes of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et. seq.*, SBA certifies that this proposed rule, if adopted in final form, would not be likely to have a significant economic impact on a substantial number of small entities, 5 U.S.C. 605(b), because employees are not considered small entities under the RFA.

SBA certifies that this proposed rule does not constitute a major rule for the purpose of Executive Order 12291, because the proposed changes would not be likely to result in an annual effect on the economy of $100 million or more.

This proposed rule contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 140

Credit, Practice and procedure, Small business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), SBA proposes to amend Part 140, Title 13, Code of Federal Regulations, as follows:

PART 140—DEBT COLLECTION

1. The authority citation for Part 140 continues to read as follows:

Authority: Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6).

§ 140.2 [Amended]

2. In § 140.2, the last sentence of the introductory text of paragraph (c) and paragraphs (c) (1) and (2) are removed.

3. Section 140.2 is amended by redesignating paragraphs (g) and (h) as paragraphs (h) and (i) and adding a new paragraph (g) to read as follows:

* * * * *

(g) "Employee" for the purposes of § 140.2(f) and § 140.4 means a current civilian employee as defined in 5 U.S.C. 2105; an employee of the U.S. Postal Service or Postal Rate Commission; or a member or Reserve of the Uniformed Service.

4. Section 140.4, paragraph (a) is amended by revising the introductory text of paragraph (a), and revising paragraph (a)(4) to read as follows:

§ 140.4 Salary offset.

(a) When SBA determines that an SBA or other Federal employee is indebted to the SBA for debts to which the SBA is entitled to be repaid at the time of the determination, the amount of indebtedness may be collected in monthly installments or at officially established pay intervals, by deduction from the current pay account of the individual.

* * * * *

(4) *Post employment payments.* (i) If an employee terminates employment after salary offset has been initiated, a deduction after salary offset has been initiated, a deduction may be made from final salary payments, from payment for accrued annual leave, or from similar payments due the individual from the Federal government. Deductions against such final payments may exceed 15% of the total payment, up to the amount owed to the Federal government. If the employee terminates employment prior to the completion of salary offset procedures, deductions shall be made pusuant to 31 U.S.C. 3716.

(ii) Where SBA is collecting the indebtedness through deductions from biweekly or monthly retired pay, the Agency may not deduct more than 15 percent of disposable pay for any payment period, except that a greater percentage may be deducted upon the signed written consent of the individual involved.

§ 140.4 [Amended]

5. Section 140.45, paragraph (b) is amended by revising the introductory text of paragraph (b)(1), and paragraphs (b)(1)(i), (b)(1)(ii), the introductory text of paragraph (b)(2), and paragraphs (b)(2)(ii) and (b)(2)(iii), (b)(3), (b)(4)(vi) and (b)(5) to read as follows:

(b) *Notice and opportunity to be heard.* (1) Before initiating any proceedings under paragraph (a) of this section to collect any indebtedness of an employee, SBA shall provide the employee with—(i) A minimum of 30 days written notice, informing such individual: Of the nature and amount of the indebtedness determined to be due; the intention of the agency to initiate

proceedings to collect the debt through deductions from pay; * * *

* * * * *

(iii) An opportunity to enter into a written agreement acceptable to SBA to establish a schedule for the repayment of the debt; and

* * * * *

(2) If there is a statutory provision authorizing waiver, remission or forgiveness of the debt, SBA will give the employee—

* * * * *

(ii) Fifteen days from receipt of such notice in which to request consideration for waiver; and

(iii) A written response, if the employee timely requests a waiver. Such response shall answer the issues raised in the employee's request; state the agency's decision; and if the decision is not in the employee's favor, inform him or her whether there is a right to request a hearing before SBA's Office of Hearings and Appeals, that a hearing will be granted if the employee is entitled to one and timely files a request for a hearing, and that such hearing will be conducted prior to the initiation of deductions.

(3) Any alternative arrangement entered into pursuant to paragraph (b)(1)(iii) of this section shall be signed by both the employee and the SBA and be documented in the SBA's files.

(4) * * *

* * * * *

(vi) If the employee timely requests a waiver under § 140.4(b)(2), the time period in which to file a petition for a hearing is suspended. An employee must then file a petition for a hearing within 15 days after receiving a written response denying the request for a waiver.

(5) An employee loses his or her right to a hearing, and will have his or her disposable pay offset in accordance with the repayment schedule established if the employee fails to file a written petition for a hearing before the deadline established under § 140.4(b)(4).

* * * * *

6. Section 140.4 is amended by redesignating paragraph (c) as paragraph (e) and adding new paragraphs (c) and (d) as follows:

(c) *Notice to paying agency.* Upon completion of the procedures explained in paragraphs (a) and (b) of this section, SBA will provide the following to the paying agency:

(1) The Chief of SBA's Office of Portfolio Management shall certify, for SBA, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that these regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management.

(2) If the collection must be made in installments, the SBA shall advise the paying agency of the amount of percentage of disposable pay to be collected in each installment. SBA may, at its option, state the number and the commencing date of the installments. If SBA does not state such a date, the paying agency shall begin collection the next officially established pay period.

(3) SBA will forward the employee's written consent to the salary offset or signed statement acknowledging receipt of the required procedures. If SBA has not obtained such consent or statement, SBA will advise the paying agency of the actions taken under 5 U.S.C. 5514(b) and give the dates the actions were taken.

(d) *Deductions from pay of an SBA employee upon certification of another agency.* SBA will make deductions from the pay of its employee upon receipt of a claim from another agency. The head of such agency, or a designee, shall provide the information required in paragraph (c) and certify that the claim satisfies the requirements of 5 U.S.C. 5514, the applicable regulations of the Office of Personnel Management, and the implementing regulations of the creditor agency.

* * * * *

7. The following new paragraphs (f) and (g) are added to § 140.4.

(f) *Interest, penalties, and administrative costs.* SBA is authorized to collect any assessment of interest, penalties, and administrative costs on debts being collected under this section. The assessment of these charges and the waiving of them must be made in accordance with 4 CFR 102.13.

(g) *Non-waiver of rights by payments.* An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

Date: September 3, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-23668 Filed 10-15-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-25; Notice No. SC-87-4-NM]

Special Conditions; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for Boeing Model 747 series airplanes which incorporate overhead crew rest areas. These rest areas have novel or unusual design features for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the safety standards which the Administrator finds necessary, because of these design features, to establish a level of safety equivalent to that established in the regulations.

DATE: Comments must be received on or before November 5, 1987.

ADDRESSES: Comments on this proposal may be mailed in duplicate to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-25, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or delivered in duplicate to the Office of the Regional Counsel at the above address. Comments must be marked: Docket No. NM-25 Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Franklin Tiangsing, Transport Standards Staff, ANM-112, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 431-2121.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in

this Notice may be change in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-25." The postcard will be date/time stamped and returned to the commenter.

Background

Under the provisions of § 21.101(a) of the Federal Aviation Regulations (FAR), an applicant for a change to a type certificate must comply with either the regulations incorporated by reference in the type certificate (sometimes referred to as the "original certification basis") or with the applicable regulations in effect on the date of the application for the change. Section 21.101(b) further provides that, if the proposed change consists of a new design of a component, equipment installation, or system installation and that the regulations incorporated by reference in the type certificate do not provide adequate standards with respect to the proposed change, the applicant must comply with certain additional requirements in order to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate. These additional requirements are the applicable regulations in effect on the date of application for the change and any special conditions established under the provisions of § 21.16.

Section 21.16 provides that if the airworthiness regulations do not contain adequate or appropriate safety standards, because of a novel or unusual design feature, special conditions are prescribed. The special conditions contain the safety standards found necessary to establish a level of safety equivalent to that established in the regulations.

On December 17, 1986, the Boeing Commercial Airplane Company applied for change to Type Certificate No. A20WE for type certification of Model 747 series airplanes with overhead crew rest areas installed. The crew rest area would be installed above the main passenger cabin in the vicinity of the Number 5 passenger doors. This is an area that has never been used for this purpose in any previous transport airplane. Due to the novel or unusual features associated with the installation of these rest areas, special conditions are considered necessary to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate.

The regulations incorporated by reference in Type Certificate No. A20WE for Boeing 747 series airplanes include Part 25 of the FAR as amended by Amendments 25–1 through 25–8, 25–15, 25–17, 25–18, 25–20 and 25–39, and §25.803(d) as amended by Amendment 25–46. In addition, the regulations incorporated by reference include Part 36 of the FAR and a number of special conditions that are not relevant to the installation of crew rest areas. Because neither the regulations incorporated by reference in Type Certificate No. A20WE nor those in effect on the date of application for the change provide adequate standards, the special conditions discussed in this notice are proposed to provide adequate standards for the 747 series airplanes in which crew rest areas are installed.

These special conditions would establish seating, communication, lighting, personal safety and evacuation requirements for the overhead crew rest area. When applicable, the proposed requirements parallel the existing requirements for a lower deck service compartment and would provide an equivalent level of safety to that provided for main deck occupants.

Due to the location and configuration of the crew rest area, occupancy during taxi, takeoff, and landing be prohibited and occupancy is limited to crewmembers.

Two-way voice communications and public address speaker(s) would be required to alert the occupants to an in-flight emergency.

To prevent the occupants from being isolated in a dark area due to loss of the crew rest lighting, either a scond independent source of normal lighting or emergency lighting would be required. An emergency lighting system which is activated under the same conditions as the main deck emergency lighting system would also be required.

Since there are in-flight emergencies that may require the occupants of the crew rest area to return to the main deck and to prevent the occupants from being trapped in the event the stairway is blocked, two evacuation routes including a stairway would be required. These escape routes must provide for the removal of an incapacitated person from the crew rest area to the main deck.

Since the crew rest area may not always be occupied, a smoke detection system and equipment for fire fighting would be required to minimize the hazards associated with a fire in the crew rest area.

In addition, passenger information signs, supplemental exygen, and a seat or berth for each occupant would be required. These items are necessary because of turbulence and/or decompression.

The crew rest areas may also be installed in certain new model 747–400 airplanes. The Model 747–400 is a new model that is derived from the previously type certificated models of the 747 series. The Boeing Commercial Airplane Company has separately applied for a change to Type Certificate No. A20WE to include the new Model 747–400, and the certification basis for those airplanes will be established under the provisions of § 21.101. That certification basis will include any special conditions adopted for the installation for the crew rest area.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and effects only the manufacturer who applies to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions for Boeing Model 747 series airplanes with overhead crew rest areas installed.

PARTS 21 AND 25—[AMENDED]

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq., E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

1. Occupancy of the overhead crew rest area is limited to a maximum of 10 crewmembers. Occupancy during taxi, takeoff, or landing is not permitted.

2. There must be a stairway between the main deck and the crew rest area and there must be an alternate evacuation route for occupants of the crew rest area.

The stairway and alternate evacuation route must be located on opposite sides of the crew rest area or have sufficient separation within the compartment. The stairway and

the alternate evacuation route must provide for evacuation of an incapacitated person, with assistance, from the crew rest area to the main deck, must not be dependent on any powered device, and must be designed to minimize the possibility of blockage which might result from fire, mechanical or structural failure. The crewmember procedures for carriage of an incapacitated person must be established.

3. An exit sign meeting the requirements of § 25.812(b)(1)(i) must be provided in the crew rest area near the stairway.

4. In the event airplane's main power system should fail, emergency illumination of the crew rest area must be automatically provided. Unless two independent sources of normal lighting are provided, the emergency illumination of the crew rest area must be automatically provided if the crew rest area normal lighting system should fail. The illumination level must be sufficient for the occupants of the crew rest area to locate, and descend to the main deck by means of the stairway and/or the alternate evacuation route, and to read any required operating instructions.

5. There must be a means for two-way voice communication between crewmembers on the flight deck and occupants of the crew rest area, and between crewmembers at least one flight attendant seat on the main deck and occupants of the crew rest area.

6. There must also be either public address speaker(s), or other means of alterting the occupants of the crew rest area to an emergency situation, installed in the crew rest area.

7. There must be a means, readily detectable by occupants of the crew rest area, that indicates when seat belts should be fastened and when smoking is prohibited.

8. For each occupant permitted in the crew rest area, there must be an approved seat or berth that must be able to withstand the maximum flight loads when occupied.

9. The following equipment must be provided:

a. At least one approved fire extinguisher appropriate to the kinds of fires likely to occur.

b. One protective breathing device, having TSO–C99 authorization or equivalent, suitable for firefighting.

c. One flashlight.

10. A smoke detection system that annunciates in the flight deck and is audible in the crew rest area must be provided.

11. A supplemental oxygen system equivalent to that provided for main deck passengers must be provided for each seat and berth.

12. There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of the evacuation routes.

Issued in Seattle, Washington, on October 1, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–23947 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–128–AD]

Airworthiness Directives: Hamburger Flugzeugbau (HFB) 320 Hansa Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to HFB 320 Hansa series airplanes, that would require an inspection for corrosion, and replacement, as necessary, on the drive shafts and rotary selectors of the landing flaps and slats of both wings, as well as the bolts and drive shafts of the speed brakes and slats. This proposal is prompted by a report of corrosion found on the bolts on the inner area of the air brake flap drive shaft on an aircraft which was being repaired. This condition, if not corrected, could lead to degradation of lateral control.

DATE: Comments must be received no later than December 7, 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–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Messerschmitt-Bolkow-Blohm BmbH, Postfach 95 01 09, D–2103 Hamburg 95, Federal Republic of Germany. 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, 98108.

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, D–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. 87–NM–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority of the Federal Republic of (West) Germany, has notified the FAA of an unsafe condition which may exist on HFB 320 Hansa series airplanes.

During a repair on an airplane, corrosion was found on the bolts and inner area of an air brake flap drive shaft. It has been determined that it is possible for similar severe corrosion to occur in the bolts and drive shafts associated with the wing flaps, slats and speed brakes. This condition, if not corrected, could lead to an asymmetric configuration which may cause degradation of lateral control.

Messerschmitt-Bolkow-Blohm BmbH has issued Service Bulletin 27–74, dated July 1, 1986, which describes an inspection for corrosion, and replacement, if necessary, of the bolts, and drive shafts and rotary selectors for the wing flaps, slats and speed brakes for this model airplane. The LBA has issued an AD requiring compliance with this service bulletin.

This airplane model is manufactured in the Federal Republic of Germany and type certificated in the United States under the provisions of section 21.29 of the Federal Aviation Administration and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this same type design registered in the United States, an AD is proposed which would require inspection, and replacement if

necessary, in accordance with the service bulletin previously mentioned.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 70 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 $42,000.

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 ($2800). 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:

Hamburger Flugzeugbau: Applies to Model HFB-320-HANSA series airplanes, Serial Numbers 1021; 1023, 1026, 1030, 1033, 1035, 1040, 1045, and 1050-1057, certificated in any category. Compliance required as indicated, unless previously accomplished:

To prevent asymmetric configuaration which may cause degradation of lateral control, accomplish the following:

A. Within 30 days after the effective date of this AD, inspect, and replace, as necessary, the bolts, drive shafts and rotary selectors for the wing flaps, slats and speed brakes on the HFB 320 HANSA airplane in accordance with Messerschmitt-Bolkow-Blohm GmbH Service Bulletin 27-74, dated July 1, 1986.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, 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 Messerschmitt-Bolkow-Blohm GmbH, Postfach 95 01 09, D-2103 Hamburg 95, Federal Republic of Germany. These documents may be examined at the FAA, Nowthwest Mountain Region 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 2, 1987.

Wayne J. Barlow,

Director Northwest Mountain Region.

[FR Doc. 87-23946 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-121-AD]

Airworthiness Directives; Airbus Industrie Model A300 B2 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 Airbus Industrie Model A300 B2 series airplanes, that would require inspection of the main landing gear (MLG) lower tie rods for cracks, and replacement, if necessary. This proposal is promoted by a report of cracks in the blending radius under the head of a lower tie rod. This condition, if not corrected, could lead to collapse of the main landing gear.

DATE: Comments must be received no later than December 7, 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-121-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. 87-NM-121-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direction Générale de L'Aviation Civile (DGAC), which is the airworthiness authority of France, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist on certain Airbus Industrie A300 Model B2 series airplanes. Cracks have been detected in

the MLG lower tie rods at the base of the blending radius under the head during overhaul of A300 airplanes. This condition, if not corrected, could lead to collapse of the MLG.

Airbus Industrie issued Service Bulletin A300–32–369, dated December 12, 1986, which describes ultrasonic inspection of the tie rods, and replacement, if necessary. The service bulletin references Messier-Hispano-Bugatti Service Bulletin 470–32–420, Revision 1, dated December 15, 1986, for explicit directions. The DGAC has issued an airworthiness directive, requiring compliance with the Airbus Industrie service bulletin.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 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 inspection for cracks, and replacement, if necessary, of the main landing gear (MLG) lower tie rods, in accordance with the Airbus Industrie service bulletin previously mentioned.

It is estimated that 2 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour 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 $80.

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 ($40). 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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A300 B2 series airplanes, as listed in Airbus Industrie (AI) Service Bulletin A300–32–369, dated December 12, 1986, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent collapse of the main landing gear (MLG), accomplish the following:

A. Prior to each lower tie rod accumulating 7,000 landings or within the next 500 landings, whichever occurs later, and thereafter at intervals not to exceed 1,500 landings, perform an ultrasonic inspection of the MLG lower tie rods, in accordance with AI Service Bulletin A300–32–369, dated December 12, 1986. Replace defective lower tie rods before further flight.

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 Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on October 2, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–23944 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–ANE–21]

Airworthiness Directives; General Electric (GE) CT7–5A, –5A1, and –5A2 Turbopropeller Engines as Installed in Saab-Fairchild SF340A Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require the installation of a second overspeed protection system on certain GE CT7–5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft. The proposed AD would also supersede AD 86–10–51, Amendment 39–5473. The proposed AD is needed to prevent engine power turbine (PT) overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor enabled.

DATE: Comments must be received on or before December 14, 1987.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Council, Attention: Rules Docket Number 86–ANE–21, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to Room 311 at the above address.

Comments delivered must be marked: "Docket Number 86–ANE–21".

Comments may be inspected at the New England Region, Office of the Regional Counsel, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable service bulletins (SB's) may be obtained from Dowty Rotol Limited, Cheltenham Road East, Gloucester, England GL2 9QH; General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910; and Saab-Scania AB, S–581 88, Linkoping, Sweden.

A copy of each SB is contained in Rules Docket Number 86–ANE–21, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Barbara Garian, Engine Certification Branch, ANE–141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New

England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7086.

SUPPLEMENTARY INFORMATION:

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 will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 86-ANE-21". The postcard will be date/time stamped and returned to the commenter.

AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986), issued November 18, 1986, requires that the engine bottoming governor be disabled when the aircraft power lever is positioned in the beta range (below flight idle). The AD was needed to prevent PT overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor enabled.

AD 86-10-51 provides interim instructions to prevent PT overspeed and uncontained failure. Since these instructions require special aircraft and engine operating procedures which increase crew workload and invalidate the constant torque on takeoff function, the FAA has determined that a second overspeed protection system with an improved level of safety precludes the need for these interim instructions and returns the aircraft and engine to pre-AD 86-10-51 operation.

This proposed AD also would require incorporation of engine bottoming governor deactivation switches to prevent an adverse yaw condition in the aircraft that could occur due to a mismatched aircraft power condition resulting from an uncommanded power increase of one engine. This would also prevent the crew from misinterpreting the uncommanded power increase of one engine as a failure of the other engine.

Since this condition is likely to exist in other engines of the same type design, the proposed AD would require installation of a second overspeed protection system on GE CT7-5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft, and incorporation of engine bottoming governor deactivation switches in the power lever quadrant, and in addition, supersede AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986).

Conclusion

The FAA has determined that this proposed regulation involves only five aircraft with a total cost of approximately $10,000. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) if promulgated, will not have 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 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) 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 11.85.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986):

General Electric: Applies to General Electric (GE) CT7-5A, -5A1, and -5A2 turbopropeller engines as installed in Saab-Fairchild SF340A aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent power turbine (PT) overspeed resulting in an uncontained failure or adverse aircraft yaw due to reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor (BG) enabled, accomplish the following no later than January 31, 1988:

(a) Remove propeller overspeed governor (OSG) Dowty Totol (DR) Part Numberf (P/N) 661001001 and replace with OSG DR P/N 661001002 in accordance with procedures contained in Dowty Rotol Service Bulletin (SB) SF340-61-11, dated October 8, 1986.

(b) Install cable P/N 6068T47P01 between the propeller OSG and the hydromechanical unit in accordance with GE CT7 turboprop series SB 74-09, dated October 10, 1986.

(c) Install engine BG deactivation switches, Mod Kit Saab SF340-76-018-01, in the power lever quadrant in accordance with procedures contained in Saab SB SF340-76-018, dated October 24, 1986.

(c) Upon accomplishment of paragraphs (a) through (c) above:

(1) Remove from the SF340A Aircraft Flight Manual (AFM) the BG disabling procedures required by AD 86-10-51, paragraphs (a) (1) and (2).

(2) Discontinue operating in accordance with the procedures listed in AD 86-10-51, paragraph (b).

Note: Subsequent to compliance with this AD, aircraft operation shall be conducted in accordance with the latest AFM revision.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

Should this proposed rule be adopted, the FAA will request the approval of the **Federal Register** to incorporate by reference the manufacturers' SB's identified and described in this document.

This proposed AD would supersede AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986).

Issued in Burlington, Massachusetts, on September 24, 1987.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 87-23945 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 292, and 375

[Docket No. RM87-13-000]

Implementation of Section 8 of the Electric Consumer Protection Act of 1986; Hydroelectric Applicants With New Dam or Diversion Projects Seeking Benefits Under the Public Utility Regulatory Policies Act of 1978

October 5, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing applicants for hydroelectric licenses and exemptions that seek benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The proposed amendments only govern applicants that have projects located at a new dam or diversion. In proposing these amendments, the Commission continues to implement section 8 of the Electric Consumers Protection Act of 1986 (ECPA).

Specifically, the Commission is proposing to require every applicant for a license or exemption for a hydroelectric project with a power capacity of 80 megawatts or less to state whether benefits will be sought under PURPA and, if so, whether the project will be located at a new dam or diversion. In addition, the Commission is also proposing to establish procedures for the filing and processing of a petition pursuant to section 8(b)(4)(C) of ECPA.

DATE: Written comments on this proposed rule must be filed with the Commission by November 16, 1987. An original and fourteen copies should be filed. All filings should refer to Docket No. RM87-13-000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Roger E. Smith, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing applicants for hydroelectric licenses and exemptions that seek benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] The proposed amendments only govern applicants that have projects located at a new dam or diversion. In proposing these amendments, the Commission continues to implement the provisions of the Electric Consumers Protection Act of 1986 (ECPA) [2].

In this notice of proposed rulemaking (NOPR), the Commission is proposing to require every application for a license or exemption for a hydroelectric project with a power capacity of 80 megawatts or less to state whether PURPA benefits will be sought and, if so, whether the project will be located at a new dam or diversion. In addition, the Commission is also proposing to establish procedures for the filing and processing of a petition pursuant to section 8(b)(4)(C) of ECPA.

Section 8 of ECPA establishes three new requirements that a hydroelectric project located at a new dam or diversion must satisfy before it can qualify for PURPA benefits.[3] In addition, section 8 imposes a moratorium on PURPA benefits for such projects.The purpose of the moratorium is to allow Congress time to evaluate whether PURPA benefits should continue to be extended to hydroelectric projects located at new dams or diversions. ECPA requires the Commission to study whether PURPA benefits should be available to these facilities. The Commission will submit the results of its study to Congress, and Congress will then have one full session to consider the issue.

While section 8 of ECPA establishes three new requirements for PURPA benefits, it also creates four exceptions to the new requirements and to the moratorium. Any project which qualifies for one of the exceptions may seek PURPA benefits without complying with one or more of the new requirements. Any project that qualifies for one of the exceptions is also exempted from the moratorium.[4]

[1] 16 U.S.C. 824a-3 (1982).

[2] Pub. L. No. 99-495; 100 Stat. 1243 (Oct. 16, 1986).

[3] The term "PURPA benefits" refers to the provision in section 210 of PURPA which requires electric utilities to purchase electricity from, and sell electricity to, any qualifying facility.

[4] The result of this framework is that the new requirements can have immediate application even though there is a moratorium on PURPA benefits. For example, one of the exceptions only excepts a project from one of the new requirements. Such a project would be exempt from the moratorium and would be able to seek PURPA benefits. However, the project still would have to comply with the remaining new requirements for PURPA benefits added by section 8 of ECPA.

II. Background

Section 210 of PURPA requires electric utilities to sell electricity to, and purchase electricity from, qualifying small power production facilities. The Federal Power Act (FPA) defines "small power production facility" to include facilities with a power production capacity of 80 megawatts or less that produce electric energy solely by the use of renewable resources.[5] The Commission has interpreted "renewable resources" to include water used at hydroelectric projects located at either an existing dam or a new dam or diversion.[6] Therefore, small hydroelectric projects qualify for, or may seek, PURPA benefits.

In section 8(e) of ECPA, enacted on October 16, 1986, Congress imposed a moratorium of approximately two-to-three years on the availability of PURPA benefits for hydroelectric projects located at new dams or diversions. The purpose of this moratorium is to allow Congress time to evaluate whether PURPA benefits should continue to be extended to hydroelectric projects that create new dams or diversions of water.[7]

A. Section 8 of ECPA

Section 8 of ECPA amends section 210 of PURPA to add a new section 210(j) and establishes a moratorium on the availability of PURPA benefits. Section 210(j) only applies to projects located at new dams or diversions that seek PURPA benefits. Section 210(j) establishes three new environmental conditions which must be satisfied before such projects can qualify for PURPA benefits. The three new environmental requirements in section 210(j) are:

(1) *No Substantial Adverse Effects.* At the time of issuance of the license or exemption for the project, the Commission finds that the project will not have substantial adverse effects on the environment, including recreation and water quality. Such finding shall be made by the Commission after taking into consideration terms and conditions

[5] 16 U.S.C. 796(17)(A) (1982).

[6] Small Power Production and Cogeneration Facilities—Qualifying Status, 45 FR 17,959 at 17,966 (Mar. 20, 1980), FERC Stats. and Regs. [Regulations Preambles 1977-1981] ¶ 30,134 (Mar. 13, 1980).

[7] In order to develop a factual record on the impact of extending PURPA benefits to hydroelectric projects located at new dams or diversions, section 8(d) of ECPA required the Commission to study whether PURPA benefits should be available to these projects. The commission will then submit the results of its study to Congress, and Congress will have one full session to consider the issue. The moratorium will end at the expiration of the first full session of Congress following the session in which the Commission submits its report to Congress.

imposed under either paragraph (3) of this subsection or section 10 of the Federal Power Act (whichever is appropriate as required by that Act or the Electric Consumers Protection Act of 1986) and compliance with other environmental requirements applicable to the project.

(2) *Protected Rivers.* At the time the application for a license or exemption for the project is accepted by the Commission (in accordance with the Commission's regulations and procedures in effect on January 1, 1986, including those relating to environmental consultation), such project is not located on either of the following:

(A) Any segment of a natural watercourse which is included in (or designated for potential inclusion in) a State or national wild and scenic river system.

(B) Any segment of a natural watercourse which the state has determined, in accordance with applicable State law, to possess unique natural, recreational, cultural, or scenic attributes which would be adversely affected by hydroelectric development.

(3) *Fish and Wildlife Terms and Conditions.* The project meets the terms and conditions set by fish and wildlife agencies under the same procedures as provided for under section 30(c) of the Federal Power Act.

While section 8 of ECPA establishes these new requirements for PURPA benefits,[8] it also creates four exceptions to one or more of the new requirements and to the moratorium. Any project that qualifies for one of the exceptions is exempted from the moratorium and can seek PURPA benefits without complying with one or more of the new requirements.[9]

The first exception is embodied in section 210(j) itself, since the section does not apply to any new dam or diversion project that is located at a government dam where non-Federal hydroelectric development is permissible. Any project in this category is exempted from the moratorium and can seek PURPA benefits without complying with any of the new requirements.[10]

[8] This notice will refer to the three requirements as: (a) The "adverse environmental effects" requirement (section 210(j)(1)), (b) the "protected rivers" requirement (section 210(j)(2)), and (c) the "fish and wildlife agency" requirement (section 210(j)(3)).

[9] If a project is excepted from one or two of the new requirements, it must still comply with the remaining requirements in section 210(j) of PURPA. However, the project would be exempted from the moratorium and could seek PURPA benefits.

[10] This exception, unlike the other exceptions, is a categorical exception and is not keyed to the timing of any event. Section 210(j) only applies, by definition, to new dams and diversions that are not located at government dams where non-Federal hydroelectric development is permissible. This notice will refer to this exception as the "government dam" exception.

The remaining exceptions are located in section 8(b) of ECPA. These exceptions are intended to provide relief for developers who had relied on existing law and who, at the time of ECPA's enactment, had expended significant amounts of money and effort on their projects. Congress recognized that the new environmental requirements in section 210(j) of PURPA could impose hardships on these developers. In order to alleviate the potential hardships, Congress created three exceptions for developers who were well on their way toward gaining regulatory approval of their projects at the time ECPA was enacted. The three remaining exceptions to the new requirements in section 210(j) of PURPA are:

1. None of the three new requirements applies if the application was filed, and accepted for filing by the Commission, before October 16, 1986, the date of ECPA's enactment. (section 8(b)(2) of ECPA)

2. Only the protected rivers requirement applies (section 210(j)(2) of PURPA) if the application was filed before October 16, 1986, and accepted for filing by the Commission between October 16, 1986, and October 16, 1989. (section 8(b)(3) of ECPA) [11]

3. The fish and wildlife agency requirement (section 210(j)(3) of PURPA) does not apply if the application was filed on or after October 16, 1986, and if the Commission finds, based on a petition filed by the applicant before April 16, 1988, that prior to ECPA's enactment the applicant had committed substantial monetary resources to the development of the project and to the diligent and timely completion of all filing requirements of the Commission. (section 8(b)(4) of ECPA)

The last exception, in section 8(b)(4) of ECPA, is available only if the Commission affirmatively grants the exception upon application, in the form of a petition. It is a portion of this last exception, in section 8(b)(4) of ECPA, that is the subject of this notice.

B. Section 8(b)(4) of ECPA

Section 8(b)(4) sets forth a series of specific steps that a qualifying applicant must take in order to satisfy, or be excepted from, the fish and wildlife agency requirement and the adverse environmental effects requirement in section 210(j) of PURPA. An applicant would qualify for section 8(b)(4) if its application was filed on or after October 16, 1986, and if the Commission finds that before October 16, 1986, the applicant committed substantial monetary resources to the development of the project and to the diligent and timely completion of all the filing requirements of the Commission. The applicant must file a "commitment of resources petition" which demonstrates the commitment of substantial monetary resources prior to the enactment of ECPA.[12] If the commitment of resources petition is denied by the Commission all the new requirements in section 210(j) of PURPA apply, and the applicant is not exempted from the moratorium. If the commitment of resources petition is granted, the applicant is excepted from the fish and wildlife agency requirement in section 210(j)(3) of PURPA.[13] In addition, the applicant may file a second petition and receive a preliminary determination whether the project satisfies the adverse environmental effects requirement in section 210(j)(1) of PURPA. It is this second petition, the adverse environmental effects (AEE) petition, that is the subject of this notice. By filing an AEE petition the applicant, who is already excepted from the fish and wildlife agency requirement, would receive a preliminary determination from the Commission on whether the project satisfies the adverse environmental effects requirement. If, on the basis of the AEE petition, the Commission initially decides that the project will have a substantial adverse effect, it must give the applicant a reasonable opportunity to provide for mitigation of such adverse effects before making a final determination. If the Commission initially decides that the

[11] For projects that qualify for this exception, the Commission is contacting the appropriate state agencies and requesting that the agencies determine if such projects are located on any natural watercourse as described in section 210(j)(2) of PURPA.

[12] The Commission issued an interim rule on February 13, 1987, which set forth what an applicant must demonstrate to show a commitment of substantial monetary resources. The interim rule also set forth procedures for the filing and processing of a commitment of resources petition. Docket No. RM87-8-000 52 FR 5276 (Feb. 20, 1987), III FERC Stats. & Regs. ¶ 30,729 (Feb. 13, 1987).

[13] If an applicant qualifies for the exception from section 210(j)(3) of PURPA, the applicant would still be subject to either recommended terms and conditions set by fish and wildlife agencies under section 10(j) or mandatory terms and conditions set by fish and wildlife agencies under section 30(c) of the FPA. There are two reasons for this interpretation. First, Congress intended FPA section 10(j) to apply to all applications for licenses except for those applications covered by PURPA section 210(j)(3). The Conference report which accompanies ECPA states,

> Section 10 of the Federal Power Act, as amended by [ECPA], shall apply to *all* projects * * * for which a license is issued * * * except that section 10(j) will not apply if section 210(j)(3) of PURPA * * * applies to the project." H.R. Rep. No. 934, 99th Cong., 2nd Sess. 32 (1986) (emphasis added).

Second, Congress did not intend to alter the application of section 30(c) of teh FPA. Section 8(c) of ECPA requires that, "Nothing in this Act [ECPA] shall affect the application of section 30(c) of the Federal Power Act to any *exemption* issued after the enactment of this Act." H.R. Rep. No. 934, 99th Cong., 2nd Sess. 32 (1986) (emphasis added).

project will not have a substantial adverse effect, it will afford interested state(s) a reasonable opportunity to make any determinations under the protected rivers requirement before making a final determination. The Commission is proposing to notify the appropriate Federal and state agencies of its initial finding. The Commission must make a final determination on the AEE petition at the time the license or exemption is issued. If a state has not taken any action before the Commission makes its final determination, the failure to take such action gives rise to a presumption that the project has no substantial adverse effect on the environment for those environmental attributes listed in section 210(j((2) of PURPA.

III. The Commission's Proposal

In this notice of proposed rulemaking (NOPR), the Commission proposes to require every application for license or exemption for a hydroelectric project with a power capacity of 80 megawatts or less to state whether PURPA benefits will be sought and, if so, whether the project will be located at a new dam or diversion. In addition, the Commission also proposes to establish procedures for the filing and processing of an "adverse environmental effects" (AEE) petition. This petition may be filed, under certain circumstances, by applicants who qualify for the specific exception in section 8(b)(4) of ECPA.[14]

A. Changes in Filing Requirements for Applications for License and Exemption

The Commission is proposing to amend its filing requirements to require every application for license or exemption for a hydroelectric project with a power capacity of 80 megawatts or less to state whether PURPA benefits will be sought, and if so, whether the project is located at a new dam or diversion. If the project is located at a new dam or diversion, it must satisfy the new environmental requirements in section 210(j) of PURPA. These proposed changes are intended to aid the Commission in its efforts to comply with ECPA and to promote the efficient use of Commission resources.

Prior to ECPA there was no distinction for obtaining PURPA benefits between new dams and diversions, and existing dams. ECPA introduces this distinction, imposing three new environmental requirements on projects located at new dams or diversions. Applicants may not always be able to determine if their project is a new dam or diversion or is reconstruction at an existing dam. If an applicant makes an incorrect determination of a projects' status, regardless of whether the mistake was inadvertent or deliberate, the applicant could avoid the requirements of section 210(j) of PURPA.[15] Therefore, in order to comply with ECPA, the Commission must verify whether or not the project is located at a new dam or diversion.

Although the new environmental requirements in section 210(j) of PURPA apply only to projects at new dams or diversions, the Commission's proposal would require all applications for projects with a power capacity of 80 megawatts or less to state whether or not PURPA benefits will be sought. This requirement is necessary to prevent applicants from circumventing or avoiding the new requirements.

Specifically, requiring an applicant with a hydroelectric project with a power capacity of 80 megawatts or less to state in its application whether or not it will seek PURPA benefits will allow the Commission to determine which projects require verification. If, prior to the issuance of a license or exemption, an applicant files a statement reversing its intent not to seek PURPA benefits, the Commission proposes to treat the statement as an amendment to the application which materially amends the proposed plans of development. This would encourage an applicant, at the outset, to decide whether to seek PURPA benefits. Treating a reversal of intent in this manner would also change the acceptance date of the application to the date on which the amendment was filed. The Commission would then consider the amended application a new filing for the following purposes:

(1) Reissuing public notice of the application (§ 4.32 of the Commission's regulations—Acceptance for filing or rejection) 18 CFR 4.32 (1987),

(2) Timeliness (§ 4.36 of the Commission's regulations (Competing applications) 18 CFR 4.36 (1987), and

(3) Disposal of competing applications (§ 4.37 of the Commission's regulations—Rules of preference among competing applications) 18 CFR 4.37 (1982).

The Commission also would rescind any acceptance letter for the application if it had issued one. As a consequence, the applicant would be subject to a new notice period and might lose priority among competing applicants.

The Commission is proposing to prohibit an applicant who reverses its intent not to seek PURPA benefits after a license or exemption has been issued from obtaining PURPA benefits. This proposal would prevent an applicant from deliberately avoiding the requirements in section 210(j) of PURPA by initially stating its intention not to seek PURPA benefits and then, after the license or exemption had been issued, attempting to seek PURPA benefits as a project at an "existing dam."

The Commission requests comments on this proposal or other suggestions on how to prevent an applicant from circumventing the new requirements in section 210(j) of PURPA.

If an applicant states its intent to seek PURPA benefits but is not successful, the Commission will have specifically considered the issue of PURPA benefits and will have an adequate record.[16] Therefore, if circumstances were to change, and the applicant could demonstrate that the changed circumstances negated the Commission's reasons for initially denying PURPA benefits, it might qualify for PURPA benefits.

B. Substantial Adverse Environmental Effects Petition

The Commission is proposing standards and procedures for filing an adverse environmental effects (AEE) petition. As explained before, the Commission can only make a determination on the AEE petition for an applicant whose commitment of resources petition was granted by the Commission. Such an applicant is excepted from the fish and wildlife requirements in section 210(j)(3) of PURPA.

[14] The Commission implemented portions of section 8 of ECPA in an interim rule issued on February 13, 1987. Hydroelectric Applicants Seeking Benefits Under section 210 of the Public Utility Regulatory Policies Act of 1978 for Projects Located at a New Dam or Diversion (Docket No. RM87-8-000). 52 FR 5276 (Feb. 20, 1987). III FERC Stats. & Regs. ¶ 30.729 (Feb. 13, 1987). This NOPR proposes to implement the remaining portions of section 8.

[15] It is important to note that section 8(a) of ECPA defines what a new dam or diversion is for section 210 of PURPA. This definition tracks, or coincides with, the definition of an "existing dam" in section 408(a)(6) of PURPA and in §§4.30(b)(6) (i) and (ii) of the Commission's regulations. However, under section 210(k) of PURPA, the addition of flashboards would not preclude a project from seeking PURPA benefits as an "existing dam." In contrast, the addition of flashboards or similar adjustable devices precludes a project from qualifying for an exemption as an existing dam under the FPA. The Commission is proposing to continue to restrict exemptions to projects which do not provide for the addition of flashboards. However, it is apparently the intent of Congress to apply a more liberal rule regarding flashboards to qualifications for PURPA benefits. Therefore, under PURPA, "existing dams" can include projects which raise the existing impoundment level by the addition of flashboards.

[16] This example assumes that the applicant receives the license or the exemption and that the applicant is only unsuccessful in obtaining PURPA benefits.

If the Commission has granted the commitment of substantial monetary resources petition, and if the applicant has filed an AEE petition, the Commission will make an initial determination whether the project will satisfy the adverse environmental effects requirement in section 210(j)(1) of PURPA. Therefore, the AEE petition should simply identify the project and request that the Commission make an initial determination on the adverse environmental effects requirement. The Commission will make a final determination on the AEE petition at the time it issues the license or grants the exemption. If the appropriate state(s) has not taken any action before the Commission makes a final determination, a presumption arises that there are no substantial adverse effects. In other words, it will be presumed that for those environmental attributes listed in section 210(j)(2) of PURPA, the project has no substantial adverse effect on the environment.[17] The state must act before the Commission makes a final determination on the AEE petition (i.e., when the Commission issues the license or grants the exemption) to prevent the presumption from arising.

The Commission anticipates that the state will be well aware of all projects subject to section to section 8(b)(4) of ECPA and will have ample opportunity to comment on the initial determination. First, the Commission will notify the state when it issues an initial determination on the AEE petition. Second, before any application for a license or exemption can be submitted to the Commission, applicants must complete the requisite prefiling consultation requirements.[18] These requirements include consultation with state agencies. Therefore, since a state is given ample notice under these circumstances, it is reasonable to presume that the state's inaction indicates that the state does not object to the project.

1. *Definition of Substantial Adverse Environmental Effects*

The Commission proposes to define "substantial adverse environmental effects" as follows:

Substantial adverse environmental effects—are, for purposes of the Public Utility Regulatory Policy Act (PURPA), those effects which are characterized by substantial adverse alteration of natural features, existing habitat, recreational uses, water quality or other environmental resources. For the purposes of this rule, "substantial adverse alteration" of a particular resource means a change in the resource which results in a modification of the continued use of that resource. The Commission will determine if a project would result in substantial adverse environmental effects. In making this determination the Commission will consider, among other things, the following:

(1) The proposed mitigative measures;

(2) The consistency of the proposal with local, regional, and national resource plans and programs;

(3) The mandatory terms and conditions of fish and wildlife agencies under section 210(j) of PURPA, or section 30(c) of the Federal Power Act; or the recommended terms and conditions of fish and wildlife agencies under 10(j) of the Federal Power Act, whichever is appropriate; and

(4) Any other information which the Director believes is relevant to consider.

This definition tracks the language and the legislative history of section 210(j)(1) of PURPA.[19]

The Commission is proposing to incorporate its determination of substantial adverse effects into its environmental review process. Specifically, the Commission would review the application; require any additional information necessary to assess the impacts of the project on any environmental resource; assess the impacts of the project; and decide whether the project, even with the proposed mitigation, substantially alters the existing habitat, recreational uses, water quality or other environmental resources.

The Commission believes that the determination under section 210(j)(1) is specific to PURPA and does not affect any findings under the National Environmental Policy Act of 1969 (NEPA). NEPA is a procedural statute, while PURPA is a substantive statute. That is, NEPA mandates that certain procedures must be followed when the government proposes to take any action that significantly affects the quality of the human environment. NEPA does not deny or prohibit any Government action, it only mandates that certain processes be followed. Section 210(j)(1) of PURPA, however, contains a substantive standard which, if it is not satisfied, will result in the denial of PURPA benefits.

2. Review of the Substantial Adverse Environmental Effects Petition

Although the Commission would make the final determination on the AEE petition when it issues the license or grants the exemption, the Commission proposes to delegate to the Director of the Office of Hydropower Licensing (Director) the authority to make an initial determination on the AEE petition. The Director would make an initial finding on the petition after the close of the public notice period. The Director would also provide written notice of this finding to the applicant and to the appropriate Federal and state agencies.[20]

If the Director's initial determination is that the project would not have any adverse environmental effects, the Commission is proposing that a final determination could not be made any sooner than 45 days after the initial determination. The Commission believes that 45 days is sufficient time to allow the state to take any action it deems necessary. Similarly, the Commission proposes to provide an applicant with 45 days in which to file proposed mitigative measures. If an applicant files mitigative measures, the Commission proposes to give the state 45 days to review and comment on the mitigative measures.

The proposed mitigative measures filed by an applicant could contain changes in the development plan that would, in other circumstances, amount to the filing of a material amendment. Since the proposed mitigation measures are filed at the Commission's request and pursuant to ECPA, the Commisson proposes that such measures would not have the consequences of filing a material amendment. However, an applicant could not use the opportunity to provide mitigative measures as a pretext to materially amend its application and avoid the consequences of filing a material amendment. If the

[17] While Congress used the attributes listed in the protected rivers requirement (section 210(j)(2) of PURPA) to define the scope of the presumption, the presumption arises only for the purposes of the adverse environmental effects requirement in section 210(j)(1) of PURPA.

[18] See 18 CFR 4.38 for the Commission's prefiling consultation requirements.

[19] *See*, 16 U.S.C. 823a-3(j)(1) (1982) (Section 210(j)(1) of PURPA), and the House Report which concluded that,

> * * * the Commission must determine that the project will not have substantial effects on the environment, including recreation or water quality. This requirement for cumulative impact analysis is intended to prevent PURPA benefits from being extended to new dam or diversions projects which *substantially alter, even with mitigation, existing habitat, recreational uses or water quality.* (emphasis added).

H.R. Rep. No. 507, 99th Cong., 2d Sess. 43 (1986).

[20] Congress intended the Commission to notify the state(s) of its preliminary finding on the AEE petition. The Conference Report which accompanied ECPA states, "If FERC issues a preliminary finding that the project would result in such adverse effects, the developer would be provided a reasonable opportunity to mitigate such effect. It is expected that FERC would notify the State of this finding." H.R. Rep. No. 934, 99th Cong., 2d Sess. 32 (1986).

proposed measures exceed the scope of mitigating substantial adverse environmental effects, the Commission will treat such measures as a material amendment to the application.

IV. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information on the matters proposed in this notice. Submit all comments to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, and refer to Docket No. RM87–13–000. Please file an original and fourteen copies. All comments received prior to 4:30 p.m. EST on November 16, 1987 will be considered by the Commission.

Written submissions will be placed in a public file established for this docket and will be available for public inspection during regular business hours in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act [21] requires a notice of proposed rulemaking to either contain an analysis of the impact the rulemaking would have on small entities,[22] or certify that the rule would not have a significant economic impact on a substantial number of small entities. This notice proposes a petitioning procedure that would assist certain applicants in meeting one of the new requirements in section 210(j) of PURPA. Section 210(j) applies to hydroelectric projects located at new dams or diversions that seek PURPA benefits. This notice also proposes regulations that would require applicants for hydroelectric projects with a power capacity of 80 megawatts or less to state whether PURPA benefits will be sought and, if so, whether the project will be located at a new dam or diversion. The Commission recognizes that these proposed regulations would have an economic impact on small entities. That impact, however, would be a beneficial one. The proposed regulations will help small entities comply with ECPA and new section 210(j) of PURPA. The Commission does not believe that the term "significant economic impact on a substantial number of small entities" as used in the Regulatory Flexibility Act, was intended to include regulations having a beneficial, rather than negative, impact on small entities. Accordingly, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) [23] and the Office of Management and Budget's (OMB) regulations [24] require that OMB approve certain information collection requirements imposed by agency rule. The information collection provisions in this notice will be submitted to OMB for its approval. Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426 (attention: Ellen Brown (202) 357–5311). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, DC 20503 (attention: Desk Officer for the Federal Energy Regulatory Commission).

List of Subjects

18 CFR Part 4

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 292

Electric power plants, Electric utilities, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

In consideration of the foregoing, the Commission proposes to amend Parts 4, 292 and 375, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—LICENSES, PERMITS, EXEMPTIONS, AND DETERMINATION OF PROJECT COSTS

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

Authority: Federal Power Act, 16 U.S.C. 791a–825r, as amended by the Electric Consumers Protection Act of 1986, PUb. L. 99–495; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982), as amended; Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); EO 12009, 3 CFR 1978 Comp., p. 142, unless otherwise noted.

2. In § 4.30, a new paragraph (b)(28) is added to read as follows:

§ 4.30 Applicability and definitions.

* * * * *

(b) * * *

(28) "PURPA benefits" mean benefits under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), as amended. Section 210 of PURPA requires electric utilities to purchase electricity from, and to sell electricity to, qualifying facilities.

3. In § 4.32, paragraphs (c) through (i) are redesignated as paragraphs (d) through (j), and a new paragraph (c) is added to read as follows:

§ 4.32 Acceptance for filing or rejection.

* * * * *

(c) Every application for license or exemption for a project with a capacity of 80 megawatts or less must state:

(1) Whether benefits under section 210 of PURPA will or will not be sought;

(2) If benefits under section 210 of PURPA will be sought, the application must also state:

(i) That the project meets the criteria for qualifying small power production facilities contained in §§ 292.201 through 292.210 of this chapter, and

(ii) Whether the project would impound or divert the water of a natural watercourse by means of a new dam or diversion.

* * * * *

4. In redesignated paragraph, (d) through (f) of § 4.32, remove the words "(a) and (b)" where they appear and add, in their place, the words "(a), (b), and (c)".

5. In § 4.32 paragraphs (b) (1) and (2) and redesignated (e)(1)(ii), remove the words, "paragraph (c)" and add, in their place, the words "paragraph (d)".

6. In § 4.32 redesignated paragraph (e)(1)(iii), remove the words "paragraph (d)(2)(iii)" and add, in their place, the words "paragraph (e)(2)(iii)".

7. In § 4.32 redesignated paragraph (e)(2)(ii)(B), remove the words "paragraph (d)(1)" and add, in their place, the words "paragraph (e)(1)".

8. In § 4.32 redesignated paragraph (f), remove the words "paragraph (d)" and add, in their place, the words "paragraph (e)".

9. In § 4.33(d)(3), remove the words "§ 4.32(c)(2)" and add, in their place, the words "§ 4.32(d)(2)".

10. In § 4.35 paragraphs (a)(1), (a)(2)(i), (a)(2)(iii), and (a)(2)(iv) are revised and a new paragraph (a)(2)(v) is added to read as follows:

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[21] 5 U.S.C. 601–612 (1982).

[22] 5 U.S.C. 603 (1982).

[23] 44 U.S.C. 3501–3520 (1982).

[24] 5 CFR 1320.13 (1987).

§ 4.35 Amendment of application; date of acceptance.

(a) *General rule.* (1) Except as provided in paragraph (a)(2) of this section, if an amendment to an application is filed, the Commission, in determining the date of acceptance of the application under § 4.32(f) of this part, will consider the date on which the amendment to the application was filed to be the date on which the application was filed with the Commission. The Commission will also consider the amended application as a new filing for the purposes of determining its timeliness under § 4.36 of this part, for disposing of competing applications under § 4.37 of this part, and for reissuing public notice of the application under § 4.32(d)(2) of this part. The Commission will also rescind any acceptance letter already issued for the application. This general rule applies in the following circumstances:

(i) If an applicant amends its filed license or preliminary permit application in order to change the status or identity of the applicant or to materially amend the proposed plans or development; or

(ii) If an applicant amends its filed application for exemption from licensing in order to materially amend the proposed plans of development; or

(iii) If an applicant, with a project that has a capacity of 80 megawatts or less, amends its filed application by changing its statement of intent whether or not to seek benefits under section 210 of PURPA as originally filed under § 4.32(c)(1) of this chapter.

(2) *Exceptions.* This section does not apply to:

(i) Any corrections of deficiencies made pursuant to § 4.32(e)(1);

* * * * *

(iii) Any amendments made pursuant to § 4.37(c)(2) of this chapter by a priority applicant to amend its proposed plans of development to make them as well adopted as the proposed plans of an applicant that is not a priority applicant;

(iv) Any amendments made by a license or an exemption applicant to amend its proposed plans of development to satisfy requests of fish and wildlife agencies submitted after an applicant has consulted adequately under § 4.38 of this chapter; and

(v) Any license or exemption applicant with a project located at a new dam or diversion who is seeking PURPA benefits and who:

(A) Has filed an adverse environmental effects (AEE) petition pursuant to § 292.210 of this chapter and,

(B) Has proposed measures to mitigate the adverse environmental effects which the Commission, in its initial determination on the AEE petition, stated the project will have. This exception does not protect any proposed mitigative measures that the Commission finds are pretext to avoid the consequences of materially amending the application or are outside the scope of mitigating the adverse environmental effects.

* * * * *

§ 4.38 [Amended]

11. In § 4.38(b)(3), remove the words "§ 4.32(d)(1)" and add, in their place, the words "§ 4.32(e)(1)".

§ 4.40 [Amended]

12. In § 4.40(b), remove the words "§ 4.32(g)" and add, in their place, the words "§ 4.32(h)".

§ 4.50 [Amended]

13. In § 4.50(b), remove the words "§ 4.32(g)" and add, in their place, the words "§ 4.32(h)".

§ 4.82 [Amended]

14. In § 4.82(b), remove the words "§ 4.32(c)(2)(i)" and add, in their place, the words "§ 4.32(d)(2)(i)".

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

15. The authority citation for Part 292 is revised to read as follows:

Authority: Electric Consumers Protection Act of 1986, Pub. L. No. 99-495; Department of Energy Organiztion Act, 42 U.S.C. 7101-7352 (1982); EO 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982); Federal Power Act, 16 U.S.C. 791a-825r (1982); Public Utility Regulatory Policies Act, 16 U.S.C. 2601-2645 (1982), unless otherwise noted.

16. In § 292.101 a new paragraph (b)(12) is added to read as follows:

§ 292.101 Definitions.

* * * * *

(b) * * *

(12) "New dam or diversion" means a dam or diversion which requires, for the purposes of installing any hydroelectric power project, any construction, or enlargement of any impoundment or diversion structure (other than repairs or reconstruction or the addition of flashboards or similar adjustable devices).

17. Section 292.210 is added to read as follows:

§ 292.210 Petition for initial determination of no substantial adverse environmental effects (AEE petition).

(a) An applicant that has filed a petition under § 292.209 of this part may also file an AEE petition with the Commission for an initial determination that the project will not cause substantial adverse environmental effects pursuant to § 292.203(c)(1)(ii) of this part. The Commission will act on the AEE petition only if the Commission has granted the applicant's commitment of resources petition under § 292.209 of this part.

(b) Substantial adverse environmental effects are, for purposes of the Public Utility Regulatory Policies Act of 1978 (PURPA), those effects which are characterized by substantial alteration, of natural features, existing habitat, recreational uses, water quality or other environmental resources. For the purposes of this section, "substantial alteration" for a particular resource means a change in the resource which results in a modification of the continued use of that resource. The Director of the Office of Hydropower Licensing will determine if a project will result in substantial adverse environmental effects. In making this determination that Director will consider, among other things, the following:

(1) The proposed mitigative measures;

(2) The consistency of the proposal with local, regional, and national resource plans and programs;

(3) The mandatory terms and conditions of fish and wildlife agencies under section 210(j) of PURPA, or section 30(c) of the Federal Power Act; or the recommended terms and conditions of fish wildlife agencies under 10(j) of the Federal Power Act, whichever is appropriate; and

(4) Any other information which the Director believes is relevant to consider.

(c) *Time of filing petition.* The applicant may:

(1) File the AEE petition with the application for license or exemption, or

(2) Submit with the application for license or exemption a request for an extension of time, not to exceed 90 days

or April 16, 1988, whichever occurs first, in which to file the AEE petition.

(d) *Contents of petition.* The AEE petition must identify the project and request that the Commission make an initial determination on the adverse environmental effects requirement in § 292.203(c)(ii) of the Commission's regulations.

(e) *Initial finding on the petition.* The Director of the Office of Hydropower Licensing will make the initial determination on the AEE petition after the close of the public notice period for the accepted application. If the Director's initial determination finds:

(1) No substantial adverse effects, then the Commission must wait at least 45 days before making a final determination that the project satisfies the requirements of § 292.203(c)(1)(ii) of this chapter;

(2) Substantial adverse environmental effects, within 45 days of the initial finding that the project does not satisfy the requirements § 292.203(c)(1)(ii) of this chapter, the applicant may file proposed measures to mitigate the adverse environmental effects found. The state will have 45 days to review any mitigative measures filed by an applicant.

(f) *Notification of finding.* The Commission will provide written notice of the Director's initial finding on the petition to the applicant and to the Federal and state agencies that the applicant must consult under § 4.38 of this chapter.

(g) *Material amendments to application.* The proposed mitigative measures filed under paragraph (e)(2) of this section will not be considered a material amendment to the application unless the Commission finds that the measures proposed by the applicant are unnecessary to, or exceed the scope of, mitigating substantial adverse effects. If the Commission finds the proposed mitigative measures constitute a material amendment, the application will be considered filed with the Commission on the date on which the applicant filed the proposed mitigative measures, and all other provisions of § 4.35(a) of this chapter will apply.

(h) *Final determination on the petition.* The Commission will make a final determination on the petition at the time the Commission issues a license or exemption for the project.

(i) *Presumption of no substantial adverse environmental effects.*—(1) *Presumption.* If, at the time the Commission makes a final determination on the AEE petition (the substantial adverse effect requirement in § 292.203(c)(ii) of this chapter), the state has not taken any action under paragraph (i)(2) of this section, the Commission will presume that, as for those attributes listed in § 292.203(c)(1)(iii) of this chapter, the project will not cause substantial adverse environmental effects.

(2) *Rebuttal.* In order to rebut the presumption described in paragraph (i)(1) of this section the state must, before the Commission issues a license, come forward with evidence to show that, at the time the application for license or exemption was accepted, the project was:

(i) Located on any segment of a natural watercourse which is included in (or designated for inclusion in) a State or National Wild and Scenic River System; or

(ii) Located on any segment of a natural watercourse which the state has determined, in accordance with applicable state law, to possess unique natural, recreational, cultural or scenic attributes that will be adversely affected by hydroelectric development.

§ 292.203 [Amended]

18. In § 292.203(c)(1)(iii) introductory text, remove the words "§ 4.32(e)" and add, in their place, the words § 4.32(f)".

§ 292.209 [Amended]

19. In § 292.209(b), remove the words "§ 4.32(e)" and add, in their place, the words "§ 4.32(f)".

20. In § 292.209(d)(8), remove the words "§ 4.32(d)" and add, in their place, the words "§ 4.32 (e)".

PART 375—THE COMMISSION

21. The authority citation for Part 375 is revised to read as follows:

Authority: Electric Consumers Protection Act of 1986, Pub. L. No. 99-495; Department of Energy Organization Act, 42 U.S.C. 7101-7532, EO 12009, 3 CFR 1978 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 553; Federal Power Act, 16 U.S.C. 791a-828c, as amended; Natural Gas Act, 15 U.S.C. 717-717w, Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 *et. seq.*, as amended.

22. In § 375.314 paragraph (hh) is revised to read as follows:

§ 375.314 Delegations to the Director of the Office of Hydropower Licensing.

* * * * *

(hh) Pass upon petitions filed under §§ 292.209 and 292.210 of this chapter.

[FR Doc. 87-23414 Filed 10-15-87; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance; Supplemental Security Income for the Aged, Blind, and Disabled; Decisions by Administrative Law Judges in Cases Remanded by the Courts

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to amend the regulations to provide that where a court remands a case to the Secretary and the Appeals Council subsequently remands the case to an administrative law judge (ALJ) for further proceedings, and a new decision, the ALJ may issue an initial decision. The initial decision will become the decision of the Secretary unless the Appeals Council takes jurisdiction of the case. Under the regulations currently in effect for court remands, the ALJ must issue a recommended decision and the Appeals Council must review that decision and take further action in every case before the decision becomes final.

Following adoption of the proposed change, favorable ALJ decisions that are not reviewed by the Appeals Council should be effectuated on a more timely basis (i.e., claimants should receive benefits earlier) because it will not be necessary for the Appeals Council to issue an adoption decision in most cases. Agency final action on those unfavorable decisions not requiring further action by the Appeals Council will also be accomplished more expeditiously.

DATE: Your comments will be considered if we receive them no later than December 15, 1987.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-B-4, Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during those same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, 3-B-4

Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7452.

SUPPLEMENTARY INFORMATION:

Background

Under the current regulations, if a Federal court remands a case to the Secretary, the Appeal Council receives the case on behalf of the Secretary. In most instances, the Appeals Council in turn remands the case to an ALJ for further proceedings. Generally, the ALJ holds a supplemental hearing at which the parties may present their arguments and provide any additional evidence. The ALJ then returns the case to the Appeal Council with a recommended decision (20 CFR 404.953, 404.983, 416.1453, and 416.1483). The parties are sent a copy of the recommended decision, and may file briefs or other written statements with the Appeals Council (20 CFR 404.977 and 416.1477). When the Appeals Council receives an ALJ's recommended decision, it must issue a decision adopting, modifying or rejecting an ALJs recommended decision, or again remand the case to an ALJ for further proceedings (20 CFR 404.979 and 416.1479). Thus, the current policy requires Appeal Council action in each case involving a court remand, even if the ALJ's recommended decision is completely free from error and even where the parties do not object to the recommended decision.

A recent review of our policy with respect to court remands indicated that the current procedures could be modified to ensure the more timely processing of court remands. Under present procedures, the issuance of the Appeals Council decision often takes a substantial period from the date ALJ issues the recommended decision. In addition, the Appeals Council adopts ALJ's recommended decisions without substantive revision in a high percentage of cases. In view of these findings, we propose to eliminate the requirement that the ALJ issue a recommended decision in court remand cases. However, ALJs will continue to issue recommended decisions in certain cases involving the application of circuit court case law as interpreted in an Acquiescence Ruling. Regulations covering this policy are being developed.

Proposed Policy

We propose to amend the regulations to eliminate the requirement that ALJs must issue recommended decisions in court remand cases. ALJs would issue initial decisions which would become final unless: (1) Within 30 days after the decision is received, the parties submit written exceptions to the Appeals Council disagreeing with the ALJ's action or within that period submit a written request for an extension of time to file exceptions and, based on these exceptions, the Appeals Council assumes jurisdiction of the case; or (2) the Appeals Council decides to take jurisdiction of the case within 60 days after the date of the decision. If the Appeals Council assumes jurisdiction, the ALJ's decision does not become final, and the Appeals Council's review is not limited to the scope of the ALJ's decision but may encompass all aspects and issues of the case, When parties have filed written exceptions to an ALJ's decision, the Appeals Council may assume jurisdiction at any time, even after the 60-day limit which applies when no such exceptions have been filed. We propose to amend the current regulations at 20 CFR 404.955 and 416.1455 which discuss the binding effect of an ALJ's decision to accommodate these procedures.

Pursuant to 20 CFR 404.901 and 416.1401, the date of receipt of ALJ's decision by the parties is presumed to be 5 days after the date on the notice of the decision. Proposed §§ 404.984(b) and 416.1484(b) provide 30 days after receipt of the ALJ's decision for a party to file written exceptions with the Appeals Council with a 30-day extension to be granted automatically by the Appeals Council when timely requested.

The reason for providing that the parties have 30 days in which to submit written exceptions to the ALJ's decision (with a possible 30-day extension) while the Appeals Council has 60 days to decide whether to assume jurisdiction of the case is that the Appeals Council must be in a position to review every decision within 60 days after the ALJ's decision is issued. In deciding whether or not to assume jurisdiction, it is preferable for the Appeals Council to have the benefit of the parties' exceptions. Because of this, the Appeals Council will usually not decide whether to assume jurisdiction until written exceptions have been submitted or the period for submitting them has expired. If, however, no such exceptions are submitted, there must be a period during which the Appeals Council can decide whether to assume jurisdiction before the 60-day period following the ALJ's decision expires. Hence the 30/60-day differential provides a mechanism that ensures that (1) in the great majority of cases, the Appeals Council will be able to consider the parties' exceptions at the time it decides whether or not to assume jurisdiction and (2) if no exceptions are submitted, the Appeals Council will have time to decide whether to assume jurisdiction before the 60 days for doing so expires. This privision allows more time than the current regulations which provide a 20-day period in which to file briefs or other written statements when an ALJ issues a recommended decision.

If a party indicates in writing the he or she disagrees with the ALJ's decision, the Appeals Council will either take jurisidiction of the case and issue a decision; remand the case to an ALJ for further proceedings; or, in the alternative, issue a notice to the parties explaining why it believes the ALJ's deicision is correct.

Under the proposed policy, if the Appeals Council decides to take jurisdiction (where no exceptions are filed), notice will be sent to the parties and the parties' representatives within 60 days after the date of the ALJ's decision. The notice will inform them of the Appeals Council's proposed action and provide the opportunity to file a brief or other written statement with the Appeals Council relating to the proposed action. All other decisions fully favorable to the parties will be forwarded immediately by the Appeals Council to the appropriate agency component for effectuation with respect to the matters which were decided by the ALJ. ALJ's do not always make decisions regarding all the factors involved in a claim. Determination on factors of eligibility or entitlement not addressed in the ALJ's decision will be made by the apropriate SSA component.

If the ALJ issues a decision unfavorable to the parties and (1) the parties or the parties' representatives do not file written exceptions within the specified time period or within any extension of time disagreeing with the decision, and (2) the Appeals Council does not assume jurisdiction of the case, the ALJ's decision will be the final decision of the Secretary. However, the Appeals Council will continue to ensure that each case is appropriately handled and fully complies with the court remand order. In all cases where further action is necessary, the Appeals Council will so advise the parties and the parties' representatives.

Under the proposed regulations, an ALJ could still issue a recommended decision if he or she chose to do so, or the Appeals Council, at its discretion, may order the ALJ to issue a recommended decision. In any case where the ALJ issues a recommended decision, the parties will continue to have the right to file briefs or other written statements with the Appeals Council within 20 days and the Appeals Council will issue the final decision. 20 CFR 404.977(d) and 416.1477(d).

The procedures set forth in these regulations apply to cases under titles II and XVI of the Social Security Act. They will also apply to cases involving remands by the courts in which the Secretary's final decision was issued under the appeals procedures set forth in 42 CFR Part 405, Subpart G, Reconsiderations and Appeals Under the Hospital Insurance Program (Part A of Medicare). The appeals covered under that subpart involve whether an individual is entitled to Hospital Insurance or Supplementary Medical Insurance under title XVIII of the Act or the amount payable under Hospital Insurance. Those regulations incorporate the regulations in 20 CFR Part 404, Subpart J by reference. Therefore, the amendments to 20 CFR Part 404, Subpart J set forth in this Notice of Proposed Rulemaking would apply to procedures in 42 CFR Part 405, Subpart G. These procedures will not apply to appeals under 42 CFR Part 405, Surpart O. That subpart primarily governs appeals by providers of services and other entities as to participation in the Medicare program. Under that subpart the ALJ is not required to issue a recommended decision in a case remanded by a court unless directed to do so by the Appeals Council. Thus, that subpart of the regulations is consistent with the procedures to be implemented in these regulations.

These procedures will also not apply to appeals pursuant to 20 CFR Part 410, Subpart G. That subpart of the regulations sets forth the procedure for appeals in claims under the Federal Coal Mine Health and Safety Act, Title IV, Black Lung Benefits for which the SSA still has jurisdiction. We are not amending that subpart because ongoing jurisdication for Black Lung claims is now in the Department of Labor. Moreover, there are few remaining cases now within SSA jurisdiction and the number remaining should continue to diminish. Thus, there is no need to change the procedures for these cases.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the issuance of these regulations is not expected to result in significant costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a sustantial number of small entities because these rules will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.773 and 13.774, Medicare; 13.802–13.805 Social Security; and 13.807 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: April 10, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: June 19, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

Subpart J of Part 404 and Subpart N of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart J of Part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), and (d)–(h), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), and 1302; sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

2. Paragraph (b) of § 404.953 is revised to read as follows:

§ 404.953 The decision of an administrative law judge.

* * * * *

(b) *Recommended decision.* Although an administrative law judge will usually make an initial decision, he or she may send the case to the Appeals Council with a recommended decision where appropriate. The administrative law judge shall mail a copy of the recommended decision to the parties at their last known address and send the recommended decision to the Appeals Council.

3. Paragraphs (d) and (e) are revised and a new paragraph (f) is added to § 404.955 to read as follows:

§ 404.955 The effect of an administrative law judge's decision.

* * * * *

(a) The expedited appeals process is used;

(e) The decision is a recommended decision directed to the Appeals Council; or

(f) In a case remanded by a Federal court, the Appeals Council assumes jurisdiction under the procedures in § 404.984.

4. An undesignated center heading is added immediately before § 404.983 and new § 404.984; and § 404.983 is revised to read as follows:

Court Remand Cases

§ 404.983 Case remanded by a Federal court.

When a Federal court remands a case to the Secretary for further consideration, the Appeals Council, acting on behalf of the Secretary, may make a decision, or it may remand the case to an administrative law judge with instructions to take action and issue a decision or return the case to the Appeals Council with a recommended decision. If the case is remanded by the Appeals Council, the procedures explained in § 404.977 will be followed.

5. A new § 404.984 is added to read as follows:

§ 404.984 Appeals Council review of administrative law judge decision in a case remanded by a Federal court.

(a) *General.* In a case remanded by a Federal court for further consideration, the administrative law judge's decision will become the final administrative decision on your case unless the Appeals Council assumes jurisdiction of the case. The Appeals Council may assume jurisdiction based on written exceptions to the administrative law judge's decision filed by you or your representative or based on its authority to take jurisdiction pursuant to paragraph (c) of this section. If the Appeals Council assumes jurisdiction of your case, all issues relating to your claim whether or not they were considered by the administrative law judge will be before the Appeals Council. The Appeals Council will make a new, independent decision based on the entire record or remand the case to an administrative law judge for further proceedings.

(b) *You file exceptions disagreeing with the administrative law judge's*

decision. (1) If you disagree with the administrative law judge's decision, in whole or in part, you may file exceptions to the decision with the Appeals Council. Exceptions may be filed by submitting a written statement to the Appeals Council setting forth your reasons for disagreeing with the administrative law judge's decision. The exceptions must be filed within 30-days of the date you receive the administrative law judges decision or an extension of time in which to submit exceptions must be requested in writing within the 30 day period. A timely request for a 30-day extension will be granted by the Appeals Council. A request for an extension of more than 30 days should include a statement of reasons as to why you need the additional time.

(2) If written exceptions are timely filed, the Appeals Council will consider your reasons for disagreeing with the administrative law judge's decision and all the issues presented by your case. If the Appeals Council concludes that there is no reason to change the administrative law judge's decision, it will issue a notice to you addressing your exceptions and explaining why no change in the administrative law judge's decision is warranted. The administrative law judge's decision is the final decision of the Secretary unless the decision is revised.

(3) When you file written exceptions to an administrative law judge's decision, the Appeals Council may assume jurisdiction at any time, even after the 60-day limit which applies when no exceptions have been filed. If the Appeals Council assumes jurisdiction, it will make a new, independent decision based on review of the entire record affirming, modifying or reversing the decision of the administrative law judge or remand the case to an administrative law judge for further proceedings, including a new decision.

(c) *Appeals Council assumes jurisdiction without exceptions being filed.* Anytime within 60 days after the date of the administrative law judge's decision, the Appeals Council may decide to assume jurisdiction of your case even though no written exceptions have been filed. Notice of this action will be mailed to all parties at their last known address. You will be provided with the opportunity to file briefs or other written statements with the Appeals Council about the facts and law relevant to your case. After the briefs or other written statements have been received or the time allowed (usually 30 days) for submitting them has expired, the Appeals Council will issue a decision affirming, modifying or reversing the decision of the administrative law judge, or remand the case to an administrative law judge for further proceedings, including a new decision.

(d) *Exceptions are not filed and the Appeals Council does not otherwise assume jurisdiction.* If no exceptions are filed and the Appeals Council does not assume jurisdiction of your case, the administrative law judge's decision becomes the final decision of the Secretary.

PART 416—[AMENDED]

6. The authority citation for Subpart N of Part 416 continues to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

7. Paragraph (c) of §416.1453 is revised to read as follows:

§416.1453 The decision of the administrative law judge.

* * * * *

(c) *Recommended decision.* Although an administrative law judge will usually make an initial decision, he or she may send the case to the Appeals Council with a recommended decision where appropriate. The administrative law judge shall mail a copy of the recommended decision to the parties at their last known address and send the recommended decision to the Appeals Council.

8. Paragraphs (d) and (e) are revised and a new paragraph (f) is added to §416.1455 to read as follows:

§416.1455 The effect of an administrative law judge's decision.

* * * * *

(d) The expedited appeals process is used;

(e) The decision is a recommended decision directed to the Appeals Council; or

(f) In a case remanded by a Federal court, the Appeals Council assumes jurisdiction under the procedures in §416.1484.

9. An undesignated center heading is added immediately before §416.1483 and new §416.1484, and §416.1483 is revised to read as follows:

Court Remand Cases

§416.1483 Case remanded by a Federal court.

When a Federal court remands a case to the Secretary for further consideration, the Appeals Council, acting on behalf of the Secretary, may make a decision, or it may remand the case to an administrative law judge with instructions to take action and issue a decision or return the case to the Appeals Council with a recommended decision. If the case is remanded by the Appeals Council, the procedures explained in §416.1477 will be followed.

10. A new §416.1484 is added to read as follows:

§416.1484 Appeals Council review of administrative law judge decision in a case remanded by a Federal court.

(a) *General.* In a case remanded by a Federal court for further consideration, the administrative law judge's decision will become the final administrative decision on your case unless the Appeals Council assumes jurisdiction of the case. The Appeals Council may assume jurisdiction based on written exceptions to the administrative law judge's decision filed by you or your representative or based on its authority to take jurisdiction pursuant to paragraph (c) of this section. If the Appeals Council assumes jurisdiction of your case, all issues relating to your claim whether or not they were considered by the administrative law judge will be before the Appeals Council. The Appeals Council will make a new, independent decision based on the entire record or remand the case to an administrative law judge for further proceedings.

(b) *You file exceptions disagreeing with the administrative law judge's decision.* (1) If you disagree with the administrative law judge's decision, in whole or in part, you may file exceptions to the decision with the Appeals Council. Exceptions may be filed by submitting a written statement to the Appeals Council setting forth your reasons for disagreeing with the administrative law judge's decision. The exceptions must be filed within 30 days of the date you receive the administrative law judge's decision or an extension of time in which to submit exceptions must be requested in writing within the 30-day period. A timely request for a 30-day extension will be granted by the Appeals Council. A request for an extension of more than 30 days should include a statement of

reasons as to why you need the additional time.

(2) If written exceptions are timely filed, the Appeals Council will consider your reasons for disagreeing with the administrative law judge's decision and all the issues presented by your case. If the Appeals Council concludes that there is no reason to change the administrative law judge's decision, it will issue a notice to you addressing your exceptions and explaining why no change in the administrative law judge's decision is warranted. The administrative law judge's decision is the final decision of the Secretary unless the decision is revised.

(3) When you file written exceptions to an administrative law judge's decision, the Appeals Council may assume jurisdiction at any time, even after the 60-day limit which applies when no exceptions have been filed. If the Appeals Council assumes jurisdiction, it will make a new, independent decision based on review of the entire record affirming, modifying or reversing the decision of the administrative law judge or remand the case to an administrative law judge for further proceedings, including a new decision.

(c) *Appeals Council assumes jurisdiction without exceptions being filed.* Anytime within 60 days after the date of the administrative law judge's decision, the Appeals Council may decide to assume jurisdiction of your case even though no written exceptions have been filed. Notice of this action will be mailed to all parties at their last known address. You will be provided with the opportunity to file briefs or other written statements with the Appeals Council about the facts and law relevant to your case. After the briefs or other written statements have been received or the time allowed (usually 30 days) for submitting them has expired, the Appeals Council will issue a decision affirming, modifying or reversing the decision of the administrative law judge, or remand the case to an administrative law judge for further proceedings, including a new decision.

(d) *Exceptions are not filed and the Appeals Council does not otherwise assume jurisdiction.* If no exceptions are filed and the Appeals Council does not assume jurisdiction of your case, the administrative law judge's decision becomes the final decision of the Secretary.

[FR Doc. 87-23828 Filed 10-15-87; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 965

[Docket No. R-87-1326; FR-2260]

PHA-Owned or Leased Projects; Maintenance and Operation; Tenant Allowances for Utilities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: HUD's procedures for the establishment and administration by Public Housing Agencies (PHAs) of Allowances for PHA-Furnished Utilities and Allowances for Tenant-Purchased Utilities are contained in 24 CFR Part 965, Subpart E. This subpart also governs the imposition by PHAs of Surcharges for the consumption of Utilities in excess of the Allowance for PHA-Furnished Utilities where Checkmeters have been installed, and of Surcharges for imputed consumption attributable to certain equipment and functions in dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed. This proposed rule would amend Subpart E to clarify how the Utility consumption attributable to air conditioning equipment (whether provided by the PHA or the tenant) and certain tenant-provided major appliances will be treated under the Allowance and Surcharge provisions.

DATE: Comments must be submitted on or before December 15, 1987.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Comments should refer to the above docket number and title. A copy of each comment received will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Charles R. Ashmore, Utilities Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-6640. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Hud historically has considered "rent" in the public housing program to include shelter cost plus a reasonable amount for Utilities. As a result, the Department has provided for a system under which Allowances are established showing the amounts of Utilities or Utility-type services whose cost is to be covered by "rent." This system is described in 24 CFR Part 965, Subpart E. As amended on August 7, 1984 (49 FR 31399), this part treats tenant Utilities differently depending on whether the Utilities are purchased by the tenant directly from the Utility Company, whether the Utilities are furnished to the tenant by the PHA and whether Checkmeters have been installed for the individual dwelling units. As background for the consideration of this proposed rulemaking, major features of the Department's existing Utility regulations are summarized below.

For Tenant-Purchased Utilities, the regulations require the PHA to establish an Allowance for Tenant Purchase Utilities—a fixed dollar amount that is deducted from the amount the tenant must pay for rent under the statutory formula in section 3(a) of the U.S. Housing Act of 1937 and 24 CFR 913.107. The tenant pays the actual Utility charge directly to the Utility supplier, whether this charge is more or less than the amount of the Allowance. The Allowance is based on the reasonable consumption of Utilitiers by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment. Since excess Utility consumption by the tenant is paid directly to the Utility company, the regulations contain no provisions for PHA Surcharge for excess consumption.

For PHA-Furnished Utilities where Checkmeters for the Utilities are installed for the individual dwelling units, the rule requires the PHA to establish an Allowance for PHA-Furnished Utilities—an amount of consumption units (*e.g.*, kilowatt hours of electricity) for the dwelling unit. The Allowance is based on the same reasonableness standard discussed above. The regulation requires a Surcharge (a dollar amount based on a rate and level of excess consumption) on the tenant by the PHA for consumption in excess of the Allowance.

For PHA-Furnished Utilities where Checkmeters are not installed for the individual dwelling units (and thus no means exists for the PHA to monitor actual consumption of PHA-Furnished Utilities), the regulation simply requires the PHA to establish schedules of Surcharges indicating additional

amounts that tenants will be required to pay to the PHA for imputed Utility consumption attributable to tenant-owned major equipment or to optional functions of PHA-furnished equipment.

In recent months, uncertainty has arisen concerning the proper treatment of Utility consumption by air conditioning equipment (whether provided by the PHA or by the tenant) and by certain tenant-provided major appliances, such as washing machines, clothes dryers, and food freezers. *I.e.*, should reasonable Utility consumption attributable to such equipment be included within the Allowance for PHA-Furnished and Tenant-Purchased Utilities? Can the PHA establish a Surcharge for the imputed Utility consumption attributable to such equipment in dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed?

The current regulation does not make it absolutely clear that the inclusion of such consumption in Utility Allowances is not permitted or that the establishment of a Surcharge is required for consumption in dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed. The discussion in the preamble to the final rule published August 7, 1984, on the other hand, suggests that Allowances for consumption attributable to air conditioning and laundry equipment (washers and dryers) are within the PHA's discretion (51 FR 31399, 31404). The preamble also implied that air conditioning could be considered a necessity in some climates (51 FR 31399, 31404).

The existing regulation places the entire responsibility for the establishment of Allowances and Surcharges on the PHA. The Federal Government, for the most part, carries the full cost of Utility Allowances either through reduced Tenant Rents (Tenant-Purchased Utilities) or by Utility reimbursement under the performance funding system (PHA-Furnished Utilities). Since Utility costs represent a substantial element of Federal subsidization of PHAs, the Department is proposing, in this proceeding, to clear up any ambiguities that exist for PHAs regarding Utility consumption attributable to PHA- or tenant-provided air conditioning equipment and to tenant-provided major appliances.

Air Conditioning

In general, the Department does not believe that it is necessary to furnish Allowances for air conditioning in order to ensure the provision of decent, safe and sanitary housing. Accordingly, this proposed rule would (1) revise § 965.476(b) to provide that the Allowances for PHA-Furnished and Tenant-Purchased Utilities shall not include imputed consumption attributable to air conditioning equipment; and (2) revise § 965.477(b) to provide that for dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed, the Surcharge schedule must indicate additional dollar amounts that tenants will be required to pay by reason of imputed Utility consumption attributable to air conditioning equipment.

The proposed rule would, however, also recognize that there are some circumstances which require the PHA to include air conditioning Utility consumption in the Utility Allowance or exclude such consumption from the Surcharge provisions of § 965.477(b).

Many project designs *require* tenant use of PHA-provided air conditioning equipment. The most obvious example of this situation occurs where a PHA provides air conditioning to dwelling units from a central facility and tenants are unable to control (*i.e.*, turn on or off or otherwise regulate) the flow of air into individual dwelling units. Another example occurs where a PHA furnishes air conditioning equipment for a dwelling unit and the tenant is compelled by project design (*i.e.*, sealed windows) to use the provided air conditioning.

In recognition of these situations where the avoidance of Utility consumption is not reasonably within the control of the tenant, § 965.476(b) would provide that the Allowance for PHA-Furnished and Tenant-Purchased Utilities shall be designed to include reasonable consumption for air conditioning equipment if the air conditioning equipment is provided by the PHA and the project design either (1) does not provide for natural ventilation of the dwelling unit because of sealed windows or (2) does not permit the tenant to control (*i.e.*, turn on or off or otherwise regulate) the flow of conditioned air into the dwelling unit. Similarly, for dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed, the PHA would be prohibited from establishing a Surcharge under such circumstances. (§ 965.477(b)). However, for dwelling units subject to Allowances for PHA-Furnished Utilities where Checkmeters *have* been installed, the provisions for Surcharge for Utility consumption in *excess of the Allowance* would continue to be applicable. (§ 965.477(a)).

Tenant-Provided Major Appliances (Except Air Conditioning)

As noted above, in addition to questions concerning air conditioning Utility consumption, there has been some uncertainty concerning the treatment of Utility consumption for tenant-provided major appliances, such as washing machines, clothes dryers and food freezers. To clarify this area, HUD is proposing to make revisions to Subpart E. These revisions would apply to all tenant-provided major appliances except the tenant-provided air conditioning equipment discussed above.

Section 965.476(b) would be amended to state specifically that Utility Allowances shall not be designed to include the Utility consumption attributable to major appliances (*i.e.*, washing machines, clothes dryers, food freezers) provided by the tenant. Consistent with the existing regulation, the proposed rule, however, would provide that the Allowances shall be designed to include the Utility consumption attributable to one range and refrigerator per dwelling unit, whether or not the equipment is provided by the PHA.

Similarly, the Surcharge provisions of § 965.477(b) for dwelling units served by PHA-Furnished Utilities without Checkmeters would require that the Surcharge schedule include dollar amounts that tenants would be required to pay by reason of imputed consumption attributable to tenant-provided major appliances. (See § 965.477(b)(2)(i)(A).) Again, Surcharges would not be made for consumption attributable to one range and refrigerator per dwelling unit, whether or not these appliances are provided by the PHA. (See § 965.477(b)(2)(i)(C).)

As noted above, the proposed rule attempts to eliminate the uncertainty in this area by citing, as examples, the most common types of tenant-provided major appliances. This is not intended as an exhaustive list. There may be other major appliance items (such as broilers, microwaves, stereo components and space heaters) that should also be cited in the regulation. Public comment is specifically requested on this issue.

Rights and Duties of PHAs and Tenants

The purpose of this proposed rule is to clarify how Utility consumption for certain equipment items is to be treated under the Utility Allowance and Surcharge provisions of Part 965. The rule will not alter the existing rights and responsibilities of the tenant and the

PHA with regard to the installation, maintenance, use or removal of PHA- or tenant-provided equipment. The decision to install PHA-provided air conditioning equipment or to provide facilities that permit tenants to install their own air conditioning units (subject to HUD-approvals, if provided in connection with modernization under the Comprehensive Improvement Assistance Programs under Part 966) would remain within the sole discretion of the PHA. Nothing in this rule, however, would empower tenants to compel PHAs to furnish such facilities. Moreover, this rule would not alter the basic obligation under the lease of tenants and PHAs with regard to the installation, maintenance, use or removal of air conditioning equipment or tenant-provided major appliances (*see* § 966.4). (*E.g.*, the exclusion of air conditioning consumption from the utility allowance would have no effect on the tenant's election to use air conditioning in the unit.)

The proposed rule would add provisions to §§ 965.476 and 965.477 stating that nothing in the proposed rule shall alter the rights and duties of the PHA and the tenant with regard to the installation, maintenance, use or removal of equipment and appliances under the terms of the lease and other applicable Hud regulations.

Individual Relief

This proposed rule would provide specific guidance to PHAs regarding Allowances and Surcharges for Utility consumption by air conditioning equipment or by tenant-provided major appliances. While this rule would prescribe specific standards to govern the provision of such Allowances, the Department is not unmindful of the possibility that individual needs or specific circumstances may exist which could support Utility Allowances otherwise prohibited by the rule, on an individual basis.

Such situations may be handled on a case-by-case basis under the provisions of § 965.479 of HUD's existing regulations. This section permits the PHA to grant requests for relief from Surcharges for excess consumption of PHA-Furnished Utilities, or from payment of Utility-supplied billings in excess of the Allowance for Tenant-Purchased Utilities, based on reasonable grounds, such as the special needs of certain elderly, ill or handicapped persons.

Transition Provision

The proposed rule includes a transition provision at § 965.480. This section would provide that Allowances and Surcharges in accordance with the revisions to Subpart E made by this rule must be established and in effect for the PHAs first fiscal year that begins 90 or more days after the effective date of the final rule. This transition period would permit the coordination of the Surcharge and Allowance provisions with the PHAs budget process and should be sufficient to permit PHAs to complete the procedural requirements for the establishment of Allowances and Surcharges (*See* 965.473). The proposed rule also permits the Assistant Secretary for Public and Indian Housing to extend the period for the establishment of Allowance and Surcharges, for good cause shown.

Miscellaneous additional revisions to Subpart E have been made for clarity.

Findings

The Department has determined that this rule does not constitute a "major rule" as defined in Executive Order 12291. Analysis of the proposed rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(c) of the National Environmental Policy Act of 1969 (47 FR 35253). The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, at the address listed above.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act,) the Undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely clarifies for PHAs when the costs of certain Utility consumption will be borne by the tenant or borne by HUD (through reduced tenant rents or Utility reimbursements under the performance funding system).

This rule was listed as item 1040 in the Department's Semiannual Agenda of Regulations published April 27, 1987 (52 FR 14362, 14401) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number and title are 14.146, Low-Income Housing—Assistance Program (Public Housing).

List of Subjects in 24 CFR Part 965

Public housing, Utilities, Energy conservation.

Accordingly, Title 24, Part 965 would be amended as follows:

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

1. The authority citation for Part 965 would continue to read as follows:

Authority: Secs. 2, 3, 6 and 9, United States Housing Act of 1937 (42 U.S.C. 1437, 1437a, 1437d, and 1437g); sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d). Subpart H is also issued under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846).

2. In § 965.471, the reference in paragraph (a) to 24 CFR Part 800 would be revised to refer instead to 24 CFR Part 900, and paragraph (b) would be revised to read as follows:

§ 965.471 Applicability.

* * * * *

(b) This subpart does not apply to dwelling units served by PHA-Furnished Utilities, unless Checkmeters have been installed to measure actual Utilities consumption of the individual units. However, tenants served by PHA-Furnished Utilities in units without checkmeters shall be subject to charges for Utilities consumed by certain described equipment and functions in accordance with the Surcharge provisions of § 965.477(b).

3. Section 965.472 would be amended to revise the definition of "Surcharge" to read as follows:

§ 965.472 Definitions.

* * * * *

Surcharge. The amount charged by the PHA to a tenant, in addition to the Tenant Rent, for consumption of Utilities in excess of the Allowance for PHA-Furnished Utilities or for imputed consumption attributable to certain described equipment and functions. Surcharges calculated under § 965.477(b), based on imputed consumption where Checkmeters have not been installed, are referred to as "scheduled Surcharges."

4. Section 965.476(b) would be revised to read as follows:

§ 965.476 Standards for allowances for utilities.

* * * * *

(b)(1) Except as specifically provided in paragraph (b)(2) of this section (governing Utility consumption attributable to air conditioning equipment), the Allowances for PHA-Furnished and Tenant-Purchased Utilities:

(i) Shall be designed to include reasonable consumption for the following items provided by the PHA: (A) Major equipment or Utility functions furnished by the PHA for all tenants (*e.g.*, heating system and hot water heater); and (B) essential equipment (*e.g.*, one range and one refrigerator per dwelling unit);

(ii) Shall be designed to include reasonable consumption for the following items provided by the tenant: (A) One range and one refrigerator per dwelling unit, if such equipment is not provided by the PHA; and (B) minor items of equipment (such as toasters and radios); and

(iii) Shall not be designed to include consumption for major appliances (*e.g.*, washing machines, clothes dryers, food freezers) provided by the tenant or for optional functions of PHA-provided equipment.

(2) The Allowances for PHA-Furnished or Tenant-Purchased Utilities shall not be designed to include consumption attributable to air conditioning equipment, except where the air conditioning equipment is provided by the PHA and the project design either (i) does not provide for natural ventilation of the dwelling unit because of sealed windows or (ii) does not permit the tenant to control (*i.e.*, turn on and off or otherwise regulate) the flow of conditioned air into the dwelling unit.

(3) The Surcharge provisions of § 965.477(a) apply to Utility consumption for equipment and Utility functions that are excluded from the Allowance for PHA-Furnished Utilities under this paragraph (b).

(4) Nothing in this paragraph (b) shall alter the rights and duties of the PHA and tenant with regard to the installation, maintenance, use, and removal of equipment and appliances under the terms of the lease and other applicable provisions of this Chapter IX.

* * * * *

5. Section 965.477(b) would be revised to read as follows:

§ 965.477 Surcharges for excess consumption of PHA-furnished utilities.

* * * * *

(b)(1) For dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed, the PHA shall establish schedules of Surcharges indicating additional dollar amounts that tenants will be required to pay by reason of imputed Utility consumption attributable to the equipment or functions described in paragraph (b)(2) of this section. The Surcharge schedule shall state the equipment or function for which Surcharges shall be made and the amounts of any such charges. These amounts shall be based on the cost to the PHA of the Utility consumption estimated to be attributable to reasonable usage of such equipment.

(b)(2)(i) Except for Utility consumption for air conditioning equipment described in paragraph (b)(2)(ii) of this section, the Surcharge schedule for dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed:

(A) Shall include dollar amounts that tenants will be required to pay by reason of imputed consumption attributable to the use of (*1*) major appliances provided by the tenant (including washing machines, clothes dryers, and food freezers), and (*2*) optional functions of PHA-provided equipment;

(B) Shall not inlcude Surcharges for imputed consumption attributable to the following items provided by the PHA: (*1*) Major equipment or Utility functions furnished by the PHA for all tenants (*e.g.*, heating system and hot water heater); and (*2*) essential equipment (*e.g.*, one range and one refrigerator per dwelling unit);

(C) Shall not include Surcharges for imputed consumption attributable to the following items provided by the tenant: (*1*) One range and one refrigerator, if such equipment is not provided by the PHA and (*2*) minor items of equipment (such as toasters and radios).

(ii) The Surcharge schedule for dwelling units served by PHA-Furnished Utilities where Checkmeters have not been installed shall include dollar amounts that tenants will be required to pay by reason of imputed consumption attributable to air conditioning equipment, except that the Surcharge schedule shall exclude such Surcharges where air conditioning equipment is provided by the PHA and the project design either (i) does not provide for the natural ventilation of the dwelling unit because of sealed windows or (ii) does not permit the tenant to control (*i.e.*, turn on or off or otherwise regulate) the flow of conditioned air into the dwelling unit.

(3) Nothing in this paragraph (b) shall alter the rights and duties of the PHA and tenant with regard to the installation, maintenance, use and removal of equipment and appliances under the terms of the lease and other applicable regulations in this Chapter IX.

6. Section 965.480 would be revised to read as follows:

§ 965.480 Transition provisions.

Each PHA shall establish Allowances and Surcharges in accordance with this Subpart, as revised on [*insert the effective date of the final rule*]. These Allowances and Surcharges must be in effect for the PHA's fiscal year beginning after [*insert date 90 days after the effective date of the final rule*]. The Assistant Secretary for Public and Indian Housing may extend the period for establishing Allowances and Surcharges, for good cause shown.

Dated: September 10, 1987.

James E. Baugh,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 87-24052 Filed 10-15-87; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

29 CFR Parts 1 and 5

Procedures; Predetermination of Wage Rates; Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for filing comments for 30 additional days on the Department of Labor's proposed rule governing the use of semi-skilled "helpers" on federally financed and assisted construction contracts subject to the prevailing wage standards of the Davis-Bacon and Related Acts (29 CFR Parts 1 and 5), which was published in the **Federal Register** on August 19, 1987 (52 FR 31366).

DATE: Comments are due November 18, 1987.

ADDRESS: Submit written comments (preferably in triplicate) to Paula V. Smith, Administrator, Wage and Hour Division, Employment Standards

Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210. Any commenters desiring notification of receipt of comments should include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On August 19, 1987, the Department of Labor published in the **Federal Register** (52 FR 31366) proposed revisions to its regulations on labor standards applicable to federally financed and assisted construction contracts subject to the prevailing wage standards of the Davis-Bacon and Related Acts (29 CFR Parts 1 and 5). The proposed rule would permit contractors to expand their use of semi-skilled classifications of helpers on Davis-Bacon projects if the use of a helper classification is a prevailing practice on construction projects in the area. Commenters were requested to submit their comments by October 19, 1987. The Department has been requested to allow additional time for commenters to prepare full responses to the proposal's options and its request for detailed supporting information. Upon reconsideration, the Department believes that the proposal warants extending the comment period longer than the initial 60 days.

Accordingly, this notice extends the public comment period for this rulemaking until November 18, 1987. Comments on the proposal must be submitted on or before that date.

Signed at Washington, DC, on this 14th day of October 1987.

Paula V. Smith,

Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 87–24073 Filed 10–15–87; 8:45 am]

BILLING CODE 4510–27–M

VETERANS ADMINISTRATION

38 CFR Part 1

Fees Charged When Responding To Requests for Records; Release of Records and Other Information Customarily Furnished the Public

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration (VA) is amending its regulations to change the fees that the VA can assess for responding to requests for records, and the procedures for determining the fees that can be charged. In addition, the regulation that requires the VA to process all requests for records under the FOIA, other than those requests made under other specific disclosure statutes, is being clarified to allow the VA more flexibility in releasing records or information outside the Agency.

DATES: Comments must be received on or before November 16, 1987. Comments will be available for public inspection until November 30, 1987.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All comments received will be available for public inspection only in the Veterans Service Unit, Room 132, of the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Doneld R. Howell, Management Analyst, Paperwork Management and Regulations Service (733), Office of Information Management and Statistics, (202) 233–3648.

SUPPLEMENTARY INFORMATION: Sections 1.526, 1.555, and 1.577(f) of Title 38, Code of Federal Regulations, establish the fees that the VA may charge when responding to requests for records subject to the VA confidentiality statue (38 U.S.C. 3301), the Freedom of Information Act (FOIA), and the Privacy Act of 1974. These regulations also establish certain requirements for determining the fees that will be charged.

In accordance with The Freedom of Information Reform Act of 1986 (Pub. L. 99–570), the Office of Management and Budget (OMB) published the Uniform Freedom of Information Act Fee Schedule and Guidelines in the **Federal Register**, dated March 27, 1987, on pages 10012–10020. The proposed changes to § 1.555 incorporate the OMB guidelines. In addition, the VA is adding to § 1.555 the six factors which the Department of Justice has recommended be considered in determining when fees should be waived or reduced under the new statutory standard.

The VA is also amending the regulations governing fees that can be charged when responding to requests for records subject to the Privacy Act and VA confidentiality statute (38 U.S.C. 3301) so that they are consistent with the FOIA fee regulations. These regulations are being revised also to conform to VA policy that a VA beneficiary or applicant for VA benefits will be given on complete set of his/her own beneficiary records free. Previously, giving a set of records free was discretionary. The change removes the VA discretion.

Besides changing its fee regulation, the VA is amending § 1.553, Public Access to Other Reasonably Described Records. As currently written, the regulation requires the Agency to treat all requests for disclosure of records as requests for records under FOIA, even though they are made pursuant to other, specific information disclosure statutes, i.e., 38 U.S.C. 3301, 3305, and 4132. As a result, even though the Agency has released a copy of a document customarily furnished to the public in the performance of official duties, the regulation requires any other request for the document to be made in writing and processed as a FOIA request. For example, many audit reports prepared by the VA Office of Inspector General concern subjects already in the news or are newsworthy themselves, and members of the news media may request copies of individual reports. Instead of requiring each requester to ask for the report in writing, it is preferable to release the report, with reductions where appropriate, without subjecting the requester to existing requirements. The proposed regulation will accomplish this purpose, yet ensure that furnishing such records will not violate any law or regulation governing access to, or confidentiality of, records or information. The Agency will be able to respond more promptly to requests from news media as well as other requesters under appropriate circumstances.

The Administrator has certified that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these changes simply implement, and make VA regulations consistent with, the requirements of Pub. L. 99–570; they impose no new administrative or paperwork burdens, independent of the requirements of the law. They will have no significant direct impact on small

entities (i.e,, small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

In accordance with Executive Order 12291, Federal Regulation, the VA has determined that these regulatory amendments are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They 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.

There are no Catalog of Federal Domestic Assistance numbers involved.

List of Subjects in 38 CFR Part 1

Administrative practice and procedures, Claims, Employment, Government employees, Government property, Freedom of Information Act, Privacy.

Approved: September 22, 1987.

Thomas K. Turnage,

Administrator.

PART 1—[AMENDED]

38 CFR Part 1, General, is proposed to be amended as follows:

1. In § 1.526, paragraph (e)(3) is removed; paragraph (e)(4) is redesignated as paragraph (e)(3); and paragraphs (b)and (i) are revised and an authority citation is added to paragraph (i) to read as follows:

§ 1.526 Copies of records and papers.

* * * * *

(b) The types of services provided by the Veterans Administration for which fees will be charged are identified in § 1.526(i) of this section.

* * * * *

(i) *Fees to be charged.*

(1) *Schedule of fees:*

Activity	Fees
(i) Duplication of document by any type of reproduction process to produce plain one-sided paper copies of a standard size (8–1/2" x 11"; 8–1/2" x 14"; 11" x14").	$0.15 per page after first 100 one-sided pages.
(ii) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audiotapes, etc.) computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency as defined in § 1.555(a)(2) of this title to the extent that it pertains to the cost of duplication.
(iii) Duplication of documents by any type of reproduction process not covered by, by paragraphs (i)(1)(i) and (ii) of this section to produce a copy in a form reasonably usable by a requester.	Actual direct cost to the Agency as defined in § 1.555(a)(ii) of this title to the extent it pertains to the cost of duplication.
(iv) Providing special information, statistics, reports, drawings, specifications, lists of names and addresses (either in paper or machine readable form), computer or other machine readable output.	Actual cost to the Agency including computer and manual search costs, copying costs, labor, and material and overhead expenses.
(v) Attestation under the seal of the Agency.	$3.00 per document so certified.
(vi) Providing abstracts or copies of medical and dental records to insurance companies for other than litigation purposes..	$10.00 per request.
(vii) Providing files under court subpoena.	Actual direct cost to the Agency.

(Note: If the VA regularly contracts for duplicating services related to providing the requested records, such as the duplication of microfilm or architect's plans and drawings, the contractor fees may be included in the actual direct cost to the Agency.)

(2) *Benefit records.* When VA benefit records are requested by a VA beneficiary or applicant for Va benefits, the duplication fee for one complete set of such records will be waived.

(Authority: 38 U.S.C. 3302(b))

* * * * *

2. Section 1.553 is revised and an authority citation is added to read as follows:

§ 1.553 Public access to other reasonably described records.

(2) Except for requests for records which are processed under §§ 1.551 and 1.552, unless otherwise provided for in title 38, Code of Federal Regulations, all requests for records shall be processed under paragraph (b) of this section, as well as under any other VA law or regulation governing access to or confidentiality of records or information. Records or information customarily furnished to the public in the regular course of the performance of official duties may be furnished to the public without reference to paragraph (b) of this section. To the extent permitted by other laws and regulations, the VA will also consider making available records which it is permitted to withhold under the FOIA if it determines that such disclosures could be in the public interest.

(b) Reasonably described records in VA custody, or copies thereof, other than records made available to the public under provisions of §§ 1.551, and §§ 1.552, or unless otherwise provided for in title 38, Code of Federal Regulations, requested in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, will be made promptly available, except as provided in § 1.554, to any person upon request. Such request must be in writing, over the signature of the requester, and must contain a reasonable description of the record desired so that it may be located with relative ease. The request should be made to the office concerned (having jurisdiction of the record desired) or, if not known, to the Director or Veterans Services Officer in the nearest VA regional office the Director, or Chief, Medical Administration Service, or other responsible official of the VA medical facility where most recently treated; or to the Veterans Administration Central Office, 810 Vermont Avenue NW., Washington DC 20420. Personal contacts should normally be made during the regular duty hours of the office concerned, which are 8 a.m. to 4:30 p.m. Monday through Friday for VA Central Office and most field stations.

(Authority: 5 U.S.C. 552(a)(3))

3. Section 1.555 is revised and an authority citation is added to read as follows:

§ 1.555 Fees.

(a) *Definition of terms.* For the purpose of this section, the following definition apply:

(1) *Commercial use request* means 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. To determine whether a request properly belongs in this category, consideration must be given to the use to which a requester will put the

documents requested. Where the use of the records sought is not clear in the request or where there is reasonable cause to doubt the use to which the requester will put the records sought, additional information may be sought from the requester before assigning the request to a specific category.

(2) *Direct costs* means those expenditures which the VA actually incurs in searching for and duplicating (and in the case of commercial use requests, reviewing) documents to respond to a Freedom of Information Act (FOIA) request. Direct costs include, for example, the salary of the employee performing work, i.e., the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits, and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting of the facility in which the records are stored.

(3) *Duplication* means the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audiovisual materials or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is reasonably usable by requesters.

(4) *Educational institution* means 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. To determine whether a request properly belongs in this category, the request must be evaluated 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 of the requester or a commercial goal of the institution.

(5) *Non-commercial scientific institution* means an institution that is not operated on a "commercial" basis (as that term is referenced under "Commercial use request" of this paragraph) 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.

(6) *Representative of the news media* means 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 or 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. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media will be included in this category. "Freelance" journalists 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 the requester's past publication history can be considered also. In any case, freelancers who do not qualify for inclusion in the "representative of the news media" category may seek a reduction or waiver of fees under paragraph (f) of this section.

(7) *Review* means the process of examining documents located in response to a "commercial use request" (see definition of commercial use request in this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure in response to a "commercial use request," e.g., doing all that is necessary to excise them and otherwise prepare them for release. The term "review" does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means all the 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 programs. The most efficient and least expensive manner of searching for material will be used to minimize costs to the VA and the requester. For example, line-by-line searches will not be conducted when duplicating an entire document is the least expensive and quicker method of complying with a request. The term "search" does not cover the time spent to review documents to determine whether all or portions thereof can be withheld under one of the nine categories of exemptions identified in § 1.554.

(b) *Fees to be charged.* (1) Except as provided in paragraphs (c), (d), (f) and (g) of this section, the Veterans Administration will charge fees that recoup the full allowable direct costs for responding to each request from the public. Such fees will be charged in accordance with the schedule of fees in paragraph (e) of this section, and other requirements or restrictions in this regulation. The most efficient and least costly methods will be used to comply with requests for documents made under the FOIA.

(2) If it is estimated that charges for duplication determined by using the fee schedule in § 1.555(e) of this title are likely to exceed $25, the requester will be notified of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Such notice will offer the requester the opportunity to confer with Agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) Each department and staff office upon approval of the Administrator is authorized to contract with private sector services to locate, reproduce, and disseminate records in response to FOIA requests when that is the most efficient and least costly method. If a contractor is used, the ultimate cost to the requester can be no greater than it would if the department, staff office, or field station performed the task, itself. In no case may a department, staff office, or field station contract out responsibilities which the FOIA provides that they alone may discharge, such as determining the applicability of an exemption, or determining whether to waive or reduce fees.

(4) When documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, in which the agency is required to set the level of fees for particular types of records, such as the National Technical Information Service or the Government Printing Office, the requester of such documents will be informed of the steps necessary to obtain records from those sources, rather than from the VA.

(c) *Restrictions on assessing fees.* With the exception of commercial use requests no charges will be assessed for the first 100 pages of duplication and the first two hours of search time. Moreover, no fees are to be charged any requester, including commercial use requesters, if the cost of collecting the fee is equal to or greater than the fee itself. These provisions work together so that, except for commercial use requests, fees will not be assessed until the free search and duplication have been provided. For example, if a request takes two hours and ten minutes of search time and results in 105 reproduced pages of

documents, fees can be charged for only 10 minutes or search time and for only five pages of reproduction. If this cost were equal to or less than the cost to the VA of billing the requester and processing the fee collected, no charges would be assessed.

Note: The cost of collecting fees are VA's administrative costs of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account. The cost is determined to be negligible. The per-transaction costs to the Treasury to handle such remittances is negligible and will not be considered in the Agency's determination.

(1) For purposes of the restriction on assessing fees, the word "pages" refers to one-sided paper copies of the standard sizes 8½" x 11" or 8½" x 14" or 11" x 14". Accordingly, requesters will not be entitled to 100 microfiche or 100 computer disks free. One microfiche containing the equivalent of 100 pages or 100 pages of computer printout might meet the terms of the restriction.

(2) The term "search time" in this context is based on manual searches. To calculate the "computer search time" for the purpose of applying the two-hour search restriction, the hourly cost of operating the computer's central processing unit will be combined with the operator's hourly salary, plus 16 percent of the salary. When the cost of the search (including the operator time and the cost of the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, charges will begin to be assessed for a computer search.

(d) *Categories of requesters and fees to be charged each category.* There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutional requesters; requesters who are representatives of news media; and all other requesters. Specific levels of fees will be charged for each of these categories as follows:

(1) *Commercial use requesters.* When a request for documents for commercial use is received, the full direct costs of searching for, reviewing for release, and duplicating the records sought will be charged to the requester. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduced documents. Moreover, the commercial use requester will be charged the cost of searching for and reviewing records even if there is ultimately no disclosure of records. The requester must reasonably describe the records sought.

(2) *Educational and non-commercial scientific institution requesters.* These requesters will be charged only for the cost of reproduction, excluding charges for the first 100 pages. In order to be considered a member of this category, a requester must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use. If the request is from an educational institution, the requester must show that the records sought are in furtherance of scholarly research. If the request is from a non-commercial scientific institution, the requester has to show that the records are sought in furtherance of scientific research. Information necessary to support a claim of being categorized as an educational or non-commercial scientific institution requester will be provided by the requester, and the requester must reasonably describe the records sought.

(3) *Representatives of news media.* These requesters will be charged for the cost of reproduction, only, excluding charges for the first 100 pages. To be included in this category, a requester must fall within the definition of a representative of the news media specified in paragraph (a)(6) of this section, and the request must not be made for commercial use. A request for records supporting the news dissemination function of the requester will not be considered to be a request that is for commercial use. Requesters must reasonably describe the records sought.

(4) *All other requesters.* Any requester that does not fit into any of the categories in this section will be charged fees which recover the full reasonable 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 will be furnished without charge. In addition, under certain circumstances specified in paragraph (f) of this section, fees will be waived or reduced at the discretion of field station heads or responsible Central Office officials. Requests from VA beneficiaries, applicants for VA benefits, or other individuals for records retrievable by their name or other personal identifier will initially be processed under 38 U.S.C. 3301 and 5 U.S.C. 552a and will be assessed fees in accordance with the applicable fee provisions of § 1.526(i) or 1.577(f) of this title. To the extent that records are not disclosable under these provisions, the disclosure of such records will be evaluated under §§ 1.550 through 1.559, and fees will be assessed under paragraph (e) of this section. Requesters must reasonably describe the records sought.

(e) *Schedule of fees:*

Activity	Fees
(1) Duplication of documents by any type of reproduction process to produced plain one-sided paper copies of a standard size (8½" x 11"; 8½" x 14"; 11" x 14").	$0.15 per page.
(2) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audiotapes, etc.) computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency. (See paragraph (a)(ii) of this section and, if costs are likely to exceed $25.00, paragraph (b)(2) of this section.
(3) Duplication of documents by any type of reproduction process not covered by paragraphs (e)(1) and (2) of thjis section to produce a copy in a form reasonably usable by the requester.	Actual direct cost to the Agency. (See paragraph (a)(ii) of this section and, if costs are likely to exceed $25.00, paragraph (b)(2) of this section.
(4) Document search by manual (non-automated) methods.	Basic hourly salary rate of the employee(s) performing the search, plus 16 percent. (If costs are likely to exceed $25.00, see paragraph (g)(2) of this section.)
(NOTE: If a department, staff office or field station uses exclusively a single class of personnel, e.g., all administrative/clerical or all professional/executive, an average rate for the range of grades involved may be used.)	
(5) Document search using automated methods, such as by computer.	Actual direct cost to perform search. (See paragraph (c)(2) of this section, and, if costs are likely to exceed $25.00, see paragraph (g)(2) of this section.)

Activity	Fees
(6) Document review (use only for commercial use requesters).	Basic hourly salary rate of employee(s) performing initial review to determine whether to release document(s) or portions of records, plus 16 percent.
(NOTE: Charge for document reviews covers only the time spent reviewing the document(s) at the initial administrative level to determine applicability of a specific FOIA exemption to a particular record or portion of a record. It does not cover any review incurred at the administrative appeal level once the initial exemptions are applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The cost for such a subsequent review may be properly assessed.)	
(7) Other charges: Certifying that records are true copies; Sending records by special methods such as express mail.	Where applicable, assess under provisions of §§ 1.526(i) and (j) of this title, otherwise, actual direct cost of service performed.

(f) *Waiving or reducing fees.* Under the following circumstances, records and services provided in response to a FOIA request will be waived or reduced:

(1) When it is determined by responsible Central Office officials or field station heads that furnishing the document(s) is in the pubic interest because it 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) Factors that will be considered in determining whether disclosure of information is in the public interest because it is likely to contribute signficantly to the public understanding of the operations or activities of the government are:

(i) *The subject of the request:* whether the subject of the requested records concerns the operations of the government;

(ii) *The informative value of the information to be disclosed:* Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) *The contribution to an understanding of the subject by the general public likely to result from disclosure:* Whether the disclosure of the requested information will contribute to public understanding; and

(iv) *The significance of the contribution to public understanding:* Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(3) Factors that will be considered in determining whether disclosure of information is not primarily in the commercial interest of the requester are:

(i) *The existence and magnitude of a commerical interest:* Whether the requester has a commerical interest that would be furthered by the requested disclosure; and if so

(ii) *The primary interest in disclosure:* Whether the magnitude of the identified commerical interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commerical interest of the requester.

(4) An appeal from an adverse waiver or reduction determination will be processed in the same manner as described in § 1,557 of this title.

(g) *Other administrative considerations to improve assessment and collection of fees*—(1) *Charging interest—notice and rate.* The Veterans Administration may charge interest to those requesters who fail to timely pay fees assessed in accordance with these regulations. Determination to charge interest will be made by the responsible Central Office official or field station head. Interest will be assessed on the unpaid bill beginning on the 31st day following the day on which the original billing was sent. Interest will be at the rate prescribed in section 3717 of Title 31 United States Code and will accrue from the date of the billing. Accounting procedures ensure that a requester who has remitted the full amount within the time period is properly credited with the payment. The fact that fee has been received by the VA, even if not processed, will suffice to stay the accrual of interest.

(2) *Charges for unsuccessful search.* When it is determined by the responsbile Central Office official or field station head, charges for searching may be assessed, even if records are not located to satisfy a request or if records located are determined to be exempt from disclosure. It if is determined that search charges are likely to exceed $25, the requester will be notified of the estimated amount of fees, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. Such notice will offer the requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) *Aggregating requests.* When the responsible Central Office official or field station head reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the responsible Central Office official or field station head may aggregate (combine) any such requests and charge accordingly. One element to consider in determining whether a belief would be reasonable is the time period in which the requests occurred. For example, it is reasonable to presume that multiple requests within a 30-day period that seek portion(s) of the same document(s) is an attempt to aviod payment of charges. For requests made over a longer period, however, such presumption becomes harder to sustain. In each case, there must be a solid basis for determining that aggregation is warranted. Caution will be exercised before aggregating requests from more than one requester. There must be a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment. In no case will the multiple requests on unrelated subjects from one requester be aggregated.

(4) *Advance payments.* At the discretion of the responsible Central Office official or field station head a requester may be requested to make an advance payment of fees. The Agency may request advance payments only when:

(i) The allowable charges to be assessed a requester are likely to exceed $250.00. The requester will be notified of the likely charge and asked to provide satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or required to make payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

(ii) A requester has previously failed to pay a fee charged in a timely fashion, i.e., within 30 days of the date of the billing. In these cases, the requester may be required to pay the full amount owed, plus any applicable interest or demonstrate that he or she has, in fact, paid the fee and to make an advance payment of the estimated fee before the Agency begins to process a new request or a pending request.

(iii) If a requester is required to make advance payments, as described in this section, the time limits prescribed in § 1.553a, for responding to initial requests and appeals from initial denials plus permissible extensions will begin only after the Agency has received the advance fee payments.

(5) *Debt collection.* In the event of non-payment of billed charges for disclosure of records, the procedures authorized by the Debt Collection Act of 1982 (Pub. L. 97–365) may be used. This may include disclosure to consumer reporting agencies and use of collection agencies.

(Authority: 5 U.S.C. 552(a)(4)(A))

4. In § 1.577, paragraph (f) is revised and paragraph (g) and an authority citation are added to read as follows:

§ 1.577 Access to records.

* * * * *

(f) Fees to be charged, if any, to any individual for making copies of his or her record, excluding the cost of any search for and the review of the record, will be as follows:

Activity	Fees
(1) Duplication of documents by any type of reproduction process to produce plain one-sided paper copies of a standard size (8½" x 11"; 8-1/2" x 14"; 11" x 14").	$0.15 per page after first 100 one-sided pages.
(2) Duplication of non-paper records, such as microforms, audiovisual materials (motion pictures, slides, laser optical disks, video tapes, audio tapes, etc.), computer tapes and disks, diskettes for personal computers, and any other automated media output.	Actual direct cost to the Agency as defined in § 1.555(a)(i) of this title to the extent that it pertains to the cost of duplication
(3) Duplication of document by any type of reproduction process not covered by paragraphs (f)(1) or (2) of this section to produce a copy in a form reasonably usable by the requester..	Actual direct cost to the Agency as defined in § 1.555(a)(ii) of this title to the extent that it pertains to the cost of duplication.

(**Note:** Fees for any activities other than duplication by any type of reproducing process will be assessed under the provisions of § 1.526(i) or (j) or any other applicable law.)

(g) When VA benefit records, which are retrievable by name or individual identifier of a VA beneficiary or applicant for VA benefits, are requested by the individual to whom the record pertains, the duplication fee for one complete set of such records will be waived.

(Authority: 5 U.S.C. 552a(f)(5))

[FR Doc. 87–23998 Filed 10–15–87; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3275–7]

Approval of the State of Delaware Stack Height Declarations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to approve a declaration by the State of Delaware that the recent revisions to EPA's stack height regulations do not require revisions to any emission limitation in the State Implementation Plan (SIP). The intent of this action is to formally document that Delaware has satisfied part of its obligation under section 406 of the Clean Air Act (CAA). This action announces the results of the State's review of all existing potential sources. The remaining obligations under section 406 are covered by another notice.

DATE: Comments must be received on or before November 16, 1987.

ADDRESSES: Comments may be mailed to: David L. Arnold, Chief, Delmarva/DC Section (3AM13), US EPA, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107.

Copies of the submissions are available for public inspection during normal business hours at the Environmental Protection Agency's address above or at the following State office: Delaware Department of Natural Resources and Environmental Control, Air Resources Section, 89 Kings Highway, P.O. Box 1401, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin A. Magerr (3AM13), at the EPA Region III address above or call (215) 597–6863.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credits and other dispersion techniques as required by section 123 of the Clean Air Act. These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club v. EPA*, 719 F.2d 436 (DC Cir. 1983). On October 11, 1983, the Court issued its decision ordering EPA to reconsider portions of the stack height regulations, reversing certain portions and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 S.Ct. 3571), and on July 18, 1984, the Court of Appeals' mandate was formally issued, implementing the Court's decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27, 1985. Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878) and promulgated on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms including "excessive concentrations," "dispersion techniques," "nearby," and other important concepts, and modify some of the criteria for determining Good Engineering Practice (GEP) stack height.

Pursuant to section 406(d)(2) of the Act, all States were required to (1) review and revise, as necessary, their State Implementation Plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations; and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, States were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation, as required by section 406.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, the States were to prepare inventories of stacks greater than 65 meters in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. These sources were then subjected to a detailed review for conformance with the revised regulations.

State Submission

EPA received Delaware's inventory on March 18, 1986. Additional material was received from the State on April 15, 1986. The State submittal concluded that existing emission limitations have not been affected by stack height credits above GEP or any other prohibited dispersion techniques. Delaware identified 2 stacks (Delmarva Power and Light, Edgemoor Unit #5 and Indian River Unit #4) that emit 5,000 tons per year. In both cases neither source used merged stacks or any other prohibited dispersion technique. The findings for all the stacks are summarized in Table 1.

The State review found eighteen potential stacks. Of the eighteen, fifteen stacks were "grandfathered" and exempt from any regulatory action under EPA's final stack height regulations. Three sources, Delmarva Power and Light (DP&L) Edgemoor #5, Indian River Unit #4 and Texaco's Sulfur Recovery Unit were shown to be at or below GEP. The following is a summary of the States' GEP analysis.

Delmarva Power and Light Edgemoor Unit #5

The State did not find evidence to show reliance on the traditional Hg=2.5H formula and as such, determained GEP stack height using the Hg=H+1.5L formula where,

Hg=Good Engineering Practice stack height measured from the ground-level elevation at the base of the stack,

H=Height of the nearby structure(s) measured from the ground-level elevation at the base of the stack,

L=Lesser dimension, height or projected width, of nearby structure(s).

Using this formula, GEP was found to be 425 ft., where *H=170 ft. and L=170 ft. The actual stack height was determined to be 275 ft.

TABLE 1.—A SUMMARY OF APPLICABLE SOURCES AND THE STATES REVIEW

Name of Company	Grandfathered [1]	GEP [2]	Documentation
Wilmington Finishing Company	X		Map of Wilmington 1927.
Delmarva Power & Light (Edgemoor):			
Unit #3	X		FERC report 1954 .[3]
Unit #4	X		FERC report 1966.
Unit #5		X	State Air Permit.
Delaware City	X		FERC report 1956.
Indian River:			
Unit #1	X		FERC report 1957.
Unit #2	X		FERC report 1959.
Unit #3	X		FERC report 1970.
Unit #4		X	Strate Air Permit.
Dupont Seaford	X		Drawing dated 1939.
Texaco:			
Sulfur Recovery Unit		X	State Air Permit.
Fluid Coker	X		Drawing dated 12/2/55.
Crude Unit	X		Drawing dated 9/28/55.
Catalytic Cracker	X		Drawing dated 5/10/60.
Sun Olin Chemical Co., Boiler Stack	X		Purchase order 4/6/61.
Allied Corporation Boiuler Stack East	X		Drawing dated 9/28/59.
Delaware Trust Building	X		Drawing dated 1/12/59.
American International Building	X		Drawing dated 10/8/65.

[1] Stack was in place or binding contract before 12/31/70.
[2] Source Follow Good Engineering Practice in accordance with the July 8, 1985 FEDERAL REGISTER notice.
[3] Federal Energy Regulatory Commission (FERC).

Delmarva Power and Light Indian River Unit #4

The State determined GEP stack height using the Hg=H+1.5L formula for the same reason as for DP&L Edgemoor Unit #5. GEP was found to be 500ft., where *H=200ft. and L=200ft. The actual stack height was determined to be 400ft.

* "H" is the height of the boiler house as documented in the State's air permit. "L" is the same value because the boiler house projected widths are greater than the boiler house height.

Texaco Sulfur Recovery Unit

Based on EPA's GEP definition § 51.100(ii), the State considered this source to be acceptable. In this case, the GEP stack height was found to be 65m. The actual stack height is 3.7m greater than 65m. However, ambient air quality modeling was conducted at the GEP Height. Therefore, the source was not given credit for the additional height.

Public Participation

Since this action is not considered a revision to the SIP, the State was not required to hold a public hearing. However, since the State's findings are presently being published in this Notice, the public will have an opportunity to comment before EPA takes final action.

Conclusion

As discussed in the summary, the State has satisfied part of its obligation under section 406 of the CAA, by reviewing sources to determine compliance with the July 8, 1985, GEP stack height regulation. The State has also met its obligations under section 406, for complying with 40 CFR 51.118 and 51.164 by adopting regulations required to review sources constructed, reconstructed or modified subsequent to December 31, 1970. This latter action is covered in another Notice.

EPA has reviewed the State submission and finds that the documentation adequately supports the conclusion as expressed in Table 1. Therefore, EPA is proposing approval of Delaware's declaration that no revisions to emission limitations for existing sources are required under EPA's final stack height regulations or the terms of the Delaware SIP adopting these stack height regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Sulphur dioxide, Reporting and recording requirements.

Authority: 42 U.S.C. 7401–7642.

Date: March 26, 1987.

James M. Seif,

Regional Administrator.

[FR Doc. 87–23569 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[FRL–3278–1; KY–045]

Approval and Promulgation of Implementation Plans; Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve revisions to 401 KAR 50:015, Documents incorporated by reference, submitted by the Commonwealth of Kentucky on March 23, 1987. This regulation incorporates by reference the methods required for demonstrating compliance with the regulations of the Kentucky Division of Air Pollution. The amendments being proposed for approval today adopt reference methods incorporated in 40 CFR Parts 60 and 61 that are used to demonstrate compliance with the federal regulations which the Kentucky Division of Air Pollution has already adopted or is adopting by reference. In addition, another amendment to 401 KAR 50:015 proposed for approval in this notice adopts EPA's revised "Guideline on Air Quality Models (Revised)," EPA—450/2–78–027R, OAQPS No. 1.2–080R, July, 1986.

DATE: Comments must be received on or before November 16, 1987.

ADDRESSES: Copies of the State submittal and other relevant documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Kentucky Natural Resources and Environmental, Protection Cabinet, Department for Environmental Protection, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

Comments should be addressed to Ms. Pamela E. Adams, at the EPA address above.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela E. Adams, U.S. Environmental Protection Agency, Region IV, Air Programs Branch, at the above listed address or at (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On January 27, 1987, the Kentucky Natural Resources and Environmental Protection Cabinet conducted a public hearing in Frankfort, Kentucky to receive comments on revisions to Kentucky regulation 401 KAR 50:015, Documents incorporated by reference. Since no adverse comments regarding the revisions were received, the amended regulation became effective, as proposed, on February 10, 1987. Kentucky regulation KAR 50:015 was amended to add reference methods that are required in the federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), that Kentucky has adopted, or will soon be adopting, by reference.

Kentucky regulation 401 KAR 50:015, Documents incorporated by reference, was revised to incorporate by reference the following reference methods from 40 CFR Part 60: Method 3A, Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure); Method 6C, Determination of sulfur dioxide emissions from stationary sources (Instrumental analyser procedure); and Method 7E, Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure). In addition, the following NESHAP test methods from 40 CFR Part 61 were incorporated by reference into the revised 401 KAR 50:015: Method 108, Determination of particulate and gaseous arsenic emissions; Method 108A, Determination of arsenic content in ore samples from nonferrous smelters; and Method 111, Determination of polonium—210 emissions from stationary sources. Finally, Kentucky amended 401 KAR 50:015 to incorporate the updated version of one of the documents on air quality models that was published by EPA and which has been recently revised. The "Guideline on Air Quality Models (Revised)," EPA–450/2–78–027R, OAPQS 1.2–080R, July 1986, was added under Section 5, entitled Environmental Protection Agency, of 401 KAR 50:015.

Kentucky regulation 401 KAR 50:015 merely incorporates the methods for determining compliance which are required by federal regulations which Kentucky has already adopted or is adopting by reference. Therefore, Kentucky's compliance requirements in 401 KAR 50:015 are the same as the federal compliance requirements. Simply incorporating these compliance methods does not affect any source or other entities. Any impact would occur in the individual regulation where the methods are required.

Proposed Action

EPA is today proposing to approve revisions to Kentucky regulation 401 KAR 50:015, Documents incorporated by reference. These revisions simply adopt reference methods that are used to demonstrate compliance with the federal regulations. Another amendment also being proposed for approval in this notice adopts EPA's "Guideline on Air Quality Models (Revised)," EPA–450/2–78–027R, OAQPS No. 1.2–080R, July 1986.

Under 5 U.S.C. 605(b), I certify that this SIP revision will 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.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Date: August 21, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 87–23993 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 249

[Docket No. R–101]

Approval of Underwriters for Marine Hull Insurance

AGENCY: Maritime Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Maritime Administration (MARAD) proposes to issue regulations governing the placement of hull insurance on subsidized and Title XI program vessels. The proposed regulations would afford companies participating in MARAD programs wider opportunity to obtain hull insurance coverage from financially sound underwriters with minimal regulatory constraints. Specifically, they would eliminate the current requirement that 75 percent of the required hull insurance coverage be placed in the American market, provide for the approval under certain conditions of additional foreign

underwriters to participate in the writing of hull insurance on MARAD program vessels, and modify the current regulations limiting an underwriter's risk on any single vessel.

DATE: Comments must be received on or before December 15, 1987.

ADDRESS: Send original and two copies of comments to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. To expedite review of the comments, the agency requests, but does not require, submission of an additional ten copies of the comments. All comments will be made available for inspection during normal business hours at this address. Commenters wishing MARAD to acknowledge receipt should enclose a self-addressed and stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: William B. Ebersold, Office of the Associate Administrator for Maritime Aids, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, Tel: (202) 366–0364.

SUPPLEMENTARY INFORMATION: On October 11, 1985, MARAD published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (50 FR 41531) concerning its existing policies of (1) accepting only American or certain British underwriters as hull insurers of subsidized or Title XI program vessels; (2) requiring that 75 percent of the required hull insurance coverage be placed in the American market when the rates and conditions are competitive; and (3) limiting an underwriter's risk on any single vessel.

The purpose of the ANPRM was to elicit opinions and data that would be used in the formulation of a proposed rule. However, the comments received tended to be general in nature and did not provide MARAD with sufficient information to make a decision.

There was, however, general support from the ship operators and previously non-admitted foreign underwriters, and opposition from the American marine insurance industry. Consequently, MARAD decided to conduct a public inquiry to give all interested parties an opportunity to provide more information and to support their positions.

Notice of the Inquiry was published in the **Federal Register** on March 18, 1986 (51 FR 9230). The Notice included a series of questions which was intended to provide a focus for the meeting. The Inquiry was held on April 17, 1986, and included presentations by thirteen speakers.

Based on the presentations made and all material submitted in connection with this proceeding, MARAD has decided to proceed with a rulemaking defining MARAD's policy with respect to approval of underwriters to participate in hull insurance placed on subsidized or Title XI program vessels.

It is the intent of the Maritime Administration that its policies afford companies which participate in the subsidy and ship financing (Title XI) programs the widest possible opportunity to obtain hull insurance coverage from financially sound underwriters with minimal regulatory constraints. It is the policy of the Maritime Administration to require those companies subject to its requirements for the placement of hull insurance to afford the American marine insurance market the opportunity to compete for each such placement. However, the placement of hull insurance coverage on MARAD program vessels is ultimately the responsibility of the vessel owner, and MARAD is not responsible for guaranteeing the security of the underwriter. Rather, it is incumbent upon MARAD to provide a regulatory environment which does not impose undue costs upon program participants or a regulatory burden upon owners or the marine insurance industry. The proposed regulation must therefore be viewed as deregulation which is intended to stimulate competition without placing undue risk upon the various MARAD programs.

MARAD's review of all pertinent legislative authority in the Shipping Act, 1916 (46 App. U.S.C. 811), Merchant Marine Act, 1920 (46 U.S.C. 855), and Merchant Ship Sales Act of 1946 (50 U.S.C. 1735) has failed to provide any basis for concluding that Congress ever intended to require that *priority* be given to American marine insurers in underwriting hull or any other form of marine insurance for any U.S.-flag vessels. With respect to marine insurance, the sole intent expressed in the 1916 Act was to "ascertain what steps may be necessary to develop an *ample marine insurance system* as an aid in the development of an American merchant marine." Based on the findings of Congress, it was deemed necessary to provide an antitrust exemption to American marine insurers in the 1920 Act to assure that they would achieve a significant role in the marine insurance market, and provide insurance for U.S. merchant vessels at competitive rates. At that time, the marine insurance market was dominated by British insurance companies.

In 1920, Congress saw the need to develop a strong and independent American marine insurance industry to combat the ills that its absence had caused, especially during World War I. The American marine insurance market developed, became competitive and remains so today.

An administrative agency has the right to change its policy in an area of discretion squarely committed to it by Congress and to apply the new policy to parties to which the old policy had been applied. Without the right to make changes, agencies could not adjust to varying social and economic conditions. *Maxwell Co.* v. *NLRB*, 414 F.2d 477 (6th Cir. 1969).

MARAD is proposing to revoke its current informal policy which reserves 75 percent of the hull insurance market for MARAD program vessels to American hull insurers. However, recognizing the importance of a sound American marine insurance market to a healthy U.S. merchant marine, MARAD would continue to support the American market by requiring owners and brokers to offer American underwriters adequate opportunity to compete for each placement of insurance. While not imposing a regulatory burden to submit documentation of all such offers, MARAD would monitor compliance with this requirement in the manner described in § 249.9 MARAD thus hopes the proposal would ensure the very "level playing field" which the American underwriters have so consistently sought.

MARAD has also concluded that there is no basis upon which to preclude participation by additional underwriters simply because they are not in the American or London markets. If there are other financially sound underwriters subject to adequate regulation in their country of domicile, they should not be excluded from participation or subject to unwarranted regulation. Regulation for the sake of protectionism can only result in added costs for the ultimate insurance purchaser. MARAD's commitment to meaningful regulatory reform calls for elimination not only of unnecessary impediments to competitive maritime operations, but also of restrictive regulatory constraints. MARAD also supports a business environment in which open competition can exist. Consequently, the proposed rule does provide in §§ 249.6 and 249.7 a mechanism for approval of additional foreign underwriters on the basis of their financial soundness, the suitability of the regulatory regime in the country of domicile, and the principle of mutual non-discrimination.

In order not to discriminate against the American marine insurance industry in favor of the British or other foreign markets and to insure the broadest base

of competition within the American market, the proposed rule requires, in § 249.5(a), that American underwriters have an A.M. Best rating of B (Good) or better. This is not to say that individual owners or their brokers should not have more stringent standards if they believe that such standards are appropriate. In order to encourage the broadest range of competition, MARAD does not want to preclude American underwriters who might be otherwise qualified and acceptable to the owners and brokers. Although it is expected that owners and brokers would have certain requirements of their own, MARAD is also not specifying a minimum financial size category.

Underwriters at Lloyd's would remain eligible to participate without further consideration because of their huge resources, the size of the Lloyd's American Trust Fund, and the protection provided by the Lloyd's Central Fund. Member companies of the Institute of London Underwriters and the Liverpool Underwriters Association would generally be eligible to participate without further consideration. However, MARAD would require that the member company actually underwriting the risk maintain a U.S. trust fund for the benefit of its U.S. policyholders in a amount at least equal to the amount which would be required of newly approved underwriters. Also, the amount of insurance written could not exceed the limitation on risk specified in the regulation. These requirements are specified in § 249.5(b).

In order to minimize the administrative burden of monitoring compliance with the proposed rule, MARAD would not require owners and brokers to submit supporting documents to demonstrate that each participating underwriter is approved by MARAD and has adequate surplus to meet MARAD's requirements. Instead, the proposed regulation clearly states in § 249.5(c) that it is the responsibility of the vessel owner and its broker to ensure that the underwriters with whom the coverage is placed meet the specified eligibility criteria. MARAD would then need to monitor such compliance only on the basis of a random sample. MARAD would continue to require timely, full and complete written confirmation of the coverage actually placed.

The application procedures (§ 249.6) for foreign underwriters seeking to participate in marine hull insurance placed on MARAD program vessels involve the submission of (1) financial data, (2) an English language version of the insurance regulatory regime in the country of domicile, (3) a certification that similar market access is available to U.S. insurers seeking to write hull insurance in the applicant's country of domicile and, (4) possibly the details of the reinsurance program.

It is MARAD's intention to evaluate the financial strength of applicant foreign underwriters on the basis of the material submitted, or such additional information as may be required. To the extent possible, comparable evaluation criteria would be used for all underwriters. It is also MARAD's intention that approval be granted only to those foreign underwriters which are financially sound and whose participation does not create any undue risk for either the assets insured or the MARAD programs involved. MARAD does not intend by this deregulation to allow participation by foreign underwriters which are less suitable than participating American underwriters. These requirements would not apply to foreign underwriters who establish a branch or subsidiary in this country and become licensed by a state because such companies are already eligible to participate in the insurance of MARAD program vessels as part of the American market.

MARAD is still considering what financial reporting requirements should be imposed upon insurance companies seeking to write hull insurance on MARAD program vessels. MARAD recognizes the fact that differences exist between insurance accounting systems in this country and abroad. However, because MARAD does not need to precisely compare such systems, it may be possible to assess the financial strength of individual underwriters without requiring them to recast their accounting system to adapt to American norms. Alternatively, submission of financial data in the NAIC format could ensure that all underwriters are evaluated on the basis of comparable data. Consequently, § 249.6(b)(1), dealing with financial data requirements, is presented in two alternative forms. Interested parties are urged to express a preference, and in so doing to provide detailed support for the choice. They should explain precisely what benefits would accrue to MARAD's evaluation effort if all data is submitted in NAIC format, or alternatively, what burdens and difficulties such a requirement would create. Such comments should also address the question of whether three or five years of data should be required, and what type of certification requirement would ensure the accuracy and completeness of the data submitted. MARAD would also welcome any suggestions aimed at ensuring fair and accurate evaluation of applicant foreign underwriters.

MARAD believes that the strength of the insurance industry in this country is partly due to the adequate system of regulation of insurance companies. MARAD also believes that in countries which lack a national rating scheme comparable to A.M. Best's, a review of the national insurance regulatory regime under which the foreign insurer operates can indicate whether there is adequate regulation to maintain high quality security. This approach is preferable to imposing unnecessary regulations which would not actually improve the quality of the foreign security, and would only increase the cost of insurance—a result inconsistent with MARAD's policy. MARAD would, of course, retain the discretionary authority to impose reasonable terms and conditions upon any foreign underwriters which it approves.

The record from the ANPRM and the Inquiry indicates concern among the American underwriters that MARAD's proposal would allow participation by foreign underwriters from countries that discriminate against American insurers. MARAD would not approve access to the American hull insurance market for any underwriters from countries in which American underwriters are denied similar access to their hull insurance markets. MARAD's proposed rule might thus prove beneficial to the American market in its efforts to remove any discriminatory practices which mau inhibit its expansion worldwide. At this time, MARAD does not have any definitive evidence of specific discriminatory practices. The proposed rule requests that the American marine insurance industry specifically identify any discriminatory practices occurring in the foreign marine hull markets. MARAD will then consider whether additional safeguards are necessary and appropriate.

MARAD would grant approvals to foreign underwriters on an annual basis only, to enable periodic assessments of the results and impact of the proposed rule. As a condition of approval, newly approved foreign underwriters would be required to set up a $1 million trust fund in the United States for the benefit of domestic policyholders. The amount would be reviewed annually and adjusted as appropriate. All policies issued by foreign underwriters would be required to contain the latest MARAD-approved American Institute of Marine Underwriters' forms, as well as New York Suable or Service of Suit (USA)

Clause. To maintain their approvals, newly approvewd foreign underwriters would be required to file annual financial statemens with MARAD, in the same level of detail as required for the original approval.

There was considerable discussion at the Inquiry regarding the amount of surplus necessary for adequate security, and, as a collateral issue, the extent to which an insurer should be exposed on a single risk. In an attempt to balance the interests of all insurers, MARAD has tentatively concluded that the standard should be based upon the level of *net* retention (after reinsurance) and its relation to policyholders surplus, and the level of concentration of reinsurance among reinsurers. By *net* retention is meant the amount of each risk which is retained by the primary direct insurer after a portion of the original total amount insured is passed on to a secondary insurer (the reinsurer).

The standard being proposed in § 249.8 is that an underwriter's *net* retention (after reinsurance) of insurance coverage on a single risk should not exceed five percent of its policyholders' surplus, a level which MARAD believes does not represent too great a concentration of risk. The proposed rule only requires MARAD's consideration if the total amount insured by one underwriter on any single vessel (before reinsurance) exceeds five percent of the underwriters policyholders' surplus.

Since policyholders' surplus data is or will be readily available, it is expected that in most cases a simple comparison between the total amount insured and the underwriter's surplus will obviate the need for MARAD to consider the reinsurance involved, or for the underwriter to submit any documentation concerning its reinsurance arrangements. This procedure minimizes the administrative burden on all parties.

However, if the total amount insured by an underwriter on any single vessel exceeds five percent of its policyholders' surplus, then the underwriter must rely on its reinsurance to meet the standard. Underwriters expecting to consistently rely on reinsurance to meet the standard would be required to state this in their applications. In such case, MARAD would require the underwriter to submit the details of its reinsurance program for MARAD's evaluation prior to granting approval. Because the entire issue of limitation centers on preventing excessive exposure on a single risk, the evaluation of the reinsurance program would be concerned with concentration of reinsurance as well as the quality of reinsurance. MARAD would not approve an underwriter if its reinsurance is so concentrated as to create an undue risk to the underwriter's solvency.

MARAD's failure to specifically adopt certain evaluative criteria suggested by the American marine insurance industry (such as the NAIC Insurance Regulatory Information System) is not a rejection of such proposals, but is a recognition of the evaluation process as a highly inexact science. Even within the insurance industry, the ratios and standards which have been suggested are advisory and not determinative. Consequently, it would be inappropriate to cast all the NAIC criteria into the rigidity of a regulation. However, in the course of its evaluation of applications, MARAD would certainly use such ratios and standards suggested by the marine insurance industry which it considered appropriate to the evaluation being conducted. MARAD would also welcome at this stage any additional suggestions for other evaluation criteria.

E.O. 12291, Statutory and DOT Requirements

The Maritime Administrator has determined that this proposed rulemaking is not major, as defined in E.O. 12291, but is significant under DOT regulatory policies and procedures (DOT Order 2100.5) due to controversy and considerable public interest. This proposed rule has also been deemed a significant regulatory action in the Administration's 1987 Regulatory Program. A Regulatory Evaluation has been prepared to assess the economic impact of the proposed rule, and is available upon request.

Various alternatives were considered in connection with whether to (1) retain the 75 percent American market reservation, (2) permit any of the insurance to be placed with foreign underwriters outside the London market, and (3) limit the amount of risk which an underwriter may take on any single vessel. The Regulatory Evaluation concludes that the proposed rule will help to improve the competitive posture of the U.S.-flag fleet by providing the U.S.-flag owner participating in MARAD programs with the broadest opportunity to obtain sound hull insurance coverage with minimal regulatory constraints. Market restraints tend to reduce competition and create an unnecessary impediment to a competitive U.S.-flag merchant marine, and with the antitrust exemption, create the potential for higher insurance costs. Economical and efficient operation of vessels is critical for survival in a highly competitive environment, and the operators must be afforded the opportunity to obtain the best possible coverage at the lowest possible cost. Rate regulation is an undesirable alternative inconsistent with the goals of deregulation and increasing competition.

The maximum potential impact of the proposed regulatory changes on the American underwriters would be the virtually impossible scenario of total loss of market, which is estimated by MARAD staff at $42–$63 million in annual premiums. However, MARAD business may account for as little as 25 percent of the total hull premium written by American underwriters, who are able to effectively compete for international hull business, presumably with the same foreign underwriters who are now ineligible to participate in MARAD business. Consequently, MARAD does not expect that the proposed rule would have any significant adverse effect upon the American market's ability to compete effectively.

The only anticipated impact is a general reduction of premium levels in response to an increase in competition. In fact, to the extent that there is a loss of premium to the American underwriters, it will be the result of premium savings accruing to American vessel owners.

However, in order to ensure that MARAD's ultimate decision on this matter is based upon the best data available, commenters are specifically invited to submit detailed estimates of the impact of the proposed rule upon their business.

Finally, the Regulatory Evaluation concludes that the proposed rule would balance support of the American marine insurance industry with equity for U.S.-flag vessel owners, and that the various impacts and consequences of implementation would not jeopardize the soundness of either MARAD's subsidy and ship financing programs or the American marine insurance industry.

Since this proposal would principally affect ship operator and insurance companies with substantial annual revenues, the Maritime Administrator certifies that, if finalized, this regulation would not exert a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*). The proposed rulemaking contains new information collection requirements in §§ 249.6(b) and 249.7(g). They will be submitted to the Office of Management and Budget for approval pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 46 CFR Part 249

Grant programs—transportation insurance, Insurance companies, Maritime carrier.

Accordingly, it is proposed to add a new Part 249 to Subchapter C of Chapter II, Title 46, Code of Federal Regulations, to read as follows:

PART 249—APPROVAL OF UNDERWRITERS FOR MARINE HULL INSURANCE

Sec.

Authority: Sec. 204(b), 1109, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b), 1279(b)); 49 CFR 1.66.

§ 249.1 Purpose.

This part prescribes certain regulations governing the placement of marine hull insurance on vessels built or operated with subsidy or covered by vessel obligation guarantees issued pursuant to Title XI of the Merchant Marine Act, 1936, as amended.

§ 249.2 Policy.

(a) It is the policy of the Maritime Administration (MARAD) that companies subject to requirements for the placement of marine hull insurance shall be afforded the widest possible opportunity to obtain the necessary coverage, with minimal regulatory constraints, and that while the placement of such insurance should be with financially sound underwriters, such placement should not create any unnecessary impediments to competitive maritime operations.

(b) It is also the policy of the Maritime Administration to require owners of vessels with ODS or Title XI obligation guarantees, before placing marine hull insurance on these vessels, to allow the American marine insurance market the opportunity to compete for each such placement.

§ 249.3 Amounts of insurance.

MARAD will inform the owner of each vessel that is subsidized or covered by vessel obligation guarantees, prior to initial placement and at least annually thereafter, of the minimum amount of insurance required to be placed on the vessel.

§ 249.4 Eligibility.

(a) *In general.* All required marine hull insurance must be placed with:

(1) Underwriters licensed to do business in one or more of the United States;

(2) Underwriters at Lloyds;

(3) Member companies of the Institute of London Underwriters or the Liverpool Underwriters Association; or

(4) Other underwriters specifically approved in advance by the Maritime Administration.

§ 249.5 Eligibility criteria.

(a) *U.S. underwriters.* Underwriters licensed to do business in a state are eligibile to participate without further consideration, provided they have at least a B security rating, as published in the latest edition of A.M. Best's Insurance Reports, and the amount of insurance does not exceed the limitation on risk prescribed in § 249.8.

(b) *Foreign underwriters.* (1) Underwriters at Lloyds are eligible to participate without further consideration.

(2) Underwriters which are members of the Institute of London Underwriters (ILU) (*member* companies, not parents or affiliates of the member companies) are eligible to participate without consideration, provided that the ILU member company actually underwriting the risk maintains a trust fund in the United States for the benefit of its U.S. policyholders in an amount at least equal to the minimum provided in § 249.7(c), and the line taken does not exceed the limitation on risk prescribed in § 249.8.

(3) Member companies of the Liverpool Underwriters Association are eligible to participate without further consideration, provided that the member company actually underwriting the risk maintains a trust fund in the United States for the benefit of its U.S. policyholders in an amount at least equal to the minimum provided in § 249.7(c), and the line taken does not exceed the limitation of risk prescribed in § 249.8.

(c) *Documentation of eligibility.* it shall be the responsibility of the vessel owner and its broker to ensure that the requirements of this section are met, and they should be able to provide MARAD, upon request, with documentation to that effect.

(d) *Other foreign underwriters.* Foreign underwriters other than those specified in (b)(1) through (b)(3) of this section may also be eligible to participate in the writing of marine hull insurance on MARAD program vessels of approved to do so in accordance with the procedures contained in §§ 249.6 and 249.7.

§ 249.6 Application procedures.

(a) MARAD may grant specific approval for underwriters described in § 249.5(d) to participate in the writing of marine hull insurance on MARDA program vessels only on an annual basis in advance of any actual placement.

(b) To seek approval, an applicant shall submit to MARAD:

(1) Annual financial statements for the preceding five (three) years in the format used by the National Association of Insurance Commissioners; [or]

(1) Financial data for the three (five) previous years in sufficient detail to enable MARAD to assess the financial strength and solvency of the applicant. MARAD may request additional data (for example, that the financial reports be submitted in the form prescribed by the National Association of Insurance Commissioners for admitted U.S. insurers) if the applicant's submissions are considered inadequate;

(2) An English language version of the insurance regulatory regime that is in place in the insurer's country of domicile (after review MARAD may contact the foreign national regulatory authorities, as appropriate);

(3) An affidavit in writing, executed by an agent of the applicant who is a domiciliary of the United States, and supported by appropriate documentation, to demonstrate that there is nothing to preclude a U.S. insurer from obtaining the same access to the applicant's home market as the applicant is seeking to the U.S. market, and

(4) The details of its reinsurance program, if it expects that any risk assumed or likely to be assumed will exceed five percent of its policyholders' surplus.

§ 249.7 Approval.

(a) Approval of the applicant will be based upon an assessment of the applicant's financial condition and solvency, suitability of the regulatory regime under which the applicant must operate in its home country (in lieu of a national rating scheme), and on the principle of reciprocal non-discrimination.

(b) Notice of Application will be published in the **Federal Register** for each application received from foreign underwriters described in § 249.5(d), affording interested persons an opportunity to comment on the application, and in particular, on any discriminatory practices which might

exist in the applicant's country of domicile.

(c) In granting approval, MARAD will consider all materials available to it, and may impose reasonable terms and conditions upon any such approvals granted.

(d) Upon approval, applicant will be required to establish a U.S. trust fund for the benefit of its U.S. policyholders in the amount of $1 million, such amount to be reviewed annually in connection with renewal of approval, and adjusted as appropriate.

(e) All policies, at the time of issuance, must contain the latest American Institute of Marine Underwriters' forms, as approved by MARAD.

(f) All policies issued by foreign underwriters shall include New York Suable Clause or Service of Suit (USA) Clause.

(g) To maintain approval, foreign underwriters, other than those specified in § 249.5(b), must file annual financial statements in the same level of detail as required for original approval.

§ 249.8 Limitation on risk.

Underwriters may take a line on any single risk in excess of five percent of its Policyholders' Surplus only with the prior approval of MARAD. Such approval will be based upon a review of the underwriter's reinsurance. The standard to be applied in such review shall be that the underwriter's *net* retention on any single risk may not exceed five percent of its Policyholders' Surplus, and that the reinsurance should not be so concentrated as to create an undue risk to the underwriter's solvency.

§ 249.9 American market participation.

(a) Owners of vessels receiving ODS or Title XI vessel obligation guarantees, or their brokers, shall offer to the American marine insurance market the opportunity to compete for the placement of marine hull insurance on each vessel.

(b) Such companies and their brokers shall provide, upon request by MARAD, evidence of having offered the risk to an adequate cross section of the American marine insurance market.

(c) If, in the opinion of MARAD, the American marine insurance market has not been offered adequate opportunity to participate in the risk, MARAD may require that the risk be reoffered and that the existing placement be modified, as deemed appropriate.

§ 249.10 Non-discrimination policy.

To assist MARAD to effectively administer the policy regarding non-discrimination against U.S. insurers in other countries, as described in §§ 249.6(b)(3) and 249.7(a), it will be the responsibility of the American marine insurance industry to bring to MARAD's attention any discriminatory practices in the marine hull insurance market abroad which are inconsistent with MARAD policy. Upon receipt of such information, MARAD will take whatever action it deems appropriate.

Dated: October 13, 1987.

By Order of the Maritime Administration.

James E. Saari,

Secretary, Maritime Administration.

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BILLING CODE 4910-81-M

[Docket No. R-115]

46 CFR Part 308

War Risk Insurance

AGENCY: Maritime Admninistration, Department of Transportaton.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Maritime Administration (MARAD) is proposing to amend the war risk insurance regulations (46 CFR Part 308) to allow certain vessels registered in the Commonwealth of the Bahamas (Bahamas) to become eligible to apply for war risk insurance. MARAD administers these regulations as a standby emergency program, which now allows only vessels registered under the laws of the United States, as well as certain vessels that are owned or controlled by U.S. citizens and registered under the laws of Panama, Honduras, and Liberia, to apply for available risk insurance interim binders. These interim binders insure vessels against liabilities resulting from war or warlike actions when commercial war risk insurance is unavailable on reasonable terms and conditions. The proposed amendment would make certain vessels registered in the Bahamas eligible for war risk insurance and subject to the same considerations now applicable to vessels registered under the laws of Panama, Honduras or Liberia. This proposed rulemaking would also make editorial amendments, including those that reflect MARAD organizational changes.

DATES: Comments must be received on or before December 15, 1987.

ADDRESS: Send original and two copies of comments to the Secretary, Maritime Administration, Room 7300, Department of Transportation, 400 7th Street SW., Washington, DC 20590. To expedite review of the comments, the agency requests, but does not require, submission of an additional ten copies of the comments. All comments will be made available for inspection during normal business hours at this address. Commenters wishing MARAD to acknowledge receipt should enclose a self-addressed and stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Maritime Administration, Washington, DC 20590 or telephone (202) 366-2400.

SUPPLEMENTARY INFORMATION: The authority of the Secretary of Transportation (Secretary) to provide insurance and reinsurance under Title XII, Mechant Marine Act, 1936, as amended, 46 U.S.C. 1281-1293 (Act), was reinstated by Pub. L. 99-59, which was encted into law on July 3, 1985, and which will expire on June 30, 1990. The implementing war risk insurance regulations were reissued on December 9, 1985 (50 FR 50165) to provide the terms and conditions under which war risk insurance interim binders are issued for U.S.-flag vessels and certain foreign-flag vessels owned or controlled by U.S. citizens.

As authoroized by section 1203, of the Act, as amended (46 U.S.C. 1283), the Secretary of Transportation may provide war risk insurance adequate for the needs of the waterborne commerce of the United States, if such insurances cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a state of the United States. The U.S. government's war risk insurance program is a standby emergency program. It becomes effective simultaneously with the automatic termination of ocean marine commercial war risk insurance policies. Those policies are automatically terminated upon the outbreak of war, whether declared or not, between any of the five great powers (United States, United Kingdom, France, People's Republic of China, or the Union of Soviet Socialist Republics) or upon the hostile detonation of a weapon of war employing atomic or nuclear fission.

This program makes it possible for applicants to obtain war risk insurance, underwritten by the U.S. government, when such insurance is unavailable on reasonable terms and conditions in the commercial market. It assures the continued flow of essential U.S. trade, while protecting the shipowner from loss due to risks of war.

A war risk insurance interim binder is a contract under which the U.S. government agrees to provide the

applicant with war risk insurance coverage in the interim period, after termination of commercial insurance coverage, for a fee and upon the conditions set forth in 46 App. U.S.C. section 1282. An agent of MARAD issues the interim binders.

In 1976, Pub. L. 94–523 amended the prior war risk authority (45 App. U.S.C. 1283) by requiring that the Secretary shall determine whether to grant war risk insurance or reinsurance foreign-flag vessels based upon consideration of "the characteristics, the employment, and the general management of the vessel by the owner or charter," (46 U.S.C. 1283). That authority was reinstated in 1979 and 1985, and has been implemented by regulations published in the Federal Register on April 3, 1980, (45 FR 22041) and December 9, 1985 (50 FR 50165), respectively.

MARAD has issued implementing regulations restricting foreign-flag vessel eligibility for war risk insurance interim binders. MARAD's regulations provide for a case-by-case review of foreign-flag vessels applying for war risk insurance binders to assure the continued delivery of important U.S. cargoes when commercial war risk insurance is unavailable and to make it possible for the U.S. government to obtain the use of certain foreign-flag vessels under the Voluntary Contract of Commitment (VCC).

Vessels now eligible to apply under MARAD regulations are those that are documented under the laws of the United States (except sport fishing vessels), as well as vessels not more than 20 years old that are registered under the laws of Panama, Honduras, and Liberia. Vessels registered under the laws of the Bahamas would become eligible under this proposed rule.

Owners of these foreign-flag vessels must be U.S. citizens, or U.S. citizen owned corporations, or the vessels must be under the operational control of U.S. citizens. These vessels cannot be subject to requisition for title or use by any national government, other than the U.S. government. Further, the foreign country in which the vessel is registered may not have a statutory restraint preventing the U.S. government from requisitioning a U.S. citizen-owned or controlled vessel registered in that foreign country.

Eligible foreign-flag vessels that qualify for war risk insurance interim binders are those that are: (1) Substantially engaged in the foreign commerce of the U.S. (considered to be so if they carry thirty (30) percent of net cargo tonnage on a semiannual basis in the U.S. foreign commerce); (2) product tankers up to 90,000 deadweight tons; (3) dry cargo vessels; (4) heavy lift vessels; (5) refrigerated vessels; (6) and other classes of vessels in short supply in the U.S.-flag fleet, with special capabilities.

If a vessel meet any of these criteria, the owner must affirm that it will: (2) Make the vessel available during a U.S. national emergency to serve the U.S. economy or cooperate with U.S. military authorities under section 902 of the Act (46 App. U.S.C. 1242); (2) maintain it in its eligible category; and (3) report its location to the U.S. Coast Guard.

Vessels owned or controlled by U.S. citizens and registered under the laws of a foreign government are subject to the laws of the country of registry. Such laws may prevent U.S. citizens or U.S. operators of a foreign-flag vessel from making that vessel available to the U.S. government during periods of U.S. national emergency. MARAD's regulations require that applicants for war risk insurance on a foreign-flag vessel submit with their application a certified copy of the evidence of any official action or approval required by the government of the country of registry as a prerequisite to the execution of a VCC with the U.S. government (46 CFR 308.3(d)(4)). The VCC between the U.S. government (MARAD) and the vessel's U.S. citizen applicant makes that vessel available to the U.S. during any period in which vessels may be requisitioned under section 902 of the Act (46 App. U.S.C. 1242), i.e., whenever the President proclaims that there is a national emergency or that security or the national defense make it advisable.

This NPRM is issued in recognition of legislation enacted by the Bahamian government in 1983 as amendments to the Bahama Merchant Shipping Act, 1976, (MSA). These amendments allow U.S. citizen-owned or controlled Bahamian-flag vessels to comply with the foregoing MARAD requirements and otherwise meet MARAD criteria, approved by the U.S. Navy, to become eligible for war risk insurance. Section 286 of the MSA provides that the Bahamian registrar may grant written permission to the vessel's owner to transfer operating control of that vessel to another country's government during a state of emergency or time of war in the country where the owner resides or is a citizen. Thus, the Bahamian government would allow a U.S. citizen-owned or controlled vessel registered in the Bahamas to be made available to serve the U.S. national economy or U.S. national defense in times of U.S. national emergency under applicable U.S. laws.

This change in Bahamian law has removed the basis for objection by the U.S. Department of the Navy, Office of the Chief of Naval Operations (Navy), which previously objected to approving U.S. citizen-owned or operated vessels registered in the Bahamas as transport vessels to complement U.S. strategic sealift capability. The Navy objected to certain provisions in the prior Bahamian law, e.g. the requirement that all equity owners and mortgagees consent to the requisitioning of the vessel, and the provision that the country requesting title or use of the vessel declare that a state of emergency exists before the Bahamian government would allow the vessel's operational control to be transferred to another country.

Bahamian law now requires that vessels registered under its MSA must comply with numerous safety standards. For example, foreign-owned vessels are eligible for registration in the Bahamas if they are less than 12 years old at the time of first registry and if they are oceangoing vessels of 1,600 or more net registered tons engaged in "foreign-going trade." Foreign-going trade is defined as not trading exclusively within the Bahamian Islands or between the Bahamas and the East Coast of Florida. Under the MSA, a foreign-owner can hold direct title to a Bahamian-flag vessel and such vessel is considered "foreign-owned" unless its ownership is entirely in the hands of citizens of the Bahamas.

The MSA provides that six international classification societies can survey Bahamian-registered vessels, including The American Bureau of Shipping. In addition, the Bahamian Maritime Division of the Ministry of Transport, located in Nassau, London, and New York makes its inspection service available to shipowners. Four of the approved classification societies are members of the International Association of Classification Societies (IACS), based in London.

The willingness of the Bahamian government to include members of the IACS to survey Bahamian-flag vessels shows a desire to impose strict safety inspection standards that vessels under its registry will be operated in class. Further, all Bahamian-registered vessels must be inspected before the vessel is put into service, on an annual basis, whenever an accident occurs which affects the safety of the ship or whenever either important repairs are made or registration renewals are requested. The Bahamian MSA adheres to worldwide shipping safety concerns as its regulations have been modeled after United Kingdom shipping legislation. The Bahamian government has also joined the International

Maritime Organization (IMO) and has been a party to conventions sponsored by the IMO.

As a result of the changes in Bahamian law, the U.S. Navy now regards U.S. citizen-owned or controlled vessels registered in the Bahamas as providing available cargo capacity to be relied upon to contribute to the cargo sealift capability support complementing U.S. strategic defense requirements. The U.S. Navy has requested that MARAD provide war risk insurance for certain Bahamian vessels, as appropriate.

An additional reason for allowing Bahamian-flag vessels to qualify for war risk insurance is that U.S. citizens are now registering their vessels under the Bahamian flag. Preliminary MARAD statistics now being compiled for publication in the document entitled *Foreign Flag Merchant Ships Owned by U.S. Parent Companies,* to be effective January 1, 1987, indicate that there are 26 U.S. citizen-owned vessels registered in the Bahamas. Seventeen of these 26 vessels would be eligible to apply for an interim binder. Approximately 58 percent of these 17 vessels were formerly registered under the Liberian or Panamanian flag and eligible for war risk insurance interim binders.

Accordingly, MARAD is proposing to amend its regulations at 46 CFR Part 308 to provide that certain vessels registered in the Bahamas be eligible to apply for war risk insurance interim binders. Such vessels could serve the national economy and the national defense needs of the United States.

E.O. 12291 Statutory and DOT Requirements

The Maritime Administration has determined that this proposed rule is not major as defined in E.O. 12291, and is not significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Bahamian law now allows entities registering their vessels in the Bahamas to qualify for U.S. government issued war risk insurance binders, subject to enabling amendments to MARAD regulations. Available data indicates that if all eligible U.S. citizen-owned or controlled vessels registered in the Bahamas applied for war risk insurance binder coverage, such coverage would involve a total of 17 vessels under the control of three companies. More than half of these 17 vessels were previously eligible for an interim binder while registered under either the Liberian flag or Panamanian flag. Accordingly, the economic impact has been found to be minimal. Since the rule affects principally the owners and operators of large commercial ships, the Maritime Administrator certifies that it will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*).

This rule would amend the regulations at 46 CFR Part 308, which contain information collection requirements in §§ 308.3 and 308.6. The information collection for vessels that are registered in the Bahamas will be identical to that which has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). In March 1986, (under OMB Control No. 2133–0011) these new forms were approved for use and are now entitled: War Risk Insurance Application (Form MA–528); War Risk Insurance Binder, Form MA–942; Vessel Data, Form MA–828; and Underwriting Agency Agreement, Form MA 355.

List of Subjects in 46 CFR Part 308

Maritime carriers, War risks insurance.

Accordingly, 46 CFR Part 308 is proposed to be amended as follows:

PART 308—[AMENDED]

1. The citation of authority for Part 308 is revised to read as follows:

Authority: Secs. 204, 1202, 1203, 1209, Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1114, 1282, 1283, 1289; 49 U.S.C. 1.66).

§ 308.2 [Amended]

2. Section 308.2(a) is amended by inserting between the word "Honduran," and the word "or," the word "Bahamian."

§§ 308.3(c) and (g), 308.6(d), 308.304, 308.404, and 308.410 [Amended]

3. Sections 308.3(c) and (g), 308.6(d), 308.304, 308.404, and 308.410 are amended by replacing the title of Director, Office of Marine Insurance with the title of Director, Office of Trade Analysis and Insurance.

§ 308.5 [Amended]

4. Section 308.5 is amended by deleting the phrase "and General Order 75, as revised" and deleting the phrase "(General Order 75)".

§ 308.205 [Amended]

5. Section 308.205 is amended by replacing the title the Office of Marine Insurance with the title the Office of Trade Analysis and Insurance.

§ 308.404 [Amended]

6. Section 308.404 is amended by replacing the title, Chief, Division of Insurance with the title, Director, Office of Trade Analysis and Insurance.

(Catalog of Federal Domestic Assistance Program No. 20.803 War Risk Insurance)

By Order of the Maritime Administrator.

Date: October 9, 1987.

Joel C. Richard,

Assistant Secretary.

[FR Doc. 87–23829 Filed 10–15–87; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87–10; Notice 1]

Federal Motor Vehicle Safety Standards; Power-Operated Window Systems

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to amend Standard No. 118 *Power-Operated Window Systems,* in several respects. First, this proposal would include light trucks among the classes of vehicles to which the Standard applies. This change is proposed because power windows in light trucks would appear to present the same prospect for injury to vehicle occupants as power windows in vehicles already subject to the standard. Second, this proposal would eliminate the current limitation on circumstances in which power windows may be *opened.* It would not change the current limitation on the circumstances in which those windows may be *closed.* NHTSA proposes this change because the greatest risk of injury by a moving power window occurs during the such *closing* of a window. Third, this notice proposes to eliminate the requirement that power windows be operable outside of a vehicle only with a *key* locking system. Several vehicle designs now use some kind of numeric or alphanumeric code sequence to lock and unlock the vehicle from the exterior. NHTSA is not aware of any safety reason to treat these locking systems any differently from *key* locking systems. In the alternative, the agency seeks comment on whether the Standard should prohibit closing a power window via *any* external controls. Recently, the agency has received a small number of reports of children injuring themselves by activating an external power window control. One of these reports involved a fatality. Finally, this notice proposes to expand Standard 118's purpose and

scope specifically to include power-operated roof devices.

DATES: Comment closing date: November 30, 1987. Proposed effective date: 180 days after publication of the final rule in the **Federal Register.**

ADDRESSES: Comments should refer to Docket No 87–10; Notice 1, and submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth Rutland, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone #: (202) 366–5267.

SUPPLEMENTARY INFORMATION: This notice proposes several changes to Standard No. 118, *Power-Operated Window Systems* (49 CFR 571.118). The Standard's purpose is to minimize the risk of personal injury that may result if a person, particularly a young one, is caught between a closing power-operated window and the window frame. The agency's experience is that children are the group of people most likely at risk of injury from inadvertent or unsupervised operation of power windows.

The first proposed change is to expand the Standard's applicability to include light trucks (less than 10,000 lbs. gross vehicle weight rating or "GVWR"). Currently, Standard 118 applies to passenger cars and multipurpose passenger vehicles (MPVs) only. Some types of light trucks (e.g., pick-up trucks) are frequently used by their owners in the same way a passenger car or MPV is used, to transport passengers (including small children), even though the principal intended use of these light trucks may be for hauling cargo. While there are no data directly demonstrating that a closing power window has caused significant safety problems in light trucks, the agency believes that the same dangers from inadvertent or unsupervised closing of windows are present in those vehicles. NHTSA believes further that light trucks with power-operated window systems should offer protection equal to other vehicles commonly used for passenger transport.

The second proposed change is to amend the introductory portion of subparagraph S3 of Standard 118 to narrow its limitation on the circumstances under which a power window may be operable so that the limitation would apply only to *closing* a power window. Standard 118 currently limits the circumstances under which a power window may be "operable." Because that term includes any movement of the window, regardless of the direction of movement, the Standard governs both opening and closing a window. However, the agency has tentatively decided that the potential harm created by power windows is likely to occur only when a closing power window catches an occupant's head or other body part between the closing window and door frame. Opening a power window seems unlikely to cause adverse safety consequences.

The third proposed change contemplated is to paragraph S3(c), and involves either amending or eliminating this provision. NHTSA is considering whether to expand the circumstances under which a power window may be operable by replacing the term "key-locking system" in subparagraph S3(c) with the less restrictive term "locking system." The current narrower term discriminates between the traditional key-locking systems and newer locking systems, such as those which are keyless and permit a person to control entry and other aspects of vehicle operation through punching numeric or alpha numeric codes on a touchpad control. If there is no adverse safety impact, it may be appropriate to adopt the broader term in the interest of facilitating technological innovation.

The agency requests comment on whether adopting the term "locking system" would permit any locking systems that would be overly susceptible to misuse or inadvertent activation by children. The agency foresees no risk from any locking system whose design or mode of operation would likely necessitate an adult to be present when a power window is closed. On the other hand, there may be other systems which do not offer such protections.

In the alternative, the agency is considering whether to eliminate subparagraph S3(c) entirely. The effect of eliminating this provision would be that an exterior control could lower, but not raise, a power-operated window. NHTSA is raising this issue because of a small number of recent reports that children have been harmed by power windows that have been externally activated—either by a child inside the vehicle reaching outside, or by a person outside the vehicle. One of these reports concerned a fatal accident in which an unsupervised child reached out of a vehicle, activated a power-operated window, and strangled between the closing window and the door-frame. The agency seeks comment on this possible change.

The final proposed change is to expand Standard 118's purpose and scope to include power-operated sunroofs. NHTSA believes that operating a sunroof presents the same risk of injury as operating traditional windows and partitions, and that children again are the likely victims of unsupervised or inadvertent operation. An informal survey reveals that most (and perhaps all) power sunroofs currently comply with Standard 118. However, expressly including sunroofs in the Standard will minimize the risk of a manufacturer's installing a power-operated sunroof or similar device that does not provide protection for the technical reason that the device is neither a "window" or "partition." The agency would amend the title of Standard 118 to reflect this expansion.

Impacts

A. Costs and Benefits

NHTSA has determined that this rule is not a major rule under Executive Order 12291 nor a significant rule within the meaning of Department of Transportation regulatory policies and procedures. Therefore, neither a regulatory impact analysis nor a full regulatory evaluation is required. For passenger cars and multipurpose passenger vehicles, the proposed changes would enhance design flexibility and user convenience. For light trucks, NHTSA understands that all light trucks equipped with power-operated window systems currently meet existing 118 requirements, and that there would be no significant cost impact as a consequence of extending this Standard's applicability to cover light trucks.

B. Small Business Impact

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. Based upon the agency's evaluation, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The agency believes that few, if any, of the vehicle manufacturers would qualify as small entities. This amendment would affect small businesses, small organizations, and small governmental units only to the extent that these entities purchase motor vehicles. The preceding section reflects the agency's assessment that this amendment will have no significant cost impact to the industry, and therefore it will not result in significant increases in consumer prices.

C. Environmental Impact

As it is required to do under the National Environmental Policy Act of 1969, NHTSA has considered the environmental impact of this proposal, and determined that this rule would not have any significant impact on the quality of the human environment.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend Title 49 CFR 571.118 as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. The title of § 571.118 would be revised to read as follows:

§ 571.118 Standard No. 118; Power-operated window and roof systems.

3. S1 would be revised to read as follows:

S1. *Purpose and scope.* This standard specifies requirements for power-operated window, partition, and roof systems to minimize the risk of death or injury from accidental operation.

4. S2 would be revised to read as follows:

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 10,000 pounds or less.

5. S3 would be amended to read as follows:

S3. *Operating Requirements.* Power window, partition, or roof systems may be closed only in the following circumstances:

(a)

* * * * *

(c) Upon activation by a locking system on the exterior of the vehicle; or

* * * * *

Issued on: October 9, 1987.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 87-23980 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 70751-7217]

Western Pacific Crustacean Fisheries

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: NOAA reopens the period for public comments on a proposed rule to implement Amendment 5 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). This rule was published on July 27, 1987, at 52 FR 28028. The amendment was adopted by the Western Pacific Regional Fishery Management Council (Council) at its 57th meeting in Honolulu, Hawaii on June 4–5, 1987. It was disapproved by the Secretary of Commerce on August 7, 1987, but was subsequently revised by the Council, adopted on July 29–30, 1987, and resubmitted on September 21, 1987.

Amendment 5 would implement a size limit for slipper lobster, require escape vent panels for all lobster traps, and change existing reporting requirements. The intent is to protect the spiny and slipper lobster resources of the Western Pacific. The amendment also changes the name of the existing FMP from the Spiny Lobster Fishery Management Plan of the Western Pacific Region to the Crustacean Fishery Management Plan of the Western Pacific Region. Also included in the document is an updated estimate of maximum sustainable yield of spiny lobster based upon knowledge gained from the fishery since 1983.

DATE: The public comment period on the proposed rule reopens October 13, 1987. Written comments will be received until November 2, 1987.

ADDRESS: Send comments to E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. A copy of the resubmitted version of Amendment 5 may be received from the Regional Director.

FOR FURTHER INFORMATION CONTACT: Doyle E. Gates, Administrator, Western Pacific Program Office, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396, 808–955–8831.

SUPPLEMENTARY INFORMATION: Amendment 5 was disapproved by the Secretary of Commerce because it lacked specifications for optimum yield (OY) and total allowable level of foreign fishing (TALFF). The resubmitted amendment contains specifications for OY and TALFF and a revised description of the habitat of slipper lobsters. The management measures in the resubmitted version of Amendment 5 are identical to those in the original amendment and original proposed rule. Therefore, the public is referred to the original proposed rule that was published on July 27, 1987 (52 FR 28028). A notice of availability of the resubmitted version of Amendment 5 was published on September 30, 1987 (52 FR 36598).

Classification

Section 304(b)(3)(B) (ii) and (iii) of the Magnuson Act, as amended by Pub. L. 99–659, requires that the Secretary publish a notice stating that a revised plan or amendment is available and comments should be submitted within 30 days and that the Secretary publish the proposed rules to implement the amendment. At this time, the Secretary has not determined that the FMP amendment that this rule would implement is consistent with the national standards, other provisions of the magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The relationship of the proposed rule to the National Environmental Policy Act, Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act was described when the proposed rule was published at 52 FR 28028.

List of Subjects in 50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Dated: October 13, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc 87–24056 Filed 10–13–87; 5:03 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 52, No. 200
Friday, October 16, 1987

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Meeting of the Committee on Rulemaking

ACTION: Committee on Rulemaking; Notice of Public Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of two meetings of the Committee on Rulemaking of the Administrative Conference of the United States. The committee has scheduled these meetings to develop a proposed recommendation of OSHA regulation, based upon a study conducted for the Conference by Professors Thomas O. McGarity and Sidney A. Shapiro. Copies of the consultants' report and a draft committee recommendation may be obtained from the contact person named in this notice.

DATE: Tuesday, November 3, 1987, at 9:30 a.m., Friday, November 13, 1987 at 9:30 a.m.

Location: Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

Public participation: The committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meetings. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meetings. Minutes of the meetings will be available on request.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone (202) 254–7065.

Dated: October 13, 1987.

Jeffery S. Lubbers,

Research Director.

[FR Doc. 87–23931 Filed 10–15–87; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Import Limitation; Country of Origin Quota Adjustment

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of country of origin adjustment for certain lowfat chocolate crumb from Ireland.

SUMMARY: This notice adjusts the country of origin for the quota quantity of Lowfat Chocolate Crumb assigned to Ireland.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Richard P. Warsack, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, DC 20250 or telephone at (202) 447–5270.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "nonmajor" since it will not have any of the significant effects specified in those documents. Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this notice, the Administrator, Foreign Agricultural Service, hereby certifies that this notice will not have a significant economic impact on a substantial number of small entities. The adjustment of the country of origin from which the quota item specified herein may be entered does not affect the ability of importers to import this quota item, but only expands the number of countries from which the item may be imported. Also, since this action is being taken in recognition of changes in the market which have already occurred, this action will not cause any new economic impact.

Notice

Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) sets forth import limitations imposed on certain dairy products, including certain Lowfat Chocolate Crumb. Headnote 3(a)(iii) of Part 3 of the Appendix allows for reallocating the quota amount of a dairy article listed in that Appendix among the countries of origin specified for a given article if it is determined that the quota amount assigned to a particular country is not likely to be entered from that country within a given calendar year. I hereby determine that it is not likely that the amount of Lowfat Chocolate Crumb specified in TSUS Item 950.16 for Ireland will be entered from that country during calendar year 1987.

Notice is hereby given that 3,000,000 pounds of the 1987 quota quantity of Lowfat Chocolate Crumb specified in TSUS Item 950.16 for Ireland may be imported from the United Kingdom, New Zealand, and Ireland for the remainder of the 1987 quota year.

This quota quantity for TSUS Item 950.16 will revert to the original supplying country on January 1, 1988

Issued at Washington, DC, this 5th day of October 1987.

Leo V. Mayer,

Acting Administrator.

[FR Doc. 87–24042 Filed 10–15–87; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Mt. Graham Astrophysical Proposal; Revised Release of Environmental Impact Statement; Coronado National Forest

As announced on July 16, 1985 and later amended on May 30, 1986, the Department of Agriculture, Forest Service is preparing an environmental impact statement for a proposal astrophysical area on the Safford Ranger District, Coronado National Forest, Graham County, Arizona.

The draft environmental impact statement was released for public comment in October 1986. The public comment period ended on January 20, 1987. More time is needed to incorporate additional information into the environmental analysis process. The revised schedule for releasing the final environmental impact statement is August 1, 1988.

A range of alternatives for future management of this area is being

considered. Several alternatives include no astrophysical development as required by the Agency and also suggested by the public. Other alternatives include different levels of astrophysical development and different locations for support facilities.

Sotero Muniz, Regional Forester of the Southwest Region in Albuquerque, New Mexico is the responsible official.

Questions concerning the analysis and schedule should be addressed to Robert Tippeconnic, Forest Supervisor, Coronado National Forest, 300 W. Congress, Tucson, Arizona 85701; telephone 602–629–6483.

Dated: October 2, 1987.

Sotero Muniz,

Regional Forester.

[FR Doc. 87–24019 Filed 10–15–87; 8:45 am]

BILLING CODE 3410–11–M

[P & S Docket No. D–88–2]

Packers and Stockyards Administration

Complaint and Notice of Inquiry; St. Joseph Stockyards

Before the Secretary of Agriculture; In reference to Market Agencies at St. Joseph Stock Yards; St. Joseph Stock Yards, et al. vs. Emmet M. Connolley, d/b/a/ St. Joseph Livestock Commission Company.

Notice is hereby given that on October 7, 1987, the Packers and Stockyards Administration, United States Department of Agriculture, filed a "Complaint and Notice of Inquiry", the contents of which are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), hereinafter referred to as "the Act."

I

(a) Complainant St. Joseph Stock Yards, hereinafter referred to as "the stockyard," is a division of United Stockyards Corporation, which corporation is now, and at all times material herein was, engaged in the business of providing stockyard services at various locations, including St. Joseph, Missouri 64505. The stockyard is a posted stockyard subject to the provisions of the Act.

(b) The remaining named complaints, hereinafter referred to as "the commission firm complaints," and respondent are now, and at all times material herein were:

(1) Engaged in the business of selling livestock on a commission basis at the stockyard, and

(2) Registered with the Secretary of Agriculture as market agencies to sell livestock on a commission basis at the stockyard.

II

In accordance with the requirements of the Act, the commission firm complaints and respondent have heretofore filed and presently have in effect a joint schedule of rates and charges for their services at the stockyard. Pursuant to the schedule of rates and charges presently in effect, charges for their market agency services have been and are uniform.

III

On August 11, 1987, respondent filed with the Secretary an amendment to the schedule referred to in paragraph II above entitled, "Tariff II, Item II of the Tariff Number 27," hereinafter referred to as the "amendment." Such amendment, with a stated effective date of August 26, 1987, contains rates and charges different from the schedule of rates and charges presently being assessed by the commission firm complaints and respondent at the stockyard.

IV

On August 17, 1987, the stockyard and the commission firm complaints each filed a written complaint with the Secretary urging the Secretary to reject respondent's amendment because, *inter alia*, it contravenes the long standing practice of market agencies at the stockyard to charge for their services according to a uniform tariff, it establishes charges lower than the cost of providing selling services, and it would disrupt the orderly and efficient solicitation and marketing of livestock at the stockyard.

V

Accordingly, there is reason to believe that certain rates and charges in respondent's amendment are unjust and unreasonable within the meaning of section 305 of the Act (U.S.C. 206). Further, there is reason to believe that rates and charges for market agency services at the stockyard should be assessed according to a uniform tariff, and that non-uniform rates and charges would be unjust and unreasonable in violation of sections 305 and 307 of the Act (7 U.S.C. 206, 208).

VI

On August 25, 1987, pending further inquiry into this matter, the Acting Administrator of the Packers and Stockyards Administration, pursuant to section 306 of the Act (7 U.S.C. 207), suspend and deferred the operation and application of respondent's amendment for a period of thirty (30) days from its stated effective date. The operation and application of the amendment was suspended and deferred an additional thirty (30) days by the Acting Administrator on September 24, 1987, as authorized by section 306 of the Act.

VII

It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of inquiring into the reasonableness and lawfulness of the rates and charges set forth in respondent's amendment, and for the purpose of determining the rates and charges to be assessed by all market agencies operating at the stockyard.

It is Therefore Ordered that notice to complainants and respondent shall be and is hereby given that a hearing concerning the matters set forth herein will be held before an administrative law judge of the Department at a time and place to be specified at a later date, of which complaints and respondent will receive adequate notice. At such hearing complaints and respondent and all other interested persons will have a right to appear and present such evidence with respect to this matter as may be relevant and material.

It is Further Ordered that any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, DC 20250–1400 within 20 days from the date of the publication hereof in the **Federal Register**.

It is Further Ordered that copies hereof shall be served upon complainants and respondent.

Thomas C. Heinz, Attorney for Packers and Stockyards, Administration, (202) 447–2869.

Done at Washington, DC this 13th day of October, 1987.

Calvin W. Watkins,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 87–24057 Filed 10–15–87; 8:45 am]

BILLING CODE 3410–KD–M

Soil Conservation Service

Environmental Statement on Fall Creek Watershed, KY; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1959; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fall Creek Watershed, Wayne County, Kentucky.

FOR FURTHER INFORMATION CONTACT: T. Allan Heard, Assistant State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40504, telephone: 606–233–2747.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Giessler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned action is to install conservation practices on approximately 5,200 acres of excessively eroding cropland that will remain in cultivation and 250 acres of excessively eroding cropland that will be converted to permanent vegetative cover. This planned action will reduce upland erosion and downstream sedimentation and pollution.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Date: October 7, 1987.

Randall W. Giessler,

State Conservationist.

[FR Doc. 87–23951 Filed 10–15–87; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 5:00 p.m., on November 6, 1987 at the Federal Building, 701 C Street (Room C 121/122), Anchorage, Alaska 99513.The purpose of the meeting is to consider program plans and to convene a forum addressing minority and women's business contracting programs of State and local governments.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Daniel Alex or Philip Montez, Director of the Western Regional Division, (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office 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, October 7, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–23952 Filed 10–15–87; 8:45 am]

BILLING CODE 6335–01–M

Nebraska Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given; pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m., on November 16, 1987, at the Ramada Inn-Airport, 2002 East Locust Street, Omaha, Nebraska. The purpose of the meeting is to provide additional orientation for new SAC members and to develop program activities for FY 1988. It will review information collected during an earlier meeting in Scottsbluff for transmittal to Headquarters. The Committee will also hear presentations on the status of civil rights in Omaha from representatives of the City of Omaha, the American Indian Center of Omaha, the Chicago Awareness Center, the Urban League and the Jewish community.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Richard F. Duncan, 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, October 9, 1987.

Susan J. Prado,

Acting Staff Director.

FR Doc. 87–23953 Filed 10–15–87; 8:45 am]

BILLING CODE 6335–01–M

Tennessee Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 8:30 a.m. and adjourn at 6:00 p.m., on November 13, 1987, at the Holiday Inn Vanderbilt, 2613 West End Avenue, in Nashville. The purpose of the meeting is to conduct a community forum at which the Committee will receive information on the desgregation of public higher education in Tennessee. Presentations will be made by participants from the three major geographical divisions of the State and will include government and education offficials, administrators, faculty, students, legal experts and legislators.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James F. Blumstein, 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, October 9, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87–23954 Filed 10–15–87; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 7105-01]

Actions Affecting Export Privileges; Robert Almori

Summary

Pursuant to the Default Decision and Order of the Administrative Law Judge, which Order is modified by me, Robert Almori, with an address at 80–82 Rue Saint Dominique, Paris 7, France, is denied all export privileges for an indefinite period from the date of this order.

Order

On September 8, 1987, the Administrative Law Judge (ALJ) entered a Default Decision and Order in the above referenced matter. The Default Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a), for final action.

I hereby modify Paragraph II of the ALJ's Order by deleting that paragraph and inserting in lieu thereof the following:

"II. All outstanding individual validated export licenses in which Almori appears or partsicipates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Almori's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked."

I hereby modify Paragraph V of the ALJ's Order by inserting after the words "specific authorization" the following: ". . . from the Office of Export Licensing . . . ."

Having examined the record and based on the facts adduced in this case, I affirm the Default Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Date: October 8, 1987.

Paul Freedenberg,

Acting Under Secretary for Export Administration.

United States Department of Commerce, Office of Administrative Law Judge, Suite 6716, Washington, DC 20230

In the matter of: Robert Almori, Respondent; Docket No. 7105–01.

Appearance for respondent: Robert Almori, 80–82 Rue Saint Dominique, Paris 7, France.

Appearance for agency: Thomas C. Barbour, Esq., Attorney-Advisor, U.S. Department of Commerce, Room H–3845, Washington, DC 20230.

Default Decision and Order

On January 20, 1987, the Acting Director, Office of Export Enforcement, International Trade Administration, United States Department of Commerce (the Agency), issued a Charging Letter alleging that Robert Almori (Respondent) had violated §§ 387.3, 387.4, 387.5 and 387.6 of the Export Adminstration Regulations (15 CFR Parts 368–399) (the Regulations). The Agency established that service of the charging letter was made on the Respondent on January 29, 1987. Respondent failed to submit any answer.

Section 388.8 of the Regulations provides:

Default

(a) General

If a timely answer is not filed, the Department shall file with the administrative law judge a proposed order together with supporting evidence for the allegations in the charging letter. The administrative law judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

In accordance with this section, Agency counsel filed such a motion for a default order on July 22, 1987. The Agency also submitted documentary evidence to support the allegations made in the charging letter. On July 30, 1987, the undersigned Administrative Law Judge issued an Order to Show Cause why the Respondent should not be held in default. The Respondent has failed to file an answer to the charges alleged or a response to the Order issued.

Facts

From a period beginning on or about June 2, 1980 to on or about April 23, 1982, Almori conspired and acted in concert with Michel d'Ormigny, Jean-Jaques Gayant, Marcel Goldfarb, Jean-Michel Didat and others to bring about acts that constituted violations of the Act and the Regulations.[1] The purpose of the conspiracy was to acquire U.S.-origin goods in the United States for export to ultimate proscribed destinations. This was accomplished by representing that France was the intended country of ultimate destination, while in fact, the conspirators intended to, and on at least one occasion did in fact, reexport the goods from France to proscribed destinations without reexport authorization from the Agency.

The conspiracy to fraudulently obtain U.S.-origin goods for ultimate destination in proscribed destinations was directed by Almori. Specifically, Almori established a firm called Hedera (sometimes referred to as "Hedera Establishment"), in Vaduz, Lichtenstein, to sell those goods to customers in the Union of Soviet Socialist Republics (U.S.S.R.) and Czechoslovakia. Almori, in order to implement this scheme, directed Didat, of the firm Cotricom,[2] to obtain a fictitious customer of good standing reputation in France. Didat contacted one of his connections, Goldfarb, who provided Didat with a copy of a blank order form from the genuine French company C.G.E.E. Alsthom. The Respondents then proceeded to pose as representatives of this reputable French company, knowing that C.G.E.E. Alsthom had no interest in any of their transactions.

Duplicates of this blank order form were also used by the Respondents to obtain International Import Certificates (IC's) from the French government. In turn these IC's were presented by Respondents to U.S. exporters to support applications seeking authorization from the Agency to export U.S.-origin equipment to C.G.E.E. Alsthom.[3] These documents were necessary to conceal from the Agency the true destination of these U.S.-origin goods. Each of the applications made to the French government were for an IC and included a representation that C.G.E.E. Alsthom was importing U.S.-origin goods into France. Each was signed "LEFEBVRE" and included the following notation: "For this matter dial number 355–0346 Mr. LEFEBVRE." In fact, as established in a French court proceeding, "LEFEBVRE" was an alias adopted by Goldfarb and the telephone number was for a commercial enterprise

[1] Michel d'Ormigny died in 1985. Thus, he is no longer a Respondent in these administrative proceedings. In addition, after further review of the evidence respecting Mr. Gayant's alleged involvement in the conspiracy, the Agency chose not to pursue any charges against him.

[2] Cotricom was a French forwarding firm who was the usual freight forwarder for Hedera.

[3] In applying for an export license seeking authorization to export from the United States to France any U.S.-origin commodity identified by the code letter A following the Export Control Commodity Number (ECCN) for that commodity, the applicant must include with his license application an IC issued by the French Government. *See* 15 CFR 375.3.

directed by Goldfarb.[4] In fact, as established by the French court proceeding, the address provided on the application for the firm C.G.E.E. Alsthom as the place of delivery for the goods, 13 Parc du Biches, 91000 Evry-France, was not even a C.G.E.E. Alsthom facility.

On June 2, 1980, an order (SA/SCED–80–1234) was placed with the French subsidiary of a U.S. company for a memory test system (Govt. Exh. 2). That purchase order directed that all letters concerning that order were to be sent to "Monsieur Gerard LEFEBVRE" at the "fictitious" C.G.E.E. Alsthom facility (Govt. Exh. 1). On or about January 9, 1981, the U.S. exporter of the memory test system, unaware that the information provided to him by Didat was false, submitted to the Agency validated export license application A531976 [5], identifying C.G.E.E. Alsthom as the ultimate consignee of the memory test system.[6]

Based on the information provided in export application A531976, the Agency issued a validated export license authorizing the export of the U.S.-origin memory test system to C.G.E.E. Alsthom (Govt. Exh. 5). The validated export license required that a delivery verification certificate be returned to the Agency in connection with the export of this equipment.[7] The U.S.-origin memory test system was exported from the United States to France on or about January 22, 1981 (Govt. Exh. 6, 7). On May 12, 1981, the U.S. exporter submitted to the Agency a copy of the IC covering the export of the memory test system to C.G.E.E. Alsthom, stating that it had been unable to obtain a delivery verification certificate with respect to the shipment (Govt. Exh. 8). C.G.E.E. Alsthom, in fact, never ordered the memory test system. (Govt. Exh. 9).

On or about August 10, 1981, following the refusal of the U.S. manufacturer involved in the shipment of the memory test system to fill additional orders because of the failure to obtain delivery verification certificates, Almori orchestrated the attempt by Didat to obtain through d'Ormigny's company, Technica Ltd. (Technica), a U.S.-origin pattern generator and a photorepeater in the United States for export to France without the validated export licenses required by § 372.1(b) of the Regulations. Almori, through his company, Hedera, ordered these U.S.-origin commodities from Technica (Govt. Exh. 11, 12).[8] D'Ormigny notified the U.S. company from whom he was purchasing the goods that the goods would have to be released "exclusively" to Technica's freight forwarder. On November 27, 1981, Technica's freight forwarder took possession of the goods (Govt. Exh. 13, 14).

A Shipper's Export Declaration (SED) was filed with the U.S. Customs Service stating that the goods were subject to general license G–DEST and that they were being shipped for ultimate consignment to Didat's firm, Cotricom. Acting in accordance with instructions received from Didat and d'Ormigny, on or about December 8, 1981, the U.S. freight forwarder attempted to export the pattern generator and photorepeater from the United States to Didat's company, Cotricom, in France without the required validated export license (Govt. Exh. 17, 18, 19, 20). On December 8, 1981, the U.S.-origin equipment was seized in New York and subsequently forfeited to the United States. (Govt. Exh. 21, 22, 23).

Following the December, 1981 seizure, Almori and Didat attempted, through a new U.S. exporter, to procure additional U.S.-origin equipment, using the fradulently obtained C.G.E.E. Alshtom purchase orders in an attempt to give the transaction an appearance of bona fides. On or about January 4, 1982 and January 19, 1982, based on information provided by Didat, a U.S. exporter submitted two separate export license applications to the Agency (Govt. Exh. 24). [9] Both export license applications stated that C.G.E.E. Alsthom was the intended ultimate consignee of the U.S.-origin equipment identified. Each application was accompanied by International Import Certificates from France, which had been provided to the U.S. exporter by Didat, supporting the representation that the goods were being purchased by C.G.E.E. Alsthom.

On January 19, 1982, the U.S. exporter and Didat met with Agency officials to discuss these applications (Govt. Exh. 26). During that interview, Didat stated that he was an agent for C.G.E.E. Alsthom, and that C.G.E.E. Alsthom had ordered the U.S.-origin goods for its own use. Thus, Didat made false and misleading statements of material fact to the Agency in connection with these transactions. Becasue of the questions raised after the December seizure, neither application was approved.

At the same time Didat was making these statements to the Agency in the United States, Almori and Goldfarb were making false and misleading statements of matertial fact to U.S. Embassy officials in Paris. In the course of an official United States Government investigation conducted in connection with the goods seized, on or about December 22, 1981, Almori made false and miselading statements of material fact to an official of the United States Embassy in Paris by stating that the goods had been purchased for C.G.E.E. Alsthom, when Almori knew that C.G.E.E. Alsthom had no interest in the transaction.

Further, on December 23, 1981,[10] "LEFEBVRE" contacted U.S. Embassy officials to discuss C.G.E.E. Alsthom's purchase of the pattern generator and photorepeater (Govt. Exh. 28).[11] Lefebvre also contacted the Embassy on February 5, April 2, and April 6, 1982 (Govt. Exh. 31). During these contacts, Lefebvre represented that he was acting on behalf of C.G.E.E. Alsthom.[12]

The Agency alleges that the Respondents, acting in accordance with the scheme devised by Almori, conspired to acquire U.S.-origin goods on the representation that a reputable end-user in France was the intended ultimate recipient of such equipment. In fact, the evidence supports the finding that the Respondents intended to, and on at least one occasion did in fact, reexport the goods from France to a proscribed destination without obtaining

[4] While not addressing the same allegations, a French court proceeding established facts against these Respondents linked to the charges made by the Agency in the January 20, 1987 charging letters. These included the forging of trade records and improper procurement of administrative documents (Govt. Exh. 1).

[5] The charging letter of January 20, 1987, erroneously identified this number as A531926.

[6] Since the memory test system was classified under ECCN 1355A (Govt. Exh. 4), an IC was required to be submitted with the license application. However, the U.S. exporter requested a waiver of this requirement until the IC was received at its facility. The Agency granted this requested waiver and issued the validated export license prior to receipt of the IC. The IC was submitted to the Agency on May 12, 1981 (Govt. Exh. 8).

[7] A delivery verification certificate may be requested by the government of the exporting country. If it is requested for a particular export, the verification is issued by the government of the country of ultimate destination after the export has taken place and the commodities have either entered the export jurisdiction of the recipient country or are otherwise accounted for by the importer to the issuing government. 15 CFR 375.3(a)(2).

[8] Although the purchase order form from d'Ormigny to GCA Corporation indicates that d'Ormigny intended to install the equipment in Pittsburgh, Pennsylvania, the other documentary evidence relating to this transaction reveals that statement on the purchase order to be false. (Govt. Exh. 11, 12, 13–20)

[9] These applications were date stamped by the Agency as January 12, 1982 and January 20, 1982, respectively.

[10] The charging letter issued to Repondent Godfarb incorrectly states December 13, 1981.

[11] Gov. Exh. 28 contains a typographical error, reporting the date as February 3, 1983 instead of 1982.

[12] In his Janaury 6, 1982 contact with the Embassy, Lefebvre cautioned the officials to contact him only at his personal number because knowledge of the transaction was restricted to only a few senior officials at C.G.E.E. Alsthom (Govt. Exh. 28).

the required reexport authorization from the Agency.

The facts are not therefore in dispute and Respondent is not entitled to a fact-finding hearing under such circumstances (*Spawr Optical Research, Inc. v. Baldrige*, Civ. No. 86–0880, D.D.C. Dec. 16, 1986; *In the Matter of Spawr*, 51 FR 7477–7479, 7481 (1986). Cf. also, Order in Gregg (52 FR 13279 (1987), where in an Agency subaltern denied that individual and a related person export previleges for 10 years without notice or opportunity to comment or be heard, under the Export Administration Act for a violation of the Arms Export Control Act. A procedure proposed to be made applicable to convictions for violations of the Export Administration Act as well, under present congressional consideration).

Based on the foregoing, I find that the Respondents violated the Regulations, as alleged in the charging letter of January 20, 1987. Each of these violations involving U.S.-origin goods controlled under section 5 of the Act for national security reasons. I find that an Order denying export privileges to the Respondent for an idefinite period from the date a final order is entered in this proceeding in reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administrion Act, and the Regulations.

Accordingly, pursuant to the authority delegated to me by Part 388 of the Regulations, it is therefore:

Ordered

I. For an indefinite period from the date this Order becomes final, Respondent: Robert Almori, 80–82 Rue Saint Dominique, Paris 7, France, all successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. All outstanding validated export licenses in which Respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

III. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include but not be limited to participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data that are subjet to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related party, or whereby any Respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transhipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to or for respondent or related party denied export privileges, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. By Order of April 5, 1983 (48 FR 15935, April 13, 1983), Robert Almori and others were temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judical proceedings initiated as a result of the then on-going investigation. Upon approval, this order will constitute such final disposition of the administrative proceeding initiated by the Agency as a result of its investigation relating to the matters which gave rise to the temporary denial order. The Temporary Denial Order of April 5, 1983 (48 FR 15935, April 13, 1983) will thereby be superceded and revoked. Review of the record relating to the Respondents originally named in that Order reflect that all have now been addressed, except for Michel d'Ormigny, a related party. As stated in footnote 1 on page three, Mr. d'Ormigny has since died. Therefore there is no basis for his name to continue to be listed on the table. The following entries will be deleted from the said table: Almori, Robert, a/k/a Mathurin Almori, and Bernard Almori, 75008 Paris, France, Technica Ltd. Technica, S.A., and d'Ormigny, Michel Daniel, 22202 North 84th Place, Scottsdale, Arizona.

From the effective date of this Order it alone will be the basis for any entry on the Table of Denied Orders until modified (15 CFR Part 388 (Supp. No. 1 1987)).

VII. This Order as affirmed or modified, shall become effective upon entry of the Secretary's final action in the proceeding pursuant to this Act (50 U.S.C. app. 2412(c)(1)).

Dated: September 8, 1987.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 87–23975 Filed 10–15–87; 8:45 am]

BILLING CODE 3510–DT–M

[Docket Nos. 7105–03 and 7105–04]

Actions Affecting Export Privileges; Jean-Michel Didat, Individually and Doing Business as Cotricom S.A.

Summary

Pursuant to the Default Decision and Order of the Administrative Law Judge, which Order is modified by me, Jean-Michel Didat, individually and doing business as Cotricom S.A., both with addresses at 4 Alles des Mesanges, Yerres, France, is denied all export privileges for an indefinite period from the date of this Order.

Order

On September 8, 1987, the Administrative Law Judge (ALJ) entered a Default Decision and Order in the above referenced matter. The Default Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a), for final action.

I hereby modify Paragraph II of the ALJ's Order by deleting that paragraph and inserting in lieu thereof the following:

"II. All outstanding individual validated export licenses in which Didat or Cotricom S.A. appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Didat's and Cotricom's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked."

I hereby modify Paragraph V if the ALJ's Order by inserting after the words "specific authorization" the following: ". . . from the Office of Export Licensing . . ."

Having examined the record and based on the facts adduced in this case, I affirm the Default Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Date: October 8, 1987.

Paul Freedenberg,

Acting Under Secretary for Export Administration.

United States Department of Commerce, Office of Administrative Law Judge, Suite 6716, Washington, DC 20230

In the matter of: Jean-Michel Didat, Cotricom S.A., Respondent; Docket Nos. 7105–03 and 7105–04.

Appearance for respondents: Jean-Michel Didat, 4 Alles des Mesanges, Yerres, France, and Cotricom S.A., 4 Alles des Mesanges, Yerres, France.

Appearance for agency: Thomas C. Barbour, Esq., Attorney-Advisor, U.S. Department of Commerce, Room H–3845, Washington, DC 20230.

Default Decision and Order

On January 20, 1987, the Acting Director, Office of Export Enforcement, International Trade Administration, United States Department of Commerce (the Agency), issued a Charging Letter alleging that Jean-Michel Didat, individually and doing business as Cotricom S.A., (Respondent), had violated Sections 387.3, 387.4, 387.5 and 387.6 of the Export Administration Regulations (15 C.F.R. Parts 368–399) (the Regulations). The Agency established that service of the charging letter was made on the Respondent on January 29, 1987. Respondent failed to submit any answer.

Section 388.8 of the Regulations provides:

Default

(a) General

If a timely answer is not filed, the Department shall file with the administrative law judge a proposed order together with supporting evidence for the allegations in the charging letter. The administrative law judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

In accordance with this section, Agency counsel filed such a motion for a default order, supported by documentary evidence, on July 22, 1987. On July 30, 1987, the undersigned Administrative Law Judge issued an Order to Show Cause why the Respondent should not be held in default. Respondent has failed to file an answer to the charges alleged or response to the Order issued.

Facts

From a period beginning on or about June 2, 1980 to on or about April 22, 1982, Didat conspired and acted in concert with Robert Almori, Michel d'Ormigny, Jean-Jaques Gayant, Marcel Goldfarb and others to bring about acts that constituted violations of the Act and the Regulations.[1] The purpose of the conspiracy was to acquire U.S.-origin goods in the United States for export to ultimate proscribed destinations. This was accomplished by representing that France was the intended country of ultimate destination, while in fact, the conspirators intended to, and on at least one occasion did in fact, reexport the goods from France to proscribed destinations without reexport authorization from the Agency.

The conspiracy to fraudulently obtain U.S.-origin goods for ultimate destination in proscribed destinations was directed by Almori. Specifically, Almori established a firm called Hedera (sometimes referred to as "Hedera Establishment"), in Vaduz, Lichtenstein, to sell those goods to customers in the Union of Soviet Socialist Republics (U.S.S.R.) and Czechoslovakia. Almori, in order to implement this scheme, directed Didat, of the firm Cotricom,[2] to obtain a fictitious customer of good standing reputation in France. Didat contacted one of his connections, Goldfarb, who provided Didat with a copy of a blank order form from the genuine French company C.G.E.E. Alsthom. The Respondents then proceeded to pose as representatives of this reputable French company, knowing that C.G.E.E. Alsthom had no interest in any of their transactions.

Duplicates of this blank order form were also used by the Respondents to obtain International Import Certificates (IC's) from the French government. In turn these IC's were presented by Respondents to U.S. exporters to support applications seeking authorization from the Agency to export U.S.-origin equipment to C.G.E.E. Alsthom.[3] These documents were necessary to conceal from the Agency the true destination of these U.S.-origin goods. Each of the applications made to the French government were for an IC and included a representation that C.G.E.E. Alsthom was importing U.S.-origin goods into France. Each was signed "LEFEBVRE" and included the follwing notation: "for this matter dial number 355–0346 Mr. LEFEBVRE." In fact, as established in a French court proceeding, "LEFEBVRE" was an alias adopted by Godlfarb and the telephone number was for a commercial enterprise directed by Goodfarb.[4] In fact, as established by the French court proceeding, the address provided on the application for the firm C.G.E.E. Alsthom as the place of delivery for the goods, 13 Parc du Biches, 91000 Evry-France, was not even a C.G.E.E. Alsthom facility.

On Jume 2, 1980, an order (SA/SCED–80–1234) was placed with the French subsidiary of a U.S. company for a memory test system (Govt. Exh. 2). That purchase order directed that all letters concerning that order were to be sent to

[1] Michel d'Ormigny died in 1985. Thus, he is no longer a Respondent in these administrative proceedings. In addition, after further review of the evidence respecting Mr. Gayant's alleged involvement in the conspiracy, the Agency chose not to pursue any charges against him.

[2] Cotricom was a French forwarding firm who was the usual freight forwarder for Hedera.

[3] In applying for an export license seeking authorization to export from the United States to France any U.S.-origin commodity identified by the code letter A following the Export Control Commodity Number (ECCN) for that commodity, the applicant must include with his license application an IC issued by the French Government. *See* 15 CFR 375.3.

[4] While not addressing the same allegations, a French court proceeding established facts against these Respondents linked to the charges made by the Agency in the January 20, 1987 charging letters. These included the forging of trade records and improper procurement of administrative documents (Govt. Exh. 1).

"Monsieur Gerard LEFEBVRE" at the "fictitious" C.G.E.E. Alsthom Facility (Govt. Exh. 1). On or about January 9, 1981, the U.S. exporter of the memory test system, unaware that the information provided to him by Didat was false, submitted to the Agency validated export license application A531976,[5] identifying C.G.E.E. Alsthom as the ultimate consignee of the memory test system.[6]

Based on the information provided in export application A531976, the Agency issued a validated export license authorizing the export of the U.S.-origin memory test system to C.G.E.E. Alsthom (Govt. Exh. 5). The validated export license required that a delivery verification certificate be returned to the Agency in connection with the export of this equipment.[7] The U.S.-origin memory test system was exported from the United States to France on or about January 22, 1981 (Govt. Exh. 6, 7). On May 12, 1981, the U.S. exporter submitted to the Agency a copy of the IC covering the export of the memory test system to C.G.E.E. Alsthom, stating that it had been unable to obtain a delivery verification certificate with respect to the shipment (Govt. Exh. 8). C.G.E.E. Alsthom, in fact, never ordered the memory test system. (Govt. Exh. 9).

On or about August 10, 1981, following the refusal of the U.S. manufacturing involved in the shipment of the memory test system to fill additional order because of the failure to obtain delivery verification certificates, Almori orchestrated the attempt by Didat to obtain through d'Ormigny's company, Technica Ltd. (Technica), a U.S.-origin pattern generator and a photorepeater in the United States for export to France without the validated export licenses required by § 372.1(b) of the Regulations. Almori, through his company, Hedera, ordered these U.S.-origin commodities from Technica (Govt. Exh. 11, 12).[8] D'Ormigny notified the U.S.company from whom he was purchasing the goods that the goods would have to be released "exclusively" to Technica's freight forwarder. On November 27, 1981, Technica's freight forwarder took possession of the goods (Govt. Exh. 13, 14).

A Shipper's Export Declaration (SED) was filed with the U.S. Customs Service stating that the goods were subject to general license G-DEST and that they ere being shipped for ultimate consignment to Didat's firm, Cotricom. Acting in accordance with instructions received from Didat and d'Ormigny, on or about December 8, 1981, the U.S. freight forwarder attempted to export the pattern generator and photorepeater from the United States to Didat's company, Cotricom, in France without the required validated export license (Govt. Exh. 17, 18, 19, 20). On December 8, 1981, the U.S.-origin equipment was seized in New York and subsequently forfeited to the United States. (Govt. Exh. 21, 22, 23).

Following the December, 1981 seizure, Almori and Didat attempted, through a new U.S. exporter, to procure additional U.S.-origin equipment, using the fraudulently obtained C.G.E.E. Alsthom purchase orders in an attempt to give the transactions an appearance of *bona fides*. On on about January 4, 1982 and January 19, 1982, based on information provided by Didat, a U.S. exporter submitted two separate export license applications to the Agency (Govt. Exh. 24).[9] Both export license applications stated that C.G.E.E. Alsthom was the intended ultimate consignee of the U.S. origin equipment identified. Each application was accompanied by IC's from France, which had been provided to the U.S. exporter by Didat, supporting the representation that the goods were being purchased by C.G.E.E. Alsthom.

On January 19, 1982, the U.S. exporter and Didat met with Agency officials to discuss these applications (Govt. Exh. 26). During that interview, Didat stated that he was an agent for C.G.E.E. Alsthom, and that C.G.E.E. Alsthom had ordered the U.S.-origin goods for its own use. Thus, Didat made false and misleading statements of material fact to the Agency in connection with these transactions. Because of the questions raised after the December seizure, neither application was approved.

At the same time Didat was making these statements to the Agency in the United States, Almori and Goldfarb were making false and misleading statements of material fact to U.S. Embassy officials in Paris. In the course of an official United States Government investigation conducted in connection with the goods sized, on or about December 22, 1981, Almori made false and misleading statements of material fact to an official of the United States Embassy in Paris by stating that the goods had been purchased for C.G.E.E. Alsthom, when Almori knew that C.G.E.E. Alsthom had no interest in the transaction.

Further, on December 23, 1981,[10] "LEFEBVRE" contacted U.S. Embassy officials to discuss C.G.E.E. Alsthom's purchase of the pattern generator and photorepeater (Govt. Exh. 28).[11] Lefebvre also contacted the Embassy on February 5, April 2, and April 6, 1982 (Govt. Exh. 31). During these contacts, Lefebvre represented that he was acting on behalf of C.G.E.E. Alsthom.[12]

The Agency Alleges that the Respondents, acting in accordance with the scheme devised by Almori, conspired to acquire U.S.-origin goods on the representation that a reputable end-user in France was the intended ultimate recipient of such equipment. In fact, the evidence supports the finding that the Respondents intended to, and on at least one occasion did in fact, reexport the goods from France to a proscribed destination without obtaining the required reexport authorization from the Agency.

The facts are not therefore in dispute and Respondent is not entitled to a fact-finding hearing under such circumstances (*Spawr Optical Research, Inc. v. Baldrige*, Civ. No. 86-0880, D.D.C. Dec. 16, 1986; *In the Matter of Spawr*, 51 Fed. Reg. 7477-7479, 7481 (1986). Cf. also, Order in Gregg (52 Fed. Reg. 13279 (1987), wherein an Agency subaltern denied that individual and a related person export privileges for 10 years without notice or opportunity to comment or be heard, under the Export Administration Act for a violation of the Arms Export Control Act. A procedure

[5] The charging letter of January 20, 1987, erroneously identified this number as A531926.

[6] Since the memory test system was classified under ECCN 1355A (Govt. Exh. 4), an IC was required to be submitted with the license application. However, the U.S. exporter requested a waiver of this requirement until the IC was received at its facility. The Agency granted this requested waiver and issued the validated export license prior to receipt of the IC. The IC was submitted to the Agency on May 12, 1981 (Govt. Exh. 8).

[7] A delivery verification certificate may be requested by the government of the exporting country. If it is requested for a particular export, the verification is issued by the government of the country of ultimate destination after the export has taken place and the commodities have either entered the export jurisdiction of the recipient country or are otherwise accounted for the importer to the issuing government. 15 CFR 375.3(a)(2)

[8] Although the purchase order form from d'Ormigny to GCA Corporation indicates that d'Ormigny intended to install the equipment in Pittsburgh, Pennsylvania, the other documentary evidence relating to this transaction reveals that statement on the purchase order to be false. (Govt. Exh. 11, 12, 13-20)

[9] These applications were date stamped by the Agency as January 12, 1982 and January 20, 1982, respectively.

[10] The charging letter issued to Respondent Goldfarb incorrectly states December 13, 1981.

[11] Gov. Exh. 28 contains a typographical error, reporting the date as February 3, 1983 instead of 1982.

[12] In his January 6, 1982 contact with the Embassy, Lefebvre cautioned the officials to contact him only at his personal number because knowledge of the transactions was restricted to only a few senior officials at C.G.E.E. Alsthom (Govt. Exh. 28).

proposed to be made applicable to convictions for violations of the Export Administration Act as well, under present congressional consideration).

Based on the foregoing, I find that the Respondents violated the Regulations as alleged in the charging letter of January 20, 1987. Each of these violations involving U.S.-origin goods controlled under section 5 of the Act for national security reasons. I find that an Order denying export privileges to the Respondent for an indefinite period from the date a final order is entered in this proceeding is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act and the Regulations.

Accordingly, pursuant to the authority delegated to me by Part 388 of the Regulations, it is therefore:

Ordered

I. For an indefinite period from the date this Order becomes final, Respondent: Jean-Michel Didat, 4 Alles des Mesanges, Yerres, France, and Cotricom S.A., 4 Alles des Mesanges, Yerres, France, all successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. All outstanding validated export licenses in which Respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

III. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include but not be limited to participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data that are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related party, or whereby any Respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transhipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to or for respondent or related party denied export privileges, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. By Order of April 5, 1983 (48 FR 15935, April 13, 1983), Jean-Michel Dedat, individually and doing business as Cotricom, and others were temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judicial proceedings initiated as a result of the then on-going investigation. Upon approval, this Order will constitute such final disposition of the administrative proceeding initiated by the Agency as a result of its investigation relating to the matters which gave rise to the temporary denial order. The Temporary Denial Order of April 5, 1983 (48 FR 15935, April 13, 1983) will thereby be superceded and revoked. Review of the record relating to the Respondents originally named in that Order reflect that all have now been addressed. The following entries will be deleted from the said table: Didat, Jean, c/o Cotricom, Orly Fret 661, 94393 Orly Airport, Cedex, France, and Cotricom S.A., Orly Fret 661, 94393 Orly Airport Cedex and 90 Rue La Fayette, Paris, France.

From the effective date of this Order it alone will be the basis for any entry on the Table of Denied Orders until modified (15 CFR Part 388 (Supp. No. 1 1987)).

VII. This Order as affirmed or modified, shall become effective upon entry of the Secretary's final action in the Proceeding pursuant to this Act (50 U.S.C. app. 2412(c)(1)).

Dated: September 8, 1987.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 87-23976 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-DT-M

[Case No. OEE-3-86]

Order Renewing Temporary Denial of Export Privileges; Bollinger GmbH, et al.

In the matter of: Bollinger GmbH, Rosseggergasse 34, 1160 Vienna, Austria, and c/o Bollinger Gmbth, Roseggergasse 34, 1160 Vienna, Austrice, Dietmar Ulrichshofer, with addresses at Kirchenstrasse 1, 3061 Ollersbach, Austria, and Vrablicz and Company, Steinergasse 11, 1170 Vienna, Austria, Respondents.

The Office of Export Enforcement, Export Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368 through 399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to renew an order temporarily denying all United States export privileges to Dietman Ulrichshofer; Bollinger GmbH, which is owned by Dietmar Ulrichshofer; and, Vrablicz and Company (hereinafter collectively referred to as respondents). Ulrichshofer, who is subject to an outstanding indictment in the U.S. District Court for the Central District of

California for conspiracy to violate U.S. export controls and is a fugitive from U.S. justice, resides in Ollersbach, Austria; the other respondents reside in Vienna, Austria.[1] The initial order was issued on August 12, 1986 (51 FR 29509, August 18, 1986) and renewed on October 11, 1986 (51 FR 37210, October 20, 1986), December 10, 1986 (51 FR 44655, December 11, 1986) February 8, 1987 (52 FR 4632, February 13, 1987) and April 9, 1987) (52 FR 12576, April 17, 1987) June 8, 1987 (52 FR 22665, June 15, 1987) and August 7, 1987 (52 FR 30418, August 14, 1987).

In its renewal request dated September 16, 1987, the Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have conspired and acted in concert to violate the Act and the Regulations. The Department has reason to believe that the purpose of the conspiracy is to obtain U.S.-origin goods from third countries for ultimate destination in proscribed countries, without obtaining the required authorization from the Department for such shipments. The Department has reason to believe that respondents have participated in the unauthorized reexport of U.S.-origin commodities, including computer equipment and peripherals, from Austria to proscribed destinations, without authorization from the Department.

As shown in exhibit one of the Department's request, the U.S. Customs Service states that the investigation is still ongoing. Based on the information contained in the initial request and the subsequent renewal requests, the Department believes that the general circumstances surrounding the past activities of Bollinger and its owner, Ulrichshofer and Vrablicz establish that the violations under investigation are significant, deliberate, covert, and likely to occur again, unless appropriate action is taken to reduce the likelihood that they can continue to acquire U.S.-origin goods from the United States and abroad.

The Department submits that renewal of the temporary denial order naming all respondents is necessary for the purpose of giving notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Inasmuch as no opposition was received from any correspondent and based on the showing by the Department, I find that renewal of the order temporarily denying export privileges to respondents Ulrichshofer, Bollinger and Vrablicz is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. However, I find a mere assertion without more, that an investigation is on-going and that no respondent has opposed the denial, inadequate to justify indefinite extension. While I have no reservations respecting the past record and apparent intentions of these respondents, temporary denial orders must not become a substitute for effective, timely investigation and due process. Accordingly, I will look for evidence of investigative progress during the next 60 days when I consider any further extension.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participating, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this order by filing with the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue NW., Washington, DC 20230, a full written statement in support of the appeal.

[1] Werner Bruchhausen, a co-defendant named in the indictment along with Ulrichshofer, was recently convicted and sentenced in May 1987 to a substantial term of imprisonment, by the U.S. District Court, Los Angeles, California in connection with some of the export control violation activities underlying the Ulrichshofer indictment.

VI. This order is effective October 6, 1987, and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served upon each respondent and published in the **Federal Register.**

Dated: October 6, 1987.

William V. Skidmore,

Acting Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 87-24033 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 7105-02]

Actions Affecting Export Privileges; Marcel Goldfarb

Summary

Pursuant to the Default Decision and Order of the Administrative Law Judge, which Order is modified by me, Marcel Goldfarb, with an address at 71 Avenue du Commandant Barre, Viry-Chatillon, France, is denied all export privileges for an indefinite period from the date of this Order.

Order

On September 8, 1987, the Administrative Law Judge (ALJ) entered a Default Decision and Order in the above referenced matter. The Default Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a), for final action.

I hereby modify Paragraph II of the ALJ's Order by inserting after the words "All outstanding" the following:

* * * individual * * *

I hereby modify Paragraph V of the ALJ's Order by inserting after the words "specific authorization" the following:

* * * from the Office of Export Licensing * * *

Having examined the record and based on the facts adduced in this case, I affirm the Default Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Dated: October 8, 1987.

Paul Freedenberg,

Acting Under Secretary for Export Administration.

In the Matter of: Marcel Goldfarb, Respondent, Docket No. 7105-02.

Appearance for Respondent: Marcel Goldfarb, 71 Avenue du Commandant Barre, Viry-Chatillon, France.

Appearance for Agency: Thomas C. Barbour, Esq., Attorney-Advisor, U.S. Department of Commerce, Room H-3845, Washington, DC 20230.

Default Decision and Order

On January 20, 1987, the Acting Director, Office of Export Enforcement, International Trade Administration, United States Department of Commerce (the Agency), issued a Charging Letter alleging that Marcel Goldfarb (Respondent), had violated §§ 387.2, 387.3, and 387.5 of the Export Administration Regulations (15 CFR Parts 368 through 399) (the Regulations). The Agency established that service of the charging letter was made on the Respondent on January 29, 1987. Respondent failed to submit any answer.

Section 388.8 of the Regulations provides:

DEFAULT

(a) General

If a timely answer is not filed, the Department shall file with the administrative law judge a proposed order together with supporting evidence for the allegations in the charging letter. The administrative law judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

In accordance with this section, Agency counsel filed such a motion for a default order on July 22, 1987. The Agency also submitted documentary evidence to support the allegations made in the charging letter. On July 30, 1987, the undersigned Administrative Law Judge issued an Order to Show Cause why the Respondent should not be held in default. Respondent has failed to file an answer to the charges alleged or response to the Order issued.

Facts

From a period beginning on or about June 3, 1980 to on or about April 22, 1982, Goldfarb conspired and acted in concert with Robert Almori, Michel d'Ormigny, Jean-Jaques Gayant, Jean-Michel Didat and others to bring about acts that constituted violations of the Act and the Regulations.[1] The purpose of the conspiracy was to acquire U.S.-origin goods in the United States for export to ultimate proscribed destinations. This was accomplished by representing that France was the intended country of ultimate destination, while in fact, the conspirators intended to, and on at least one occasion did in fact, reexport the goods from France to proscribed destinations without reexport authorization from the Agency.

The conspiracy to fraudulently obtain U.S.-origin goods for ultimate destination in proscribed destinations was directed by Almori. Specifically, Almori established a firm called Hedera (sometimes referred to as "Hedera Establishment"), in Vaduz, Lichtenstein, to sell those goods to customers in the Union of Soviet Socialist Republics (U.S.S.R.) and Czechoslovakia. Almori, in order to implement this scheme, directed Didat, of the firm Cotricom,[2] to obtain a fictitious customer of good standing reputation in France. Didat contacted one of his connections, Goldfarb, who provided Didat with a copy of a blank order form from the genuine French company C.G.E.E. Alsthom. The Respondents then proceeded to pose as representatives of this reputable French company, knowing that C.G.E.E. Alsthom had no interest in any of their transactions.

Duplicates of this blank order form were also used by the Respondents to obtain International Import Certificates (IC's) from the French government. In turn these IC's were presented by Respondents to U.S. exporters to support applications seeking authorization from the Agengy to export U.S.-origin equipment to C.G.E.E. Alsthom.[3] These documents were necessary to conceal from the Agency the true destination of these U.S.-origin goods. Each of the applications made to the French government were for an International Import Certificate and included a representation that C.G.E.E. Alsthom was importing U.S.-origin goods into France. Each was signed "LEFEBVRE" and included the following notation: "for this matter dial number 355-0346 Mr. LEFEBVRE." In fact, as

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[1] Michel d'Ormigny died in 1985. Thus, he is no longer a Respondent in these administrative proceedings. In addition, after further review of the evidence respecting Mr. Gayant's alleged involvement in the conspiracy, the Agency chose not to pursue any charges against him.

[2] Cotricom was a French forwarding firm who was the usual freight forwarder for Hedera.

[3] In applying for an export license seeking authorization to export from the United States to France any U.S.-origin commodity identified by the code letter A following the Export Control Commodity Number (ECCN) for that commodity, the applicant must include with his license application an IC issued by the French Government. *See* 15 CFR 375.3

established in a French court proceeding, "LEFEBVRE" was an alias adopted by Goldfarb and the telephone number was for a commercial enterprise directed by Goldfarb.[4] In fact, as established by the French court proceeding, the address provided on the application for the firm C.G.E.E. Alsthom as the place of delivery for the goods, 13 Parc du Biches, 91000 Evry-France, was not even a C.G.E.E. Alsthom facility.

On June 2, 1980, an order (SA/SCED–80–1234) was placed with the French subsidiary of a U.S. company for a memory test system (Govt. Exh. 2). That purchase order directed that all letters concerning that order were to be sent to "Monsieur Gerard LEFEBVRE" at the "fictitious" C.G.E.E. Alsthom facility (Govt. Exh. 1). On or about January 9, 1981, the U.S. exporter of the memory test system, unaware that the information provided to him by Didat was false, submitted to the Agency validated export license application A531976 [5], identifying C.G.E.E. Alsthom as the ultimate consignee of the memory test system.[6]

Based on the information provided in export application A531976, the Agency issued a validated export license authorizing the export of the U.S.-origin memory test system to C.G.E.E. Alsthom (Govt. Exh. 5). The validated export license required that a delivery verification certificate be returned to the Agency in connection with the export of this equipment.[7] The U.S.-origin memory test system was exported from the United States to France on or about January 22, 1981 (Govt. Exh. 6, 7). On May 12, 1981, the U.S. exporter submitted to the Agency a copy of the IC covering the export of the memory test system to C.G.E.E. Alsthom, stating that it had been unable to obtain a delivery verification certificate with respect to the shipment (Govt. Exh. 8). C.G.E.E. Alsthom, in fact, never ordered the memory test system. (Govt. Exh. 9).

On or about August 10, 1981, following the refusal of the U.S. manufacturer involved in the shipment of the memory test system to fill additional orders because of the failure to obtain delivery verification certificates, Almori orchestrated the attempt by Didat to obtain through d'Ormigny's company, Technica Ltd. (Technica), a U.S.-origin patern generator and a photorepeater in the United States for export to France without the validated export licenses required by Section 372.1(b) of the Regulations. Almori, through his company, Hedera, ordered these U S.-origin commodities from Technica (Govt. Exh. 11, 12).[8] D'Ormigny notified the U.S. company from whom he was purchasing the goods that the goods would have to be released "exclusively" to Technica's freight forwarder. On November 27, 1981, Technica's freight forwarder took possession of the goods (Govt. Exc. 13, 14).

A Shipper's Export Declaration (SED) was filed with the U S. Customs Service stating that the goods were subject to general license G–DEST and that they were being shipped for ultimate consignment to Didat's firm, Cotricom. Acting in accordance with instructions received from Didat and d'Ormigny, on or about December 8, 1981, the U S. freight forwarder attempted to export the pattern generator and photorepeater from the United States to Didat's company, Cotricom, in France without the required validated export license (Govt. Exh. 17, 18, 19, 20). On December 8, 1981, the U.S.-origin equipment was seized in New York and subsequently forfeited to the United States. (Govt. Exh. 21, 22, 23).

Following the December, 1981 seizure, Almori and Didat attempted, through a new U.S. exporter, to procure additional U.S.-origin equipment, using the fraudulently obtained C.G.E.E. Alsthom purchase orders in an attempt to give the transactions an appearance of *bona fides*. On or about January 4, 1982 and January 19, 1982, based on information provided by Didat, a U.S. exporter submitted two separate export license applications to the Agency (Govt. Exh. 24).[9] Both export license applications stated that C.G.E.E. Alsthom was the intended ultimate consignee of the U.S. origin equipment identified. Each application was accompanied by IC's from France, which had been provided to the U.S. exporter by Didat, supporting the representation that the goods were being purchased by C.G.E.E. Alsthom.

On January 19, 1982, the U S. exporter and Didat met with Agency officials to discuss these applications (Govt. Exh. 26). During that interview, Didat stated that he was an agent for C.G.E.E. Alsthom, and that C.G.E.E. Alsthom had ordered the U.S.-origin goods for its own use. Thus, Didat made false and misleading statements of material fact to the Agency in connection with these transactions. Because of the questions raised after the December seizure, neither application was approved.

At the same time Didat was making these statements to the Agency in the United States, Almori and Goldfarb were making false and misleading statements of material fact to U S. Embassy officials in Paris. In the course of an official United States Government investigation conducted in connection with the goods seized, on or about December 22, 1981, Almori made false and misleading statements of material fact to an official of the United States Embassy in Paris by stating that the goods had been purchased for C.G.E.E. Alsthom, when Almori knew that C.G.E.E. Alsthom had no interest in the transaction.

Further, on December 23, 1981,[10] "LEFEBVRE" contacted U S. Embassy officials to discuss C.G.E.E. Alsthom s purchase of the pattern generator and photorepeater (Govt. Exh. 28).[11] Lefebvre also contacted the Embassy on February 5, April 2, and April 6, 1982 (Govt. Exh. 31). During these contacts, Lefebvre represented that he was acting on behalf of C.G.E.E. Alsthom.[12]

The Agency alleges that the Respondents, acting in accordance with the scheme devised by Almori, conspired to acquire U.S.-origin goods on the representation that a reputable end-user in France was the intended

[4] While not addressing the same allegations, a French court proceeding established facts against these Respondents linked to the charges made by the Agency in the January 20, 1987 charging letters. These included the forging of trade records and improper procurement of administrative documents (Govt. Exh. 1).

[5] The charging letter of January 20, 1987, erroneously identified this number as A531926.

[6] Since the memory test system was classified under ECCN 1355A (Govt. Exh. 4), an IC was required to be submitted with the license application. However, the U.S. exporter requested a waiver of this requirement until the IC was received at its facility. The Agency granted this requested waiver and issued the validated export license prior to receipt of the IC. The IC was submitted to the Agency on May 12, 1981 (Govt. Exh. 8).

[7] A delivery verification certificate may be requested by the government of the exporting country. If it is requested for a particular export, the verification is issued by the government of the country of ultimate destination after the export has taken place and the commodities have either entered the export jurisdiction of the recipient country or are otherwise accounted for by the importer to the issuing government. 15 CFR 375.3(a)(2).

[8] Although the purchase order form from d'Ormigny to GCA Corporation indicates that d'Ormigny intended to install the equipment in Pittsburgh, Pennsylvania, the other documentary evidence relating to this transaction reveals that statement on the purchase order to be false. (Govt. Exh. 11, 12, 13–20)

[9] These applications were date stamped by the Agency as January 12, 1982 and January 20, 1982, respectively.

[10] The charging letter issued to Respondent Goldfarb incorrectly states December 13, 1981

[11] Gov Exh. 28 contains a typographical error reporting the date as February 3, 1983 instead of 1982.

[12] In his January 6, 1982 contact with the Embassy, Lefebvre cautioned the officials to contact him only at his personal number because knowledge of the transactions was restricted to only a few senior officials at C.G.E.E. Alsthom (Govt. Exh. 28).

ultimate recipient of such equipment. In fact, the evidence supports the finding that the Respondents intended to, and on at least one occasion did in fact, reexport the goods from France to proscribed destination without obtaining the required reexport authorization from the Agency.

The facts are not therefore in dispute and Respondent is not entitled to a fact-finding hearing under such circumstances *(Spawr Optical Research, Inc. v. Baldrige*, Civ. No. 86–0880, D.D.C. Dec. 16, 1986; *In the Matter of Spawr*, 51 F.R. 7477–7479, 7481 (1986). Cf. also, Order in Gregg (52 F.R. 13279 (1987), wherein an Agency subaltern denied that individual and a related person export privileges for 10 years without notice or opportunity to comment or be heard, under the Export Administration Act for a violation of the Arms Export Control Act. A procedure proposed to be made applicable to convictions for violations of the Export Administration Act as well, under present congressional consideration).

Based on the foregoing, I find that the Respondents violated the Regulations, as alleged in the charging letter of January 20, 1987. Each of these violations involving U.S.-origin goods controlled under section 5 of the Act for national security reasons. I find that an Order denying export privileges to the Respondent for an indefinite period from the date a final order is entered in this proceeding is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act and the Regulations.

Accordingly, pursuant to the authority delegated to me by Part 388 of the Regulations, it is therefore:

Ordered

I. For an indefinite period from the date this Order becomes final, Respondent: Marcel Goldfarb, a/k/a Lefebvre, 71 Avenue du Commandant Barre, Viry-Chatillon, France, all successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. All outstanding validated export licenses in which Respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating in any manner or capacity, in any special licensing procedure, including but not limited to, distribution licenses are hereby revoked.

III. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include but not be limited to participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data that are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related party, or whereby any Respondent or any related party may obtain any benefits therefrom or have any interest or participate therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to or for respondent or related party denied export privileges, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. By Order of April 5, 1983 (48 FR 15935, April 13, 1983), Marcel Goldfarb and others were temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judicial proceedings initiated as a result of the then on-going investigation. Upon approval, this Order will constitute such final disposition of the administrative proceeding initiated by the Agency as a result of its investigation relating to the matters which gave rise to the temporary denial order. The Temporary Denial Order of April 5, 1983 (48 FR 15935), April 13, 1983) will thereby be superceded and revoked. Review of the record relating to the Respondents originally named in that Order reflect that all have now been addressed. The following entries will be deleted from the said Table:

Marcel Goldfarb,
a/k/a Marcel LeFevre,
and Gerard LeFevre,
71 Avenue du Commandant Barre
and
Farb et Cie,
4 Boulevard Voltaire, Paris, France.

VII. This Order as affirmed or modified, shall become effective upon entry of the Secretary's final action in the proceeding pursuant to this Act (50 U.S.C. app. 2412 (c)(1)).

Dated: September 8, 1987.

Hugh J. Dolan,
Administrative Law Judge.

[FR Doc. 87–23977 Filed 10–15–87; 8:45 am]
BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Proposed Revisions to Mine Site Areas; Republication

[**Editorial Note:** The following document was originally published at page 37490 in the issue of Wednesday, October 7, 1987. The document is being republished in its entirety because of typesetting errors.]

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of proposed amendments to Deep Seabed Mining Exploration Licenses and request for comments.

SUMMARY: Pursuant to the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283) and 15 CFR Part 970, the National Oceanic and Atmospheric Administration (NOAA) published notice on September 13, 1984, at 49 FR 35973, of issuance of licenses to Ocean Minerals Company (OMCO), Ocean Management, Inc. (OMI), and Ocean Mining Associates (OMA), to engage in deep seabed mining exploration activities, subject to terms, conditions, and restrictions. These license sites, designated USA–1, USA–2 and USA–3, respectively, are located in the Clarion-Clipperton Fracture Zone of the North-eastern Equatorial Pacific Ocean. At the request of the deep seabed mining consortia, and pursuant to 15 CFR 970.902(d)(5), NOAA published the precise locations of the licensed areas on November 13 and 30, 1984, at 49 FR 44938 and 49 FR 47081, December 11, 1984, at 49 FR 48205, and January 8, 1985 at 50 FR 994.

The above U.S. licensees have agreed recently to several small adjustments to their respective boundaries in order to resolve conflicts with foreign mining interests. Each of these licensees has requested that NOAA approve proposed modifications to its exploration area and otherwise revise its license in order to carry out the conflict resolution. Under the provisions of 15 CFR 970.512 through 970.514, NOAA has determined, as to each license, that the proposed modifications are not significant changes and that the procedures in 15 CFR 970.514(b) apply. Accordingly, NOAA gives notice of its intention to accommodate these area adjustments by means of modifications of license terms, conditions and restrictions (TCRs), as well as relinquishment and revision as appropriate.

Each proposed exploration plan revision consists of boundary changes. Exploration strategies, the proposed schedule of activities, and other basic plan elements generally are not affected. The revision to license USA–1 includes the addition of new area to compensate for agreed-to adjustments in the original area. The revision to license USA–2 includes relinquishment of a small area which is proposed to be added to the area covered by the license designated USA–1. NOAA proposes to accomplish other area adjustments by means of modification of license TCRs to restrict exploration activities in areas to be used by another operator, and to establish measures to oversee, and to provide for contingencies relating to, implementation of conflict resolution. All existing license TCRs would remain in effect.

USA–1, Issued to Ocean Minerals Company

The license would be amended, resulting in a change in operating area from approximately 165,533 square kilometers to approximately 168.841 square kilometers; an addition of approximately 3,308 square kilometers.

USA–2, Issued to Ocean Management, Inc.

The license would be amended, resulting in a change in operating area from approximately 135,100 square kilometers to aproximately 112,500 square kilometers; a reduction of approximately 22,600 square kilometers.

USA–3 Issued to Ocean Mining Associates.

The license would be amended, resulting in a change in operating area from approximately 156,060 square kilometers to approximately 150,310 square kilometers; a reduction of approximately 5,750 square kilometers.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons are permitted to examine the materials relevant to these revisions. Comments on this notice should be received on or before December 7, 1987.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue, NW., Suite 710, Washington, DC. 20235. (202) 673–5117.

Dated: October 1, 1987.

James P. Lawless,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87–23152 Filed 10–6–87; 8:45 am]

BILLING CODE 1505-01-T

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will convene separate public meetings of its advisory entities at the Council's Headquarters (address below), as follows:

Billfish Advisory Panel—Will convene November 2, 1987, from 1 p.m. to 5 p.m., to review billfish public hearing comments and develop recommendations for the Council on the Billfish Plan. A detailed agenda will be available to the public on or about October 23, 1987.

Red Drum Plan Development Team—Will convene November 6, 1987, from 8:30 a.m. to 1 p.m., to discuss the development of a profile document for red drum as the basis for development of a South Atlantic Council fishery management plan for red drum. A detailed agenda will be available on or about October 27, 1987.

For further information contact Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone (803) 571–4366.

Dated: October 9, 1987.

Richard H. Schaefer,

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

[FR Doc. 87–23985 Filed 10–15–87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Monsanto Co., St. Louis, MO

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Monsanto Company of St. Louis, MO, an exclusive right in the United States and certain foreign countries to practice the invention embodied in U.S. Patent 4,456,684, "Method for Screening Bacteria and Application Thereof for Field Control of Diseases Caused by *Gaeumannomyces Graminis*." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Douglas J. Campion, Associate Director, Office of

Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas. J. Campion,

Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 87-23955 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Pakistan

October 9, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 19, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established restraint limits for cotton textile products in Categories 331, 334-336, 338-342, 347/348, 351 and 352, produced or manufactured in Pakistan and exported during 1987. As a result, the import limit for Category 351, which is currently filled, will re-open.

Background

A CITA directive dated July 24, 1987 (52 FR 28325) established import restraint limits for certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, and at the request of the Government of Pakistan, the limits for Categories 331, 334-336, 338-342, 347/348, 351 and 352 are being increased by application of swing. The limit for Category 315 is being reduced to account for the swing applied to the foregoing categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of The United States Annotated* (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 9, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel the directive of July 24, 1987, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 19, 1987, the directive of July 24, 1987 is hereby amended to include adjustments to the previously established restraint limits for cotton textile products in the following categories, as provided under the terms of the bilateral agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987 [1]:

Category	Adjusted 12-mo limit [1]
315	45,206,580 sq. yards.
331	695,500 doz. pairs.
334	41,195 doz.
335	53,500 doz.
336	140,255 doz.
338	2,889,000 doz.
339	695,500 doz.
340	150,073 doz.
341	259,489 doz.
342	85,600 doz.
347/348	337,664 doz.
351	42,800 doz.
352	214,000 doz.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-23989 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

October 9, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 16, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-6736. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits for cotton and man-made fiber textile products in Categories 338/339, 340, 342, 346/348, 634, 635, 638, 639, 640, 647 and

[1] The agreement provides, in part, that (1) specific limits may be exceeded by designated percentages, provided that the amount of increase is compensated by an equivalent square yard decrease in another specific limit within the same group; (2) the specific limits for categories may be increased by designated percentages for carryover or carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

648, produced or manufactured in Singapore and exported during the period January 1, 1987 through December 31, 1987.

Background

A CITA directive dated December 16, 1986 (51 FR 45797) established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 338/339, 340, 342, 347/348, 634, 635, 638, 639, 640, 647 and 648, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31 and June 5, 1986, as amended, between the Governments of the United States and Singapore, provides, among other things, for percentage increases in certain categories, provided a corresponding reduction in equivalent square yards in one or more other specific limits during the agreement year (swing); for the carryover of shortfalls in certain categories from the previous agreement year (carryover); and for the borrowing of yardage from the succeeding year's limit with the amount used being deducted from the limit in the succeeding year (carryforward).

In accordance with the terms of the bilateral agreement and at the request of the Government of Singapore, flexibility in the form of swing, carryover and carryforward is being applied, variously, to Categories 338/339, 340, 342, 347/348, 634, 635, 638, 639, 640, 647 and 648 for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

October 9, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 16, 1986, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on October 16, 197, the directive of December 16, 1986 is hereby amended to include adjusted limits for cotton and man-made fiber textile products in the following categories, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31 and June 5, 1986, as amended [1]:

Category	12-mo limit [1]
338/339	814,448 doz.
340	549,830 doz.
342	89,880 doz.
347/348	793,512 doz.
634	134,635 doz.
635	226,161 doz.
638	468,393 doz.
639	3,173,220 doz.
640	77,500 doz.
647	265,326 doz.
648	1,462,567 doz.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 53(a)(1).

Sincerely,

James J. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-23988 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that specific limits may be increased by not more than seven percent during an agreement year, provided that an equal quantity in squre yards equivalent is deducted from another specific limit.

Request for Public Comment on Bilateral Textile Consultations with the Government of the Hungarian People's Republic Concerning Category 442

October 9, 1987.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested call (202) 377-3740.

On October 2, 1987, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, and in accordance with section 204 of the Agricultural Act of 1956, as amended, requested the Government of the Hungarian People's Republic to enter into consultations concerning exports to the United States of wool skirts in Category 442, produced or manufactured in Hungary.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of the Hungarian People's Republic, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Category 442, produced or manufactured in Hungary and exported to the United States during the twelve-month period which began on October 2, 1987 and extends through October 1, 1988 at a level of 14,932 dozen.

A summary market statement concerning this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26662), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Anyone wishing to comment or provide data or information regarding the treatment of Category 442, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade

Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Hungary—Market Statement

Category 442—Wool Skirts

September 1987.

Summary and Conclusions

U.S. imports of Category 442 from Hungary were 13,774 dozen during the year ending June 1987, over five times the 2,509 dozen imported a year earlier. During the first six months of 1987, imports of Category 442 from Hungary reached 5,245 dozen, 29 times the 179 dozen imported during the same period of 1986. In 1986, Category 442 wool skirts imports from Hungary were 8,708 dozen; in 1985 imports totaled 2,330 dozen.

The market for Category 442 has been disrupted by imports. The sharp and substantial increase in imports from Hungary has contributed to this disruption.

U.S. Production and Market Share

U.S. production of wook skirts has been on the decline, falling from 1,415 thousand dozen in 1982 to 791 thousand dozen in 1986, a decline of 44 percent. The U.S. producers' share of this market fell from 92 percent in 1982 to 53 percent in 1986.

U.S. Imports and Import Penetration

U.S. imports of Category 442 were 700 thousand dozen in 1986, over five times the 131 thousand dozen imported in 1982. Category 442 imports were up 34 percent in the year ending June 1987. The ratio of imports to domestic production increased from 9 percent in 1982 to 89 percent in 1986.

Duty Paid Value and U.S. Producer Price

All of Category 442 imports from Hungary during the first six months of 1987 entered under TSUSA number 384.7522—women s girls' and infants' woven wool skirts, not ornamented. These skirts entered the U S. at landed duty-paid values below U.S. producers' prices for comparable skirts.

[FR Doc. 87-23987 Filed 10-15-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 4-5 November 1987

Times of Meeting: 0800-1600 hours daily

Place: Pentagon, Washington, D.C.

Agenda: The Army Science Board's Ad Hoc Committee on Implementing Competitive Strategies will meet. Objectives of this meeting will be twofold. First, the panel will review results of the last meeting/working session and will consolidate their information into their report. Second, they will begin formulating their report into a final format in preparation for final presentation. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-23956 Filed 10-15-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER88-9-000, et al.]

Georgia Power Co. et al.; Electric Rate and Corporate Regulation Filings

October 8, 1987.

Take notice that the following filings have been made with the Commission:

1. Georgia Power Co.

[Docket No. ER88-9-000]

Take notice that Georgia Power Company on April 21, 1987 and October 2, 1987, tendered for filing proposed changes in its FERC Rate Schedule No. 704, the Interchange Agreement between Georgia Power Company and the Tennessee Valley Authority. The proposed changes provide for an additional delivery point between the parties and substitution of a 14% return on equity in calculating Georgia Power's carrying costs instead of a varying rate based on Georgia Power's most recent wholesale rate case. Georgia Power has requested an effective date of January 1, 1987 for the changes.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Co.

[Docket No. ER88-11-000]

Take notice that on October 2, 1987, Kentucky Utilities Company (KU) tendered for filing a unilateral filing for an amendment to the Interconnection Agreement between KU and Tennessee Valley Authority (TVA) which agreement is designated KU Rate Schedule FERC No. 93. KU states that the filing is in compliance with § 35.23 of the Commission's Regulations as promulgated by Order 84.

KU states that copies of the filing have been sent to TVA and to the Public Service Commission of Kentucky.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Nevada Power Co.

[Docket No. ER88-10-000]

Take notice that on October 2, 1987, Nevada Power Company tendered for filing a proposed change in its FPC Electric Service Tariff No. 41. The change reduces the energy charge on this tariff from 1.820 cents per kwh to 1.676 cents per kwh.

The change to this tariff is a result of Nevada Power Company's compliance with [Docket No. RM87-4-000; Order No. 475, issued June 26, 1987. This Order allows electric utilities to make an abbreviated filing to file for certain rate decreases under section 205 of the Federal Power Act (FPA) to reflect a decrease in the Federal income tax rate from 46 percent to 34 percent.

Copies of the filing were served upon the City of Needles, California, the Public Service Commission of Nevada, the Nevada Office of Consumer Advocate, the California Public Utilities Commission and the Federal Energy

Regulatory Commission, San Francisco Office.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Orange and Rockland Utilities, Inc.

[Docket No. ER88-7-000]

Take notice that on October 2, 1987, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing as a rate schedule and executed agreement dated April 1, 1987, between Orange and Rockland and Public Service Electric and Gas Company (PSE&G) for the purchase or sale, on a prescheduled basis, system capacity and/or energy in excess of customer requirements from their system to the other on an hourly, daily, weekly or monthly basis.

The rate schedule provides for a system capacity charge to be paid by the buyer to the seller which will be the system capacity charge per megawatt for each hour of the scheduled firm capacity which is negotiated at arms length to the Agreement by the parties prior to each transaction, but which shall not exceed $6.74 per megawatt for each hour when Orange and Rockland is the seller and $8.20 per megawatt for each hour when PSE&G is the seller. The system energy charge to be paid by the buyer is calculated as the product of (i) the megawatt hour scheduled by the buyer actually delivered by the seller to the point of interchange and (ii) the applicable energy charge rate on the system of the seller, as agreed to by the parties.

Orange and Rockland requests waiver of the notice requirements of § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective April 1, 1987 in accordance with the anticipated utilization by the parties.

Orange and Rockland states that a copy of its filing was served on Public Service Electric and Gas Company.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Co.

[Docket No. ER88-6-000]

Take notice that on October 2, 1987, Portland General Electric Company (PGE) tendered for filing its revised Average System Cost (ASC) which reflects PGE's Power Cost Adjustment (PCA) rate change which became effective with meter readings on and after January 30, 1987. This filing includes a revised Schedule 4 to Appendix 1, Exhibit C of the Residential Purchase and Sale Agreement along with the authorization to implement this rate change from the Public Utility Commission of Oregon.

PGE states that the filing shows that the first quarter PCA adjustment to the current base ASC is 0.88 mills/kWh credit, which when added with the base ASC results in a net ASC rate effective for this period.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Co.

[Docket No. ER87-658-000]

Take notice that on October 2, 1987, San Diego Gas & Electric Company (SDG&E) tendered for filing a Certificate of Concurrence assenting to and concurring with Southern California Edison Company's (Edison) filing of the San Onofre Refueling Exchange Agreement (Agreement) between Edison, SDG&E, the City of Anaheim, California, and the City of Riverside, California (collectively "Parties").

The Agreement provides for an arrangement whereby, for system reliability purposes, a planned refueling outage can be changed to either an early refueling outage or a delayed refueling outage at the request of one or more Parties and the nonparticipating Parties will receive an exchange of energy and capacity as if the changed refueling outage had not occurred.

Copies of the filing were served upon the Public Utilities Commission of the State of California, Edison, Anaheim, and Riverside.

Comment date: October 22, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-23933 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9779-001 et al.]

Trafalgar Power, Inc., et al; Surrender of Preliminary Permits

October 9, 1987.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Trafalgar Power, Inc.

[Project No. 9779-001]

Take notice that Trafalgar Power, Inc., permittee for the Niverville Project No. 9779 located on the Valatiekill River in Columbia County, New York has requested that its preliminary permit be terminated. The preliminary permit was issued on June 13, 1986, and would have expired on May 31, 1989. The permittee states that analysis of the North Hoosic Project did not indicate feasibility for development.

The permittee filed the request on August 31, 1987.

2. Independence Electric Corporation

[Project No. 8814-002]

Take notice that Independence Electric Corporation, permittee for the W.B. Oliver Hydropower Project No. 8814, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8814 was issued on August 9, 1985, and would have expired on July 31, 1988. The project would have been located on the Black Warrior River near Tuscaloosa, Tuscaloosa County, Alabama.

The permittee filed the request on September 29, 1987.

3. J K Inc.

[Project No. 9963-001]

Take notice that the J K Inc., permittee for the Andro Project No. 9963, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9963 was issued on November 7, 1986, and would have expired on October 31, 1989. The project would have been located on the Androscoggin River, in Oxford County, Maine.

The permittee filed the request on July 6, 1987.

4. Mr. Louis P. Migliozzi

[Project No. 10075-001]

Take notice that Mr. Louis P. Migliozzi, permittee for the Holyoke Project No. 10075, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 10075 was issued on February 24, 1987, and would have expired on January 31, 1990.

The project would have been located on the Holyoke Canal System, in Hampton County, Massachusetts.

The permittee filed the request on September 8, 1987.

5. Modesto Irrigation District

[Project No. 5382–001]

Take notice that the Modesto Irrigation District, permittee for the proposed Little Pine Creek Hydro Project No. 5382, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 13, 1987, and would have expired on December 31, 1989. The project would have been located on Little Pine Creek in Inyo County, California.

The permittee filed the request on August 28, 1987.

6. Modesto Irrigation District

[Project No. 5384–001]

Take notice that the Modesto Irrigation District, permittee for the proposed Baker Creek Hydro Project No. 5384, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 13, 1987, and would have expired on December 31, 1989. The project would have been located on Baker Creek County in Inyo County, California.

The permittee filed the request on August 28, 1987.

7. Modesto Irrigation District

[Project No. 4879–002]

Take notice that the Modesto Irrigation District, permittee for the proposed Butter Creek Hydro Project No. 4879, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 14, 1987, and would have expired on December 31, 1989. The project would have been located on Butter Creek in Trinity County, California.

The permittee filed the request on August 28, 1987.

8. Modesto Irrigation District

[Project No. 5385–001]

Take notice that the Modesto Irrigation District, permittee for the proposed Big Pine Creek Hydro Project No. 5285, has requested that its preliminary permit be terminated. The preliminary permit was issued on January 13, 1987, and would have expired on December 31, 1989. The project would have been located on Big Pine Creek in Inyo County, California.

The permittee filed the request on August 28, 1987.

9. Taft Hydropower, Inc.

[Project No. 9740–001]

Take notice that the Taft Hydropower, Inc., permittee for the Caughdenoy Lock 23 Hydro Project No. 9740, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 9740 was issued on June 6, 1986, and would have expired on May 31, 1989. The project would have been located on the Oneida River, in Onondaga and Oswego Counties, New York.

The permittee filed the request on August 31, 1987.

10. Trafalgar Power, Inc.

[Project No. 9778–002]

Take notice that Trafalgar Power, Inc., permittee for the North Hoosic Project No. 9778 located on the Walloomsac River in Rennselaer County, New York has requested that its preliminary permit be terminated. The preliminary permit was issued on April 24, 1986, and would have expired on March 31, 1989. The permittee states that analysis of the North Hoosic Project did not indicate feasibility for development.

The permittee filed the request on August 31, 1987.

11. Trafalgar Power, Inc.

[Project No. 9769–002]

Take notice that Trafalgar Power, Inc., permittee for the Castleton Project No. 9769 located on the Moordenerkill River in Rennselaer County, New York has requested that its preliminary permit be terminated. The preliminary permit was issued on April 24, 1986, and would have expired on March 31, 1989. The permittee states that analysis of the Castleton Project did not indicate feasibility for development.

The permittee filed the request on August 31, 1987.

Standard Paragraph

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–23949 Filed 10–15–87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87–13–20–001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 13, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 6, 1987, tendered for filing to its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

Substitute Twentieth Revised Sheet No. 201
Substitute Twenty-first Revised Sheet No. 201
Substitute Twenty-second Revised Sheet No. 201
Second Substitute Thirteenth Revised Sheet No. 205
Substitute Fourteenth Revised Sheet No. 205
Substitute Fifteenth Revised Sheet No. 205

Algonquin states such tariff sheets are being filed pursuant to Algonquin's Purchased Gas Adjustment Provision as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 and pursuant to Section 7 of its Rate Schedule F–4 to reflect a change in purchased gas cost to be charged by its supplier, Texas Eastern Transmission Corporation ("Texas Eastern").

Algonquin proposes the effective date of Second Substitute Thirteenth Revised Sheet No. 205 to be August 1, 1987. The proposed effective date of Substitute Twentieth Revised Sheet No. 201 is September 1, 1987.

Algonquin states that the proposed effective date of Substitute Twenty-first Revised Sheet No. 201, Substitute Twenty-second Revised Sheet No. 201, Substitute Fourteenth Revised Sheet No. 205 and Substitute Fifteenth Revised Sheet No. 205 is October 1, 1987.

Algonquin states that since notice of its rate change was not received from Texas Eastern 30 days prior to the proposed effective date, it is making this filing within 15 days of receipt of notice as permitted under its gas tariff.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 1987.

Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24023 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-14-20-001]

Algonquin Gas Transmission Co.; Proposed Change in FERC Gas Tariff

October 13, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 6, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies of the following tariff sheets:

Substitute Alternate Twentieth Revised Sheet No. 203

Substitute Twenty-first Revised Sheet No. 203

Substitute Twenty-second Revised Sheet No. 203

Algonquin states that such tariff sheets are being filed to reflect in its Rate Schedule F-2 changes in the underlying rates of Consolidated Gas Transmission Corporation ("Consolidated"), as set forth in Consolidated's filing of September 23, 1987, proposed to be effective September 1, 1987.

Algonquin proposes the effective date of Substitute Alternate Twentieth Revised Sheet No. 203 to be September 1, 1987, and the effective date of Substitute Twenty-first Revised Sheet No. 203 and Substitute Twenty-second Revised Sheet No. 203 to be October 1, 1987.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24024 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-26-019]

Tennessee Gas Pipeline Co.; Filing Revised Tariff Sheets

October 13, 1987.

Take notice that on October 5, 1987, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) tendered for filing the following revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, to be effective as indicated.

SECOND REVISED VOLUME NO. 1

Sheet No.	Effective Date
Substitute First Revised Sheet No. 106	August 21, 1987.
Substitute First Revised Sheet No. 107	August 21, 1987.
Substitute First Revised Sheet No. 108	August 21, 1987.
Substitute First Revised Sheet No. 109	August 21, 1987.
Substitute Second Revised Sheet No. 110	August 21, 1987.
Substitute First Revised Sheet No. 110A	August 21, 1987.
Substitute First Revised Sheet No. 111	August 21, 1987.
Substitute First Revised Sheet No. 112	August 21, 1987.
Substitute First Revised Sheet No. 113	August 21, 1987.
Substitute First Revised Sheet No. 114	August 21, 1987.
Alternate Substitute First Revised Sheet No. 114	August 21, 1987.
Substitute Second Revised Sheet No. 115	August 21, 1987.
Substitute Second Revised Sheet No. 116	August 21, 1987.
Substitute First Revised Sheet No. 206	August 21, 1987.
Substitute First Revised Sheet No. 207	August 21, 1987.
Substitute First Revised Sheet No. 208	December 10, 1986.
Substitute Original Sheet No. 208A	December 10, 1986.
Substitute Original Sheet No. 208B	December 10, 1986.
Substitute First Revised Sheet No. 247	August 21, 1987.
Substitute First Revised Sheet No. 250	August 21, 1987.
Substitute First Revised Sheet No. 251	August 21, 1987.
Substitute First Revised Sheet No. 252	August 21, 1987.
Original Sheet No. 253	August 21, 1987.
Original Sheet Nos. 254 through 299	August 21, 1987.
Substitute First Revised Sheet No. 333	August 21, 1987.
Substitute First Revised Sheet No. 334	August 21, 1987.
Substitute First Revised Sheet No. 336	August 21, 1987.
Substitute First Revised Sheet No. 340	August 21, 1987.
Substitute First Revised Sheet No. 341	August 21, 1987.
Substitute First Revised Sheet No. 342	August 21, 1987.
Substitute First Revised Sheet No. 344	August 21, 1987.
Substitute First Revised Sheet No. 346	August 21, 1987.

Tennessee states that it is filing these revised tariff sheets in compliance with the Commission's Order in this proceeding issued on August 21, 1987.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions and all parties in Docket No. RP87–26. Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24025 Filed 10–15–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–8–000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

October 13, 1987.

Take notice that on October 2, 1987, United Gas Pipe Line Company (United) tendered for filing, pursuant to section 311 of the Natural Gas Policy Act of 1978 and Section 4 of the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff First Revised Volume No. 1 with a proposed effective date of November 1, 1987, as set forth on Appendix A to the filing.

United states that these tariff sheets, consisting of revised Rate Schedules ITS and FTS and Transportation General Terms and Conditions, together with additions to United's G, DB, and PL Rate Schedules to provide for purchase nominations, are intended to permit United to continue to operate as an open access pipeline after November 1, 1987 consistent with the provisions of Order Nos. 436 and 500.

United further states that the tendered tariff sheets are designed to follow as closely as possible the Commission's interpretation of the requirements of Order No. 436 as reflected in detail in its "Order Approving Contested Settlement Subject to Conditions and Issuing Blanket Certificate", issued May 8, 1987 in Docket No. CP86–526–000, and to conform to the revisions to the Order 436 regulations effected by Order No. 500, issued August 7, 1987.

United indicates that it is also filing concurrently herewith a certificate application for transportation authority under Subpart G of Part 284 of the Commission's Regulations to permit United to offer Order No. 436/500 transportation to interstate pipelines and other parties not eligible for transportation under section 311 of the Natural Gas Policy Act.

Any person desiring to be heard or to protest said filings should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Such motions or protests should be filed on or before October 20, 1987. Protestants will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–24026 Filed 10–15–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP88–006–000]

United Gas Pipe Line Co.; Application

October 9, 1987.

Take notice that on October 2, 1987, United Gas Pipe Line Company (United), P.O. Box 1478 Houston, Texas 77251–1478, filed in Docket No. CP88–006–000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations (18 CFR 284.221) for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, on a self-implementing basis, interruptible and firm transportation service on behalf of interstate pipelines and on behalf of shippers other than interstate pipelines, and to abandon sales service to the extent United's customers exercise options to convert firm-service entitlements to firm transportation service pursuant to Section 284.10 and Section 3 of United's FTS Rate Schedule, filed concurrently herewith, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United has requested that the Commission permit the requested certificate authority to become effective November 1, 1987. United states that following the issuance of certificate authorization, such service would be provided pursuant to the terms of the revised ITS and FTS Rate Schedules which United, in its contemporaneous filing, has requested that the Commission permit to become effective on November 1, 1987. In that transporation tariff filing United has requested a November 1, 1987, effective date to provide for ongoing and new transportation service under Section 311 of the Natural Gas Policy Act.[1] United states that it is requesting the issuance of certificate authorization effective that same date in order that it may have authorization to self-implement transportation service for interstate pipelines and for other shippers not covered by Section 311 of the Natural Gas Policy Act. The authorization is particularly required to permit United's pipeline and direct industrial customers the opportunity to timely exercise the options to convert their firm-sale service to firm-transportation service, as provided by Section 3 of the revised FTS rate schedule, it is stated.

United states that the actual rates to be charged for transportation services provided under the ITS and FTS rate schedules are set forth on United's currently effective tariff sheets 4–D and 4–E. United states that the rates applicable to service under the ITS rate schedule are currently in effect as a result of the Commission's order of June 27, 1986, in United's Docket No. RP86–93, accepting interim transportation rates subject to refund. United states that the rates applicable to service under the fTS rate schedule are in effect as a result of the Commission's order of September 29, 1986, in United's Docket No. RP86–158. Both the Its and FTS rates are subject to refund pending the outcome of United's general rate proceeding in Docket No. RP85–209 and will be subject to further adjustment once United's next general rate filing is filed and made effective, it is stated.

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[1] By order dated August 7, 1987, issued in conjunction with Order No. 500, the Commission terminated, effective November 1, 1987, the waiver which it grant to United in Docket No. RP86–93, and pursuant to which United has provided transportation service under Section 311 of the Natural GAs Policy Act, as implemented by § 284.102 of the Regulations.

United states that no new facilities are presently required to perform the services requested.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1987, filed with Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24027 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2311-000]

Gary L. Countryman; Filing

October 13, 1987.

Take notice that on October 6, 1987, Gary L. Countryman, filed an application pursuant to section 305(b) of the Federal Power Act for Commission authorization to hold concurrently the following positions:

President and Chief Executive Officer,
Liberty Mutual Insurance Company
Member of the Board of Directors,
Liberty Mutual Insurance Company
Member of the Board of Directors,
Boston Edison Company

The need for this filing arises out of Liberty Mutual's ownership, through two subsidiaries, of a 70% interest in Liberty Securities Corporation, which is a broker-dealer participating in the marketing of securities. This filing requests a determination as to whether authorizations under section 305(b) of the Federal Power Act are required for Mr. Countryman, and, if they are, authorization to hold the interlocking positions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24028 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

October 13, 1987.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 7, 1987, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Fifty-Eighth Revised Sheet No. 3a to become effective September 1, 1987.

Mid Louisiana states that the purpose of the filing of Fifty-Eighth Revised Sheet No. 3a is to reflect a 7.83¢ per Mcf reduction in its gas cost, a Purchased Gas Cost Surcharge of 0.86¢ per Mcf and to comply with Article VI of the Stipulation and Agreement approved by the Commission in 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 requests a waiver of § 154.38(d)(iv)(a) of the Commission's Regulations to change its PGA effective dates to September 1 and March 1. Mid Louisiana also requests a waiver of the 30 day prior notice provisions contained in § 154.38(d)(iv)(d)(v) of the Commission's Regulations to allow Fifty-Eighth Revised Sheet No. 3a to become effective September 1, 1987, in compliance with the Commission's Order approving the Stipulation and Agreement in Docket No. RP86-69-000.

Mid Louisiana states that this filing is being made in accordance with Section 19 of its FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 1987. Protests will be considered by the Commission in determining the approximate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24030 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-69-006]

Mid Louisiana Gas Co.; Compliance Filing

October 13, 1987.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on October 7, 1987, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheets to become effective September 1, 1987:

Ninth Revised Sheet No. 1
Fifty-Eighth Revised Sheet No. 3a
First Revised Sheet No. 3a.1
Original Sheets Nos. 12k, 12l and 12m
Fifth Revised Sheet No. 23a
Sixth Revised Sheet No. 26a
First Revised Sheet No. 26g
Original Sheet No. 28a
Third Revised Sheet No. 34

Mid Louisiana states that the purpose of the filing of these Tariff Sheets is to comply with the Commission's Final Letter Order issued August 23, 1987, in the above referenced dockets. Copies of this filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24031 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA88-1-38-000 and TA88-1-38-001]

Ringwood Gathering Co.; Corrected Tariff Sheet

October 13, 1987.

Take notice that on October 8, 1987, tendered Substitute Forty-Second Revised Sheet PGA-1 to correct its base tariff rate from $2.3149 previously filed on October 1, 1987, in Docket No. TA88-1-38-000 to $2.2969 now being filed in Docket No. TA88-1-38-001.

Any person desiring to be heard or to protet said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with 18 CFR 385.211 and 385.214 of the Commission's Rules of Practice and Procedure, to be filed on or before October 20, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24032 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2310-000]

Stephen J. Sweeney,

October 13, 1987.

Take notice that on October 6, 1987, Stephen J. Sweeney filed an application pursuant to section 305(b) of the Federal Power Act for Commission authorization to hold concurrently the following positions:

Chairman of the Board of Directors, President and Chief Executive, Boston Edison Company

Member of the Board of Directors, Liberty Mutual Insurance Company

Member of the Board of Directors, Liberty Fire Insurance Company

The need for this filing arises out of Liberty Mutual's ownership, through two subsidiaries, of a 70% interest in Liberty Securities Corporation, which is a broker-dealer participating in the marketing of securities. This filing requests a determination as to whether authorizations under section 305(b) of the Federal Power Act are required for Mr. Sweeney, and, if they are, authorization to hold the interlocking positions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 27, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-24029 Filed 10-15-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

Natural Gas Transportation Task Group; Coordinating Subcommittee on Petroleum Storage & Transportation; National Petroleum Council; Public Meeting

Notice is hereby given of the following meeting:

Name: Natural Gas Transportation Task Group, Coordinating Subcommittee on Petroleum Storage & Transportation of the National Petroleum Council

Date and Time: Thursday, October 29, 1987, 10 am.

Place: Enron Corp., 1400 Smith, Rm. 49C1, Houston, Texas.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, D.C. 20585. Telephone: 202/586-4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: Discuss Task Group organization and individual assignments.

Tentative Agenda

—Opening remarks by Chairman and Government Cochairman.
—Establish the Task Group organization.
—Discuss the individual assignments.
—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public Participation: The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion what will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9:00 am and 4:00 pm Monday through Friday, except Federal holidays.

Donald L. Bauer,

Principal Deputy Assistant Secretary, Fossil Energy.

[FR Doc. 87-23978 Filed 10-15-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3278-2]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed October 5, 1987 Through October 9, 1987 Pursuant to 40 CFR 1506.9.

EIS No. 870351, Draft, AFS, VA, South Coeburn Field, Natural Gas Pipeline and Road Construction and Drilling Development, Clinch Ranger District, Jefferson National Forest, Wise and Scott Counties, Due: November 30, 1987, Contact: Charles Saboites (703) 328–2931.

EIS No. 870352, Report COE, KS, Great Bend Local Flood Control Plan, Design and Mitigation Changes, Arkansas River, Barton County, Contact: Richard Makinen (202) 272–0166.

EIS No. 870353, Draft, BOP, PA, Schuylkill Federal Correctional Institution Complex, Construction and Operation, Schuylkill County, Due: November 30, 1987, Contact: William Patrick (202) 724–3232.

EIS No. 870354, Final, UMC, NC, Cherry 1 Military Operating Area (MOA), Craven, Hyde, Beaufort, Pamlico and Washington Counties and Core MOA, North Carolina Outer Banks/Cape Lookout National Seashore, Establishment, Due: November 16, 1987, Contact: P. J. Lowery (919) 466–2343.

EIS No. 870355, Final, AFS, ID, Nez Perce National Forest, Land and Resource Management Plan, Idaho County, Due: November 16, 1987, Contact: Tom Kovalicky (208) 983–1950.

EIS No. 870356, Final, MMS, SEV, 1988 Central, Western and Eastern Gulf of Mexico, Outer Continental Shelf (OCS) Oil and Gas Sale Nos. 113, 115, and 116, Lease Offerings, Due: November 16, 1987, Contact: R. Mark Rouse (504) 736–0557.

EIS No. 870357, FSuppl, FHW, HI, Interstate H–3 Freeway Construction, Halawa Interchange to Halekou Interchange, Reevaluation, Honolulu County, Due: November 16, 1987, Contact: William Lake (808) 541–2700.

EIS No. 870358, Draft, FAA, CA, Burbank-Glendale-Pasadena Airport, Replacement Passenger Terminal, Construction, Los Angeles County, Due: November 30, 1987, Contact: James Wiggins (213) 297–1248.

Dated: October 13, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–24041 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3278–5]

Science Advisory Board Research Strategies Committee; Health Effects Group; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a one-day meeting of the Health Effects Group of the Research Strategies Committee of the Science Advisory Board will be held on October 28, 1987, in Conference Room 729G of the Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. The meeting will be conducted from 9:00 a.m. to 3 p.m.

The purpose of the meeting will be to continue the development of the research strategy for health effects research.

The meeting will be open to the public. Any member of the public wishing to attend the meeting must contact Dr. C. Richard Cothern, Executive Secretary to the Committee, by telephone at (202) 382–2552 or by mail to Science Advisory Board (A–101–F), 401 M Street, SW., Washington, DC., 20460 no later than c.o.b. October 21, 1987.

Dated: October 6, 1987.

Kathleen Conway,

Acting Director, Science Advisory Board.

[FR Doc. 87–23990 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–140088; FRL–3278–4]

Access to Confidential Business Information by Technical Resources Incorporated

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Technical Resources Incorporated (TRI) of Rockville, MD, for access to information which has been submitted to EPA under sections 5 & 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than October 26, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street, SW., Washington, DC 20460, (202–554–1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or chemical mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Chemical Substances Inventory, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, and 8 of TSCA.

Under contract number 68–02–4289, EPA's contractor TRI, 3202 Monroe Street, Suite 300, Rockville, MD will assist the Office of Toxic Substances' Economics and Technology Division in analyzing the properties and uses of new and existing chemicals under sections 5 and 8 of TSCA. TRI will generate information on selected chemicals through literature search reviews and other activities.

In accordance with 40 CFR 2.306(j), EPA has determined that under contract number 68–02–4289 TRI will require access to CBI submitted to EPA under TSCA to successfully perform the duties specified under the contract. Authorization for access by TRI to TSCA CBI for similar purposes under contract number 68–02–3971 was previously announced in the **Federal Register** of May 3, 1985 (50 FR 18915). Under contract number 68–02–4289, TRI personnel will require access to CBI data submitted to EPA under sections 5 and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 5 & 8 of TSCA that EPA may provide TRI access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters facilities.

Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1988.

TRI personnel will be required to sign non-disclosure agreements, will be briefed on appropriate security procedures and must pass a test on those security procedures before they are permitted access to TSCA CBI. Access is authorized on a yearly basis.

Dated: October 8, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–23991 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3278–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

This notice announces the Availability of EPA comments prepared September 28, 1987 through October 2, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and Section

102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-AFS-L65109-AK, Rating EC2, Cleveland Peninsula Resources Mgmt. Plan, Tongass Nat'l Forest, AK, SUMMARY: EPA's major concern is the effect of the action alternatives on water quality. The Forest Service preferred Alternative 2 does appear to have the least effects on water quality and fisheries. Although the draft EIS states that the monitoring plan will be prepared as part of the final EIS, the lack of a water quality monitoring plan for review makes it difficult to assure that Alaska Water Quality Standards will be met.

ERP No. DB-COE-K35012-CA, Rating EC2, Sacramento River Bank Protection Project, Butte Basin Reach (River Miles 176 to 194) Stabilization, Updated Information, CA. SUMMARY: EPA expressed environmental concerns because further information is needed on: (1) The effectiveness of existing mitigation; (2) the State of California's success in acquiring three parcels of land as mitigation that are outstanding for their riparian habitat values; and (3) project impacts to two colonies of bank swallows which could potentially be lost.

ERP No. DC-COE-K35012-CA, Sacramento River Bank Protection, Erosion Control, Collinsville to Chico Landing, River Miles 0 to 194, Updated Information, CA. SUMMARY: EPA expressed environmental concerns because past efforts to mitigate the loss of Sacramento River riparian habitat have been largely unsuccessful, and this fourth supplemental draft EIS did not provide sufficient mechanisms to mitigate or prevent further losses. EPA requested that the Corps commit to a policy of "no net loss" of riparian habitat when undertaking bank protection actions, and implement an environmentally superior bank protection scenario whenever possible, rather than a least-maintenance scenario. EPA also announced its intention to participate in the activities of the Mitigation Task Force with the Corps and the California Reclamation Board.

ERP No. D-FHW-C40121-NY, Rating EC2, Southwest Lockport Bypass Construction, Robinson Road to NY 31, 404 and 10 Permits, NY. SUMMARY: EPA's review of the draft EIS highlights potential impacts to wetlands, water quality, and hazardous waste sites, and about secondary impacts that may result from implementing the proposed project. Accordingly, EPA requests additional information in the final EIS regarding these concerns.

ERP No. D-FHW-F40292-IN, Rating EC2, US 231/Wabash River Crossing Relocation and Construction, County Road 350S to West Lafayette, 404 Permit, IN. SUMMARY: EPA's review found that although several alternatives are addressed in the draft EIS, a preferred alignment is not specified. In general, EPA's concerns relate to potential impacts upon water quality and wetlands. EPA's major concern is the presence of PCB's in water samples, fish, and sediment of Elliott Ditch and Wea Creek, and would like to review a plan for the handling or any PCB contaminated sediment that might be disturbed. The draft EIS does not include a mitigation plan, although all alternatives involve the acquisition of wetlands, and one should be developed as part of the final EIS. Finally, EPA is concerned about highway noise generated by the proposed project.

ERP No. D-FHW-K40162-CA, Rating E02, Ventura County Routes 23 and 118 Freeway Gap Closure, Rt. 23 Freeway at New Los Angeles Ave. to Rt. 118 Freeway at College View Ave., 404 Permit, CA. SUMMARY: EPA expressed environmental objections because the draft EIS did not adequately discuss potential adverse impacts to wetlands, riparian areas and endangered species. The draft EIS did not adequately discuss a full range of alternative alignments and mitigation measures to avoid or reduce impacts to sensitive habitats and endangered species. EPA requested that the FHWA contact the COE to obtain guidance on compliance with section 404 of the Clean Water Act (CWA), which regulates the discharge of dredge or fill material into waters of the US, including wetlands. EPA requested that the final EIS contain a more complete CWA section 404 alternatives analysis and mitigation plan to fully determine project compliance with the CWA.

ERP No. DS-NRC-A22091-IL, Rating E02, Rare Earths Permenent Waste Disposal Facility Decommissioning, Alternative Site Analysis, License, IL. SUMMARY: EPA's review found environmental impacts associated with the project are both non-radiological and radiological in nature. EPA's most serious concern is that the projected organ doses for the proposed action and all alternatives show exceedence of 4–15 times over the 25 millirem annual dose equivalent in 40 CFR 192 Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings, which USEPA promulgated under the Uranium Mill Tailings Control Act of 1978. EPA rated this project an EO (environmental objections) with significant reservations, due to a possibility that modifications can be implemented that would assure compliance in at least some alternatives. Unless documentation can be provided demonstrating mitigation measures will be employed that will meet these regulations, EPA will have to rate the project an EU (environmental unsatisfactory) FINAL EISs

ERP No. F-AFS-J61069-CO, East Fork Ski Area Development, Special Use Permit, San Juan Nat'l Forest, 404 Permit, CO. SUMMARY: EPA believes the final EIS has adequately identified environmental issues associated with the proposed action. Although some of the issues result in significant environmental results, appropriate mitigation has been committed to reduce impacts.

ERP No. F-COE-C32032-NY, Shinnecock Inlet Navigation Project, Erosion Control and Water Quality Improvement, 404 Evaluation, NY. SUMMARY: EPA's concerns regarding changing salinity levels and grain sizes of dredged materials used for beach nourishment have been satisfactorily addressed in the final EIS. Accordingly, EPA has no objection to the proposed project.

ERP No. F-FHA-B32008-ME, Jonesport Harbor Navigation Improvement Project, ME (Adoption of COE final EIS, filed 4-19-76). SUMMARY: EPA is concerned that the information in the 14-year old EIS is outdated and not in compliance with current environmental review requirements. Therefore, EPA believes that the FmHA or the lead agency should prepare a supplemental draft EIS or supplemental information report.

ERP No. F-FHW-E40695-GA, GA-400 Extension, I-85 to I-285, Construction, 404 Permit, GA. SUMMARY: EPA was primarily concerned about predicted noise impacts and the proposed channel relocation of Nancy Creek. EPA requested a follow-up letter addressing additional noise mitigation, alternatives to channelization, creation of more water quality detention basins, and other areas of concern.

Dated: October 18, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 24100 Filed 10-15-87; 8:45 am]

BILLING CODE 6560-50 M

[FRL-3277-4]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Industrial Economics, Inc. (IEC) information which has been, or will be, submitted to EPA under section 3007 of the Resource Conservation and Recovery Act (RCRA). Some of the information may have a claim of business confidentiality. This firm is working, in support of the Waste Characterization Branch, on reevaluating the approach used to define wastes as hazardous under RCRA.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than October 23, 1987.

ADDRESSES: Comments should be sent to Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4670.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting a program to characterize waste and assess waste management practices within the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes and pigments, coke by-products, wood preserving, rubber processing, chlorinated organics, used oil recycling, electroplating, ink formulation, metal heat treating, solvents, explosives, and secondary lead industries. The Agency will use the results to identify and list hazardous waste under the authority of section 3001 of the Resource Conservation and Recovery Act (RCRA), and to develop appropriate waste management standards under section 3004.

Under EPA Contract No. 68-01-7047, IEC, will assist the Waste Characterization Branch of the Office of Solid Waste in reevaluating the approach used to define wastes as hazardous under RCRA. The information being transferred to IEC was previously, or is currently being, collected by other agency contractors and is specific to the above-noted industries. Some of the information being transferred may have been, or will be claimed as confidential business information.

In accordance with 40 CFR 2.305(h), EPA has determined that IEC requires access to confidential business information (CBI) submitted to EPA under section 3007 of RCRA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, CBI specific to the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes & pigments, coke by-products, wood preserving, rubber processing, chlorinated organics, used oil recycling, electroplating, ink formulation, metal heat treating, solvents, explosives, and secondary lead industries. Upon completing their review of materials submitted for these industries, IEC will return all such materials to EPA.

IEC has been authorized to have access to RCRA CBI under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved their security plan and will inspect their facility and approve it prior to RCRA CBI being transmitted to the contractor. Personnel from this firm will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contractor Requirements Manual.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

Date: September 28, 1987.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 87-23858 Filed 10-15-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3277-5]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, ICF, Inc., information which has been submitted under the "Rulemaking Petition" Regulations (40 CFR 260.20 and 260.22) and under the Hazardous and Solid Waste Amendments (HSWA) of 1984. Some of the information may have a claim of business confidentiality. This firm will use this information to review and assess the completeness of the delisting petitions submitted, based on parameters specified in the Code of Federal Regulations (40 CFR 260.20 and 260.22, as amended by HSWA). The information was previously managed by ICF under Contract No. 68-01-6861.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than October 23, 1987.

ADDRESSES: Comments should be sent to Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Information Management Staff (WH-563), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4670.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting a program to review and evaluate delisting petitions received under the "Rulemaking Petitions" Regulations (40 CFR 260.20 and 260.22) and under the Hazardous and Solid Waste Amendments (HSWA) of 1984. The Agency will make a decision whether to grant or deny each delisting petition under the authority of 40 CFR 260 Subpart C and HSWA.

Under EPA Contract No. 68-01-7259, ICF, Inc. of Washington, DC will assist the Variances Section of the Assistance Branch of the Office of Solid Waste in reviewing and assessing the completeness of the delisting petitions submitted, based on the parameters specified in the Code of Federal Regulations (40 CFR 260.20 and 260.22, as amended by HSWA), including: the description of manufacturing/treatment processes; the content of petitioned residual streams; the integrity of sampling data; and the list of raw materials and corresponding Material Safety Data Sheets.

In accordance with 40 CFR 2.305(h), EPA has determined that ICF requires access to confidential business information (CBI) submitted to EPA under 40 CFR 260.20 and 260.22, as amended by HSWA, to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under the above-noted authority that EPA may transfer to this firm, on a need-to-know basis, CBI necessary for the evaluation of delisting petitions which were submitted in response to 40 CFR 260.20 and 260.22, as amended by HSWA. Upon completing their review of materials submitted, ICF will return all such materials to EPA.

ICF has been authorized to have access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved the security plan of the contractor and will inspect the contractor's facility and approve it prior to the transmittal of any RCRA CBI. Personnel from this firm will be required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contract Requirements Manual.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

Date: September 22, 1987

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 87-23859 Filed 10-15-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3277-6]

Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Research Triangle Institute (RTI), information which has been, or will be, submitted to EPA under section 3007 of the Resource Conservation and Recovery Act (RCRA). Some of the information may have a claim of business confidentiality. This firm is developing information bases for and conducting regulatory impact analyses, regulatory flexibility analyses, environmental impact statements, and other analyses for regulatory development within the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes & pigments, coke by-products, wood preserving, rubber processing, chlorinated organics, used oil recycling, electroplating, ink formulation, metal heat treating, solvents, explosives, and secondary lead industries.

DATE: The transfer of the confidential date submitted to EPA will occur no sooner than October 23, 1987.

ADDRESSES: Comments should be sent to Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4670.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting regulatory impact analyses, regulatory flexibility analyses, environmental impact statements, and other analyses for regulatory deveopment in support of the policies and programs established for solid and hazardous waste management under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA), including subsequent amendments through 1984.

Under EPA Contract Nos. 68-01-7266 and 68-01-7075, RTI will assist the Information Management Staff of the Office of Solid Waste in conducting regulatory impact analyses, regulatory flexibility analyses, environmental impact statements and other analyses within the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes & pigments, coke by-products, wood preserving, rubber processing, chlorinated organics, used oil recycling, electroplating, ink formulation, metal heat treating, solvents, explosives, and secondary lead industries.

The information being transferred to RTI was previously, or is currently being, collected by other agency contractors and is specific to the above-noted industries. Some of the information being transferred may have been, or will be claimed as confidential business information (CBI).

In accordance with 40 CFR 2.305(h), EPA has determined that RTI requires access to CBI submitted to EPA under section 3007 of RCRA to perform work satisfactorily under the above-noted contracts. EPA is issuing this notice to inform all submitters of information under section 3007 of RCRA that EPA may transfer to this firm, on a need-to-know basis, CBI specific to the organic chemicals, inorganic chemicals, petroleum refining, plastics, pesticides, dyes & pigments, coke by-products, wood preserving, rubber processing, chlorinated organics, used oil recycling, electroplating, ink formulation, metal heat treating, solvents, explosives, and secondary lead industries. Upon completing their review of materials submitted for these industries, RTI will return all such materials to EPA.

RTI has been authorized to have access to RCRA CBI under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved their security plan and will inspect their facility and approve it prior to the transmittal of any RCRA CBI. Personnel from this firm will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contractor Requirements Manual.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

Date: September 28, 1987.

J.W. McCraw,

Acting Assistant Administrator.

[FR Doc. 87-23860 Filed 10-15-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3277-7]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractors, Dynamac Corporation, and their subcontractors: Research Triangle Institute (RTI); S-Cubed; Jacobs Engineering Group; ENSECO, Inc.; and

Sobotka, Inc.; and Midwest Research Institute (MRI), and their subcontractors: ICF, Inc.; Radian Corporation; Romar Consultants; Science Applications International Corporation (SAIC); Versar, Inc.; and Walk, Haydel & Associates (WH&A), information which has been, or will be, submitted to EPA under the authority of the Resource Conservation and Recovery Act (RCRA) in the following surveys:

- National Screening Survey of Hazardous Waste Treatment, Storage, Disposal, and Recycling Facilities;
- National Detailed Survey of Hazardous Waste Treatment, Storage, Disposal, and Recycling Facilities;
- Solid Waste (Municipal) Landfill Survey;
- Subtitle D Industrial Facilities Telephone Screening Survey;
- Subtitle D Industrial Facilities Mail Survey; and
- National Survey of Hazardous Waste Generators.

These firms are developing and maintaining information bases for and conducting waste characterization studies, regulatory impact anaylses, regulatory flexibility analyses, environmental impact statements, and other analyses for regulatory development for the Office of Solid Waste. Some of the information may have a claim of business confidentiality.

DATE: The transfer of the confidential data submitted to EPA will occur no sooner than October 23, 1987.

ADDRESSES: Comments should be sent to Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be identified as "Transfer for Confidential Data."

FOR FURTHER INFORMATION CONTACT: Dina Villari, Document Control Officer, Office of Solid Waste, Information Management Staff (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4670.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is conducting waste characterization studies, regulatory impact analyses, regulatory flexibility analyses, environmental impact statements and other analyses for regulatory development in support of the policies and programs established for solid and hazardous waste management under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA), including subsequent amendments through 1984.

Dynamac, and their subcontractors (EPA Contract No. 68-01-7266), and MRI, and their subcontractors (EPA Contract No. 68-01-7287), are developing and maintaining information bases for and conducting waste characterization studies, regulatory impact analyses, regulatory flexibility analyses, environmental impact statements, and other analyses for regulatory development for the Office of Solid Waste. Some of the information being transferred may have been, or will be claimed as confidential business information (CBI).

In accordance with 40 CFR 2.305(h), EPA has determined that Dynamac, and their subcontractors, and MRI, and their subcontractors, require access of CBI submitted to EPA under the authority of RCRA to perform work satisfactorily under the above-noted contracts. EPA is issuing this notice to inform all submitters of CBI that EPA may transfer to these firms, on a need-to-know basis, CBI collected under the authority of RCRA in the above-noted surveys. Upon completing their review of materials submitted, the contractors will return all such materials to EPA.

Dynamac, and their subcontractors, and MRI, and their subcontractors, have been authorized to have access to RCRA CBI under the EPA "Contractors Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA has approved the security plan of the contractors and will inspect their facilities and approve them prior to RCRA CBI being transmitted to the contractors. Personnel from these firms will be required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contract Requirements Manual.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

Date: September 28, 1987.

J.W. McGraw

Acting Assistant Administrator.

[FR Doc. 87-23861 Filed 10-15-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3275-6; Notice No. 87; FL115]

Proposed 404(C) Determination to Prohibit, Deny, or Restrict the Specification of Use of Three East Everglades Areas as Disposal Sites; Notice and Public Hearing Announcement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Section 404(c) determination and notice of public hearing.

SUMMARY: Section 404(c) of the Clean Water Act (CWA) (33 U.S.C. 1251 *et seq.*) authorizes the Administrator of the EPA to prohibit, deny or restrict the specification or use of any defined area as a disposal site, whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such an area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. EPA's procedures for implementing section 404(c) are set forth in 40 CFR Part 231. This notice of proposed 404(c) determination and public hearing is being published by the Regional Administrator of the EPA's Region IV office in Atlanta, Georgia. This notice includes the Regional Administrator's proposal for three section 404(c) actions involving three separately-owned wetland properties in the East Everglades area of southern Florida.

These three properties are located in the Taylor Slough drainage area west of Miami in Dade County, Florida. All three are wetland areas with similar ecological values, each being part of the East Everglades wetlands complex. Taylor Slough is the major drainage way of waters entering the eastern portion of Everglades National Park (ENP). Proposals to "rockplow" these wetland areas to convert them for agricultural use have been made or can reasonably be expected in the near future. Such rockplowing activities would destroy the wetland ecological values which these tracts possess and, if permitted, would encourage future rockplowing of other nearby wetland areas in the East Everglades.

The first of the three properties for which a 404(c) determination is being proposed is a 60-acre tract owned by the Henry Rem Estate (the "Rem site"). The Rem site consists of the southern 60 acres of a 160-acre tract owned by Henry Rem Estate which is located in the western quarter of Section 5,

Township 56 South, Range 38 East, or about 1 mile south of SW. 168th St. (Richmond Drive) and about 1.8 miles west of Levee L–31N. In December 1986, the Corps of Engineers, Jacksonville District, gave notice of is intention to issue a Section 404 permit to Henry Rem Estate for rockplowing of the 60-acre Rem site.

The second of the three wetland areas is another 60-acre tract located adjacent to and east of the Rem site, and jointly owned by Mrs. Marian Becker, Mrs. Bilba Burk, Mr. Irving Sonnenschein, Mr. Euval Barrekette and Mr. Paul Yanowitz (the "Becker site"). In its permit documentation covering the Rem site, the Corps of Engineers indicated that it was anticipating a future application to permit rockplowing on this 60-acre Becker site, which the Corps viewed as substantially similar to the Rem site for permitting purposes.

The third property totals approximately 312 acres owned by Senior Corporation (collectively the "Senior Corp. site"), within a larger piece of Senior Corp. property which begins about 2.5 miles south of the Rem and Becker sites and extends along SW. 232nd Avenue and south to SW 304th Street in Dade County. The 312-acre Senior Corp. site on which this 404(c) action is being proposed consists of three separate parcels of wetlands: One of approximately 132 acres within Section 7, Township 57 South, Range 38 East; another of approximately 150 acres within Section 30, Township 56 South, Range 38 East; and the third of approximately 30 acres within Section 6, Township 57 South, Range 38 East. A Senior Corp. application to the Corps for a permit to rockplow these three wetland parcels remains pending at this time.

EPA Region IV concluded, because the Rem, Becker and Senior Corp. tracts are essentially similar pieces of the East Everglades wetlands complex with similar ecological values, that the initiation of one 404(c) action embracing all three tracts would be an efficient and appropriate way for the Federal government to address the serious environmental concerns arising from potential rockplowing in these wetland areas. Individual decisions, however, will be made with respect to the three properties.

EPA Region IV proposes to prohibit, deny or restrict the specification or use of the wetland properties described herein as disposal sites for dredged or fill materials resulting from rockplowing under provisions of section 404(c) of the CWA. This 404(c) determination is being proposed because there is reason to believe that rockplowing these wetlands will result in unacceptable adverse effects on fishery (including spawning and breeding areas for forage fishes), wildlife and recreational areas. In accordance with 40 CFR 231.4, it would be in the public interest to hold a hearing on this proposed determination.

Purpose of Public Notice

This serves as a notice of proposed section 404(c) determinations and public hearing covering the Rem site, the Becker site, and the Senior Corp. site, as above described. This hearing will be held to obtain comments on EPA's proposal to prohibit or restrict discharge of fill material from rockplowing these wetland areas and receive data or observations concerning whether the rockplowing of all or part of these approximately 432 acres of East Everglades wetlands in the Taylor Slough drainage area would cause an unacceptable adverse effect as described in section 404(c) of the CWA.

Hearing Date: November 18, 1987, beginning at 7:00 p.m.

Hearing Location: Homestead Senior High School Auditorium, 2351 SE 12th Ave. Homestead, Dade County, Florida, 33035.

Comments may be submitted prior to the hearing or presented at the hearing. The hearing record will remain open after the hearing until close of business, December 3, 1987, for the addressed of written comments. Comments submitted prior to or after the hearing or requests for copies of the proposed determination should be submitted to EPA Region IV's designated Record Clerk, Suzanne Potter, Office of Congressional and External Affairs, EPA, 345 Courtland Street, Atlanta, Georgia 30365, (404)347–3004. Comments should directly address whether the proposed determination should become the final determination or whether corrective action could be taken to reduce the adverse impact of the discharge. All such comments will be considered in reaching a decision to either withdraw the proposed determination or prepare a recommended determination to prohibit, deny or restrict the specification or use of all or portions of the Rem site, the Becker site and/or the Senior Corp. site as disposal sites for rockplowing. A Regional recommendation and the administrative record will be forwarded to the EPA Assistant Administrator for Water in Washington, DC, for review and the final determination. The procedures to be used in making the final determination are specified at 40 CFR 231.6.

Copies of all comments submitted in response to this notice will be available for public inspection during normal working hours (8:00 a.m. to 5:00 p.m.) at the EPA Region IV office.

Hearing Procedures

a. The Regional Administrator of EPA's Region IV, or his designee, will be the Presiding Officer at the hearing.

b. Any person may appear at the hearing and submit oral and/or written statements or data and may be represented by counsel or other authorized representative. Any person may present written statements or recommendations for the hearing file prior to the time the hearing file is closed to public submissions. The Presiding Officer shall afford the participants an opportunity for rebuttal.

c. The Presiding Officer will establish reasonable limits on the nature, amount or from of presentation of documentary material and oral presentations. No cross examination of any hearing participant shall be permitted, although the Presiding Officer may make appropriate inquiries of any such participant.

d. The hearing file will be open for submission of written comments until close of business, December 3, 1987.

Supplementary Information and Background

A. Section 404(c) Authority and Criteria

Under section 404 of the CWA (33 U.S.C. 1251 *et seq.*), any person who proposes to discharge dredged or fill material into the waters, including wetlands, of the United States must first obtain a permit from the Secretary of the Army, acting through the Chief of Engineers. However, CWA section 404(c) authorizes the EPA Administrator to prohibit or restrict such permitting within any area defined by him if he determines that discharges of dredged or fill material there would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

EPA's regulations define "unacceptable adverse effect" in 40 CFR 231.2(e) as:

> Impact on an aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supplies or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the section 404(b)(1) Guidelines (40 CFR Part 230).

The preamble to 40 CFR Part 231 explains that one of the basic functions of section 404(c) is to police the

application of the section 404(b)(1) Guidelines. Those portions of the Guidelines relating to significant degradation of waters of the United States (40 CFR 230.10(c)), as well as consideration of cumulative impacts (40 CFR 230.11(g)), are of particular importance in the evaluation of the unacceptability of environmental impacts in this case. Section 230.10(c) of the Guidelines requires that no discharge of dredged or fill material shall be permitted that contributes to significant degradation of waters of the United States. Section 230.11(g) requires that the permitting authority collect, analyze, consider and document information relevant to cumulative impacts within the decision-making process. Thus, it is appropriate under section 404(c) to take into account whether significant degradation of waters of the United States will occur as a result of individual and/or cumulative rockplowing activities.

The Administrator's section 404(c) authority may be used either to "veto" a permit which the Corps has determined it would issue (as in the case of the Rem site) or to preclude permitting either before the Corps has made its decision (as in the case of the Senior Corp. site), or in the absence of an application (as in the case of the Becker site). Under his section 404(c) authority, the Administrator may totally prohibit all discharges of dredged or fill material to a defined area or he may impose some partial prohibition, such as a restriction from a particular type of activity. This proposed section 404(c) determination is limited to a prohibition on discharges resulting from rockplowing the three East Everglades sites under consideration.

B. Nature of Proposed Discharge

"Rockplowing" is a process frequently used in the past to convert East Everglades wetlands into fields suitable for agriculture. In this process, a bulldozer is used to drag a plow-like implement over the pinnacle rock surface of these wetlands, breaking up that surface. The crushed rock and other materials are used to fill the wetlands' characteristic solution holes so that the area is made sufficiently smooth and level to allow a kind of hydroponic farming. EPA is particularly concerned about the continuation of rockplowing in the East Everglades area because this activity, by its nature, completely destroys the irregular surface characteristics which allow these wetlands to perform their most valuable ecological functions.

C. Characteristics of the Sites Under Consideration

The Rem, Becker and Senior Corp. sites encompass some 432 acres of seasonally inundated graminoid prairie wetlands with irregular rocky limestone substrates, typical of wetlands on the eastern margin of Taylor Slough. In their natural state, wetlands of this type provide fish and wildlife habitat, food chain production, groundwater recharge, water storage, and biological and geochemical nutrient and pollutant uptake. In addition, functional muhlygrass/pinnacle rockprairie wetlands in this area have recreational value as sites for bird watching and other nature study.

The elevation of the rocky substrate surface at the Rem and Becker sites is approximately 7 to 7.5 feet NGVD (i.e., above sea level) and approximately 6 to 8 feet NGVD in various locations within the Senior Corp. project site. Solution holes with depths of one to three feet below the rocky surface are common throughout these prairie wetlands. The dominant vegetable community found is described as wetland prairie, muhly/muhly-beardgrass in the Dade County East Everglades Management Plan. The dominant wetland plant species in the solution holes located throughout the wetland prairies is sawgrass, *Cladium jamaicensis*. The predominant wetland plant species on the rocky surface of the prairie is muhlygrass, *Muhlenbergia capillaris*, along with *Flaveria linearis*, *Pluchea* spp., *Dichromena colorata*, *Aristida* spp. and *Hypericum* spp. There is a thin (1"—2") layer of marl soil over portions of the rockland surface of the wetland prairie. During the summer wet season, water accumulates in the solution hole depressions and is held long enough for algal periphyton populations to grow. Numerous EPA and U.S. Fish and Wildlife Service (FWS) inspections over the past five years confirm the presence of standing water and periphyton in the solution holes during the summer rainy season as well as periphyton occurring over much of the rocky ground surface.

Scattered throughout the Rem, Becker and Senior Corp. site muhlygrass prairies are hardwood tree hammocks composed predominantly of red bay, wax myrtle, willow bustic and coco plum. Many of the tree islands have been invaded by exotic tree species, Brazilian pepper and Australian pine. The tree hammocks provide valuable cover and resting areas for a large number of reptiles, amphibians, small mammals and birds. Another type of tree island located in the Rocky Glades is known as a willow head, which normally contains standing water depressions. The willow heads provide very valuable dry season aquatic refuge for numerous aquatic faunal species.

The seasonally flooded solution holes and the normally flooded willow heads provide valuable habitat for numerous amphibians, invertebrates and small fish, which utilize the periphyton-based food web as a food source. These pinnacle rock solution holes and willow heads greatly increase the heterogeneity of the muhlygrass prairies and provide valuable micro-habitats within the prairies for lower trophic level animals to feed, breed and seek refuge. Populations of valuable prey species such as snails, aquatic insects, crayfish, tadpoles, frogs, snakes, turtles, mosquito fish, killifishes, flagfish, sunfish and other small fishes substantially expand in size in the solution holes and willow heads during the summer wet season and disperse across the adjacent prairies. The presence of aquatic food source organisms has been documented at the proposed rockplowing sites. As the wet season ends, the solution holes gradually dry down providing a concentrated food source for reptiles, small mammals and wading birds such as herons and egrets.

The wildlife inhabiting the East Everglades area, which includes these sites, is one of the most valuable and unique natural features of south Florida. Approximately 350 animal species are known to occur in the area including: 34 species of fish, 18 species of amphibians, 44 species of reptiles, 28 species of mammals, and 230 species of birds. These species depend on the diversity of habitats that offer opportunities for feeding, reproduction, and cover. Valuable habitats occur throughout the East Everglades and animals using these natural habitats move freely to other natural areas within the East Everglades, Everglades National Park and throughout south Florida. Some of the animals utilizing these natural habitats have large home ranges requiring free movement to, and use of, a broad array of south Florida habitats types. Migratory birds (e.g., woodstork, warblers, great white heron) utilize parts of the East Everglades as well as Everglades National Park on a seasonal basis.

Although all wildlife is considered a valuable resource, some species have been given special distinction because of their recreational value or because they have been placed on protected lists by Federal or State governments. A total of 33 species which are on various protected lists occur in the East Everglades. Several of the nation's

rarest and most unique animals survive in the East Everglades, two of which are the federally endangered Cape Sable sparrow and Florida panther. The wetland area immediately north of the Rem and Becker tracts was recently used by a radio collared male Florida panther.

The wetlands herbaceous vegetation and periphyton mats serve to filter surface waters removing nutrients and pollutants. This water purification function is important in maintaining the quality of the surficial Biscayne Aquifer, a designated "sole source" aquifer for drinking water supply to residents of southeast Florida.

D. Adverse Impacts of Permit Issuance

Rockplowing the Rem, Becker and Senior Corp. sites would destroy some 432 acres of functional and productive East Everglades muhlygrass-sawgrass prairie wetlands and thereby eliminate virtually all of the habitat value it now provides. The farm fields that would replace these wetlands after rockplowing would be a low quality habitat for wildlife. Cotton rats are the prime resident animals in such fields with some marsh rabbits found around field edges. This paucity of lower food chain prey is fed on by an occasional visiting marsh hawk or kestrel. A dearth of wildlife would be caused both by the seasonal nature of vegetable crops grown in rockland fields and by rockplowing's reduction of a "two-story" habitat system (surface rock/solution holes) to a flat dry plain. EPA Region IV believes that the direct loss of 432 acres of functional East Everglades muhlygrass prairie may represent a significant and unacceptable environmental loss.

The individual and cumulative losses of East Everglades wetlands pose a threat to groundwater quality, specifically the "sole source" designated Biscayne Aquifer. EPA Region IV's concerns for potential impacts to the groundwater quality is based on two factors: (1) The loss of the surface filtration of surface waters which are hydrologically contiguous with the Biscayne Aquifer, and (2) the potential for the transport of nutrients, herbicides, pesticides, oils and grasses and other contaminants that might be associated with agricultural or other development on the altered glade wetlands.

EPA Region IV is also very concerned about cumulative impacts of continuing destruction of East Everglades prairie wetlands which are located along the eastern border of Everglades National Park. According to the FWS, about 25,000 acres of prairie wetlands once occupied the East Everglades area, and approximately 8,000 acres of those wetland areas have now been disturbed or destroyed. Human activities (e.g., rockplowing, drainage, residential development) in the East Everglades have continued to degrade, threaten or eliminated large acreages of East Everglandes wetlands and are instrumental in adversely changing wildlife populations. Loss of functional wetland habitat is recognized by wildlife experts as a major contributing factor to reduction in size of wildlife populations. These cumulative adverse impacts may also be unacceptable.

Additionally, EPA Region IV is also aware that permitting the rockplowing of fully functional prairie wetlands at the Rem, Becker and Senior Corp. sites may be viewed as precedent to stimulate future wetland conversion projects in this area. The owners of these three sites also own approximately another 600 acres of very similar wetlands in the immediate vicinity of the 432 acres of wetlands under consideration. EPA Region IV anticipates that Corps rockplowing permits may be sought for these additional wetland areas if permits are issued for the areas covered by this proposed determination.

Other nearby East Everglades prairie wetlands might also be expected to come under intense pressure for agricultural development if rockplowing is allowed to convert the Rem, Becker and Senior Corp. sites. For example, approximately 585 of muhlygrass-sawgrass wetlands between the Fem and Senior Corp. sites were subject to past rockplowing proposals which were later either withdrawn or rejected on procedural grounds by the Corps. In addition, approximately 2,000 acres of privately owned muhlygrass wetland prairie, very similar in nature to the Henry Rem Estate, Becker and Senior Corp. wetlands are located in Sections 5, 6, 31 and 32, adjacent and north of the Rem and Becker wetland sites, south of SW 168th St. (Richmond Drive) and east of SW. 237th Ave. An additional 2,000 acres of similar muhlygrass wetland prairies exist along the northwest perimeter of the 8.5 square miles East Everglades residential area north of SW 168th St. EPA anticipates that these additional muhlygrass wetland prairies (totaling approximately 5,000 acres) would come under intense agricultural development pressure if the current rockplowing proposals were authorized. The potential cumulative loss of an additional nearby 5,000 acres of similarly classed wetlands would be devastating to the ecological integrity of the East Everglades ecosystem and the eastern border of Everglades National Park and may not be in the public interest.

E. Procedural Background

(1) The Rem and Becker Sites

On April 11, 1985, the Corps of Engineers, Jacksonville District, gave public notice that Henry Rem Estate had applied for a section 404 permit to rockplow 160 acres of East Everglades wetlands including the 60-acre "Rem site". EPA and FWS, in letters dated May 6 and 7, 1985, each objected to permit issuance citing the potential adverse environmental impacts of project construction.

The South Florida Regional Planning Council, in a letter dated May 7, 1985, indicated that the activity was inconsistent with local land planning. The Dade County Department of Environmental Resource Management (DERM), in a letter dated June 28, 1985, recommended denial of the project based upon inconsistency with local zoning and the implementation plan of the Everglades National Park-East Everglades Resources Planning and Management Committee.

On April 14, 198, after negotiations with the applicant, the Corps wrote to EPA and requested EPA's official comment on the applicant's revised proposal to rockplow the southern 60 acres of wetlands at the site. On June 12 and July 2, 1986, FWS and EPA respectively expressed continued opposition to permitting the southern 60 acres of wetlands of the Rem tract based on the project's environmental impacts and inconsistency with the section 404(b)(1) Guidelines. EPA stated that the decision to segment the project into a 60-acre southern portion lacked any biological basis because the 160-acre wetland tract owned by the Henry Rem Estate was essentially homogeneous in nature from north to south.

On December 22, 1986, the Jacksonville Corps District Engineer, forwarded to EPA Region IV its formal notice of intent to issue to 60-acre Rem permit.

On January 22, 1987, Lawrence Jensen, EPA Assistant Administrator for Water, wrote to Robert Dawson, then Assistant Secretary of the Army for Civil Works (ASACW) requesting his review of the Henry Rem Estate permit matter under the provisions of the EPA-Corps Memorandum of Agreement (MOA) pursuant to section 404q of the CWA. EPA restated its environmental concerns

and indicated that review of the Rem permit decisions was justified due to the failure of the Corps to resolve EPA concerns regarding compliance with section 404(b)(1) Guidelines. EPA expressed specific concerns relative to the inadequacy of the Corps' cumulative impacts assessment and the inappropriateness of the Corps' assessment of the significance of impacts associated with rockplowing 60 acres of wetlands at the Rem site, which EPA concluded would result in significant degradation of the waters of the U.S.

On January 23, 1987, William Horne, Assistant Secretary for U.S. Fish and Wildlife and Parks, Department of Interior (DOI), also requested that Mr. Robert Dawson, ASACW, review the Henry Rem Estate permit decision.

On February 12, 1987, Mr. Dawson determined that the issues that EPA discussed in its January 22, 1987, referral request letter should be addressed by the DE without elevation to higher bureaucratic levels prior to final permit action. In Mr. Dawson's letter to Mr. Horne he restated the determination that he made in his letter to EPA.

In the Corps documentation supporting its formal notice of intent to issue the Rem site permit, the Corps indicated that it anticipated that a rockplowing application would be received covering the adjacent 60 acres of wetlands to the east of the Rem property, owned by Mrs. Marian Becker et al. The Corps further indicated that it viewed the 60-acre Becker site as being a substantially similar situation for permitting purposes to the Rem site. In fact, the Corps predicted that the rockplowing of the Becker site would be one of the impacts of permitting the Rem site. Therefore, EPA Region IV believes that inclusion of the Becker site in this 404(c) action is appropriate, even though no application for rockplowing this site has been made at this time.

(2) The Senior Corp. Site

On May 14, 1986, the Corps gave public notice of a section 404 permit application consolidating four rockplowing proposals by Senior Corporation that had been advertised separately by the Corps during 1982 and 1983 into one application proposing 1,028 acres of rockplowing of East Everglades prairie wetlands.

On June 13, 1986, EPA Regional Administrator Jack Ravan, recommended that the Corps deny approximately 716 acres of the 1,028 acre Senior Corp. proposal, based on environmental concerns essentially similar to those expressed in EPA's comments to the Henry Rem Estate project. On June 13, 1986, the FWS wrote to the Corps, recommending denial of 716 acres of the Senior Corp. proposal based on adverse impacts to fish and wildlife habitat.

On April 7, 1987, Senior Corp. provided the Corps with project modifications, reducing wetland impacts at the project site. Corps staff indicated that Senior Corp. project modifications eliminated rockplowing in critical habitat for the federally endangered Cape Sable sparrow, but continued to propose rockplowing activities on approximately 312 acres of wetlands which EPA and FWS had previously recommended permit denial for rockplowing activities.

On April 22, 1987, EPA Region IV initiated this proposed 404(c) determination by notifying the Jacksonville Corps DE and the Rem and Becker site owners of the proposed action. On the same day EPA Region IV also notified Senior Corp. of its intention to initiate a 404(c) action on the approximate 720 acres of wetlands for which this Agency had earlier recommended permit denial. Because of Senior Corporation's April 7, 1987 permit modification, which eliminated approximately 400 acres of proposed wetland rockplowing to which EPA had objected, this 404(c) action addresses only the remaining approximate 312 acres of rockplowing still pending before the Corps of Engineers. On August 3, 1987, the Jacksonville Corps issued a permit to Senior Corp. authorizing 307 acres of rockplowing in wetland areas which were not opposed for rockplowing by EPA and FWS and which are not subject to the current 404(c) action.

Following his review of responses from the owners of the three sites, the Regional Administrator was not persuaded that there would be no unacceptable adverse effects from proposed or anticipated rockplowing at the three sites subject to this proposed 404(c) determination.

FOR FURTHER INFORMATION CONTACT: E.T. Heinen, Chief, Marine and Estuarine Branch, Water Management Division, Environmental Protection Agency, 345 Courtland, Street, NE., Atlanta, Georgia 30365, (404) 347–2126.

Date: October 5, 1987.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 87–23570 Filed 10–15–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIOINS COMMISSION

Formation of Advisory Committee on Advanced Television Service and Announcement of First Meeting

The Federal Communications Commission has established an advisory committee to assist the Commission in considering the issues surrounding the introduction of advanced television service in the United States. The committee is expected to advise the Commission on the facts and circumstances regarding advanced television systems and to recommend policies, standards, and regulations that could accommodate the orderly and timely introduction of advanced television service. The charter for the committee is attached.

The first meeting of the Advisory Committee on Advanced Television Service will be held on November 17, 1987, in the Commision Meeting Room, Room 856, 1919 M Street, N.W., Washington, D.C. The meeting will start at 2:00 P.M. All interested parties are invited to attend.

The agenda for the first meeting will consist of:

1. FCC Chairman's Remarks;
2. Administrative Matters;
3. Committee Charter;
4. Committee Work Plan—
   Proposed Schedule
   Discussion and Approval;
5. Designation of Subsequent Meetings;
6. Concluding Remarks.

Any questions regarding this meeting should be directed to Mr. William Hassinger at (202) 632–6460 or Mr. Victor Tawil at (202) 653–8162.

Charter for Advisory Committee on Advanced Television Service

A. The Committee's Official Designation

Advisory Committee on Advanced Television Service

The Advisory Committee will have no more than twenty-five members and will function as a Parent Committee. These members will be chosen by the Commission so as to obtain diverse and representative viewpoints. The Advisory committee Chairman will direct the activities of the Committee and Subcommittees and will receive guidance, advice and instructions from the Chairman of the Federal Communications Commission.

B. Name of Subcommittee(s)

Three Subcommittees: Planning Subcommittee, Systems Subcommittee, Implementation Subcommittee.

Membership of Subcommittees will be open to all interested parties.

C. Committee's Objectives and Scope of its Activity

Parent Committee

Objective: The Committee will advise the Federal communications Commission on the facts and circumstances regarding advanced televsion systems for Commission consideration of the technical and public policy issue. In the event that the Commission decides that adoption of some form of advanced broadcast television is in the public interest, the Committee would also recommend policies, standards and regulations that would facilitate the orderly and timely introduction of advanced television services in the United States.

Scope of activity: All steps necessary to assemble information, analyze information, deliberate upon appropriate policies and actions, and develop recommendations regarding the introduction of terrestrial advanced television service. Includes technical, economic, legal and regulatory issues.

Planning Subcommittee

Objective: To plan the attributes of advanced television service in the United States.

Scope of Activity: All steps necessary to provide advice on desired features of terrestrial advanced television service.

(a) Define the desirable characteristics of advanced television service; for example, in terms such as picture quality, population served, costs to broadcaster/consumer/manufacturers, relationship to existing broadcast service, relationship to non-broadcast services.

(b) Review the technical planning factors for the existing television service and recommend planning factors for advanced television service, including consideration of factors such as coverage area, quality of service, frequency reuse criteria, receiver quality, spectrum allocations.

Systems Subcommittee

Objective: To specify the transmission/reception facilities appropriate for providing advanced television service in the United States.

Scope of Activity: All steps necessary to provide advice on the parameters of systems to provide terrestrial advanced television service.

(a) Evaluate, on technical and economic bases, advanced television systems now under development for the purpose of determining feasibility for implementation in the United States.

(b) Recommend advanced television system(s) now under development as candidate(s) for implementation, or specify the design of an appropriate system.

(c) Advise on the appropriate transmission/reception technical standards and spectrum requirements for the recommended system(s).

Implementation Subcommittee

Objective: To establish a scheme for implementation of advanced television service in the United States.

Scope of Activity: All steps necessary to provide advice on policies, regulations and standards for implementation of terrestrial advanced television service.

(a) Develop a transition scheme for implementation of advanced television service in the United States.

(b) Recommend appropriate FCC policies and regulations to oversee implementation of advanced television service and develop guidelines for industry activities.

D. Period of Time Necessary for the Committee To Carry out its Purposes

An initial written report containing recommendations of the Committee on fundamental parameters and spectrum requirements must be submitted by 6 months from the date of the first meeting.

E. Official to Whom the Committee Reports

The Chairman of the Federal Communication Commission.

F. Agency Responsible for Providing Necessary Support for the Committee

The Federal Communications Commission will furnish necessary administrative support, including facilities needed for conducting meetings of the Committee.

G. Description of Duties for Which the Committee is Responsible

The duties of the Committee and its Subcommittees will be to assemble information, to conduct deliberations and to prepare and submit recommendations appropriate to the attainment of the objectives listed under (C) above.

H. Estimated Annual Operating Costs in Dollars and Person Years

The estimated operating costs are $10,000 for the FCC. Estimated person-years are 3.0 for the FCC and 25.0 for non-government participants.

I. Estimated Number and Frequency of Committee Meetings

The Committee will meet three times per year or at such intervals as the Committee decides. Subcommittees are expected to meet on a monthly basis until completion of their tasks.

J. Committee's Termination Date

The Committee will terminate September 30, 1989.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-24147 Filed 10-15-87; 8:45am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 87-1056]

Report For Wholly-Owned Service Corporation

Date: October 13, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Report For Wholly-Owned Service Corporation" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction act (44 U.S.C. Chapter 35).

This information is necessary to monitor the financial condition of the Service Corporations. The Bank Board estimates that it requires four hours to complete this report.

Comments on the information collection request are welcome and should be received on or before November 2, 1987.

ADDRESS: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection requests and supporting documentation are obtainable at the Bank Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G

Street NW., Washington, DC 20552, Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Cathern Smith, Office of Regulatory Policy, Oversight and Supervision, (202) 778–2567, Federal Home Loan Bank System, 900 Nineteenth Street NW., Washington, DC 20006.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87–24007 Filed 10–15–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–665]

First Dewitt Savings and Loan Association, West Caldwell, NJ; Notice of Final Action Approval of Conversion Application

Date: October 7, 1987.

Notice is hereby given that on October 2, 1987, the Office of the General Counsel of the Federal Home Loan Bank, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Dewitt Savings and Loan Association, West Caldwell, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87–24008 Filed 10–15–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–666; FHLBB No. 3778]

Home Federal Savings Bank, North Hills, NY; Final Action; Approval of Conversion Application

Date: October 13, 1987.

Notice is hereby given that on October 7, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings Bank, North Hills, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87–24010 Filed 10–15–87; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–667; FHLBB No. 4009]

Home Federal Savings and Loan Association of Washington, DC; Notice of Final Action; Approval of Conversion Application

Date: October 13, 1987.

Notice is hereby given that on October 7, 1987, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of Washington, DC, Washington, DC, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street, NE., Atlanta, Georgia 30348.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 87–24009 Filed 10–15–87; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2701
Name: International Shipping Company
Address: 9009 La Cienega Blvd., Inglewood, CA 90301
Date Revoked: May 28, 1987
Reason: Failed to maintain a valid surety bond

License Number: 2102
Name: API Maritime Services Inc.
Address: 8915 So. LaCienga Blvd., Inglewood, CA 90301
Date Revoked: September 9, 1987
Reason: Failed to maintain a valid surety bond

License Number: 168
Name: Latina-Macor Shipping Co., Ltd.
Address: 236 Main Street, P.O. Box 750, Ridegfield, N.J. 07660
Date Revoked: September 10, 1987
Reason: Surrendered license voluntarily

License Number: 2568
Name: Interfreight Forwarding Corporation
Address: 31–A Glen Street, Glen Cove, NY 11542
Date Revoked: September 15, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1999
Name: Air Van Lines, Inc.
Address: 1280 116th Avenue, NE., Bellevue, WA 98009
Date Revoked: September 16, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1139
Name: Engel International, Inc.
Address: 40 Commerce Drive, Cranbury, NJ 08512–9494
Date Revoked: September 16, 1987
Reason: Failed to maintain a valid surety bond

License Number: 1000
Name: General Freight Services, Inc.
Address: 324 Pacific Bldg., Portland, OR 97204
Date Revoked: September 27, 1987
Reason: Failed to maintain a valid surety bond

Robert G. Drew,

Director, Bureau of Domestic Regulation.

[FR Doc. 87–24005 Filed 10–15–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for public comment of draft FY 1988 program guidelines/application solicitation.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing this draft Fiscal Year 1988 Program Guidelines/Application Solicitation for the Labor-Management Cooperation Program to inform the public and obtain public comments. The

program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

DATE: Comments are due on or before November 15, 1987.

ADDRESS: Send comments to: Peter L. Regner, Director, Staff Operations and Programs, FMCS, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653–5320.

Labor-Management Cooperation Program Application Solicitation-FY 1988

A. Introduction

The following is the draft solicitation for the Fiscal Year 1988 cycle of the Labor-Management Cooperation Program. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in Fiscal year 1981. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor and management committee which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor management relationships, job secrity, organizational effectivensess, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in section I.

B. Program Description Objectives

The Labor Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To imporve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement or workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term "labor" refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committe is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. As industy committe generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in the private sector on a local, State, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or State government. Those employees must be covered by a formal collective bargaining agreement. Employees covered by so-called "meet and confer" agreements are not eligible under this program. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY88, competition will be open to plant, area, private industry, and public sector committees. In-plant committee applications should offer an innovative or unique effort. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds of activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have mumbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and disuss the full range of impacts these problems could have or are having on the plant, government, area, or industry. An idustrial or economic profile of the area and workforce might prove useful in explaining the problems. The section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must disuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communication between employers and and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committee should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons.

Include proposed position description for all staff that will have to be hired as well as resumes for staff already on board.

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestone*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The chart should identify months as "month 1, 2," etc., rather than by name of month as the grant start date will not be determined until all applications are reviewed. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation.*—Applicants must provide for an external evaluation or internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which will briefly discuss what basic questions or issues the assessment would examine and what baseline data the committee staff would already have/or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mine and the impact or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson on behalf of all members is not acceptable.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the bylaws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective-bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For in-plant applicants, this section will address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's fiscal feasibility vs. its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration and quality of the application; and,

(8) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site locations, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees (or a labor or management entity on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies are not eligible.

Third-party private non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exception applies to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FMCS has received a tentative FY88 appropriation of $900,000 for this program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (in-plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be awarded according to merit without regard to category.

FMCS reserves the right to retain up to 5 percent of the FY88 appropriation to contract for program support purposes (other than administrative).

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence at least 12 months prior to the submission deadline) will be for a period of 12 months. If successful

progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio.

The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants; up to $50,000 over 18 months for new in-plant committee applicants;

—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;

—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants of existing committees must provide at least 25 percent of the total allowable project costs. All matching funds must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/State government funds currently employed for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts only. Also, under no circumstances will business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY88 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than April 16, 1988. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application, containing numbered pages, *plus three copies* should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street NW., Washington, DC 20427. Applications submitted without sufficient copies may be returned.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more FMCS Grant Review Board(s). The Board(s) will decide which applications will be recommended for funding consideration. The Director, Labor-Management Grant Programs, will finalize the scoring and selection process of those applications recommended by the Board(s).

All FY88 grant applicants will be notified of results, and all grant awards will be made, prior to September 30, 1988. Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grant Programs.

H. Application Development Training

In FY88, FMCS will offer a half-day training program to assist potential applicants with the development and writing of an FMCS grant application. This training session will be conducted in Washington, DC on December 9, 1987. Individuals interested in attending the session should contact FMCS to reserve a space. See Section I for contact information.

I. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained free of charge by contacting Lee A. Buddendeck, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street NW., Washington, DC 20427, or by calling 202/653–5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 87–23957 Filed 10–15–87; 8:45 am]

BILLING CODE 6732–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on October 16, 1987.

Social Security Administration

(Call Reports Clearance Officer on 301–594–5706 for copies of package)

1. Report of New Information in Disability Cases—NEW—This form is used by disability beneficiaries to report changes in their medical or living conditions. Respondents: Individuals or households. Number of Respondents: 200,000; Frequency of Response: Occasionally; Estimated Annual Burden: 16,667 hours.

Desk Officer: Elana Norden

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–5706 for copies of package)

1. Evaluation of OPA Marketing/Educational Promotion Survey Questionnaire—NEW—This survey would evaluate pre- and post-Survey Questionnaire to determine level of

knowledge among Medicare Beneficiaries relating to prepaid health plans; effectiveness of information campaign and effectiveness of conveying medicare information to target audience. Respondents: Individuals or households. Number of Respondents: 1,200; Frequency of Response: One-time; Estimated Annual Burden: 480 hours.

OMB Desk Officer: Allison Herron

Office of Human Development Services

(Call Reports Clearance Officer on 202–472–4415 for copies of package)

1. National Institute of Mental Health, Protection and Advocacy Program Annual Program Performance Report/ Administrative on Developmental Disabilities—0980–0160—Law provides that the Secretary shall provide to Congress an annual report detailing a description of activities, accomplishments, and expenditures of the protection and advocacy for mentally ill individuals and other persons with developmental disabilities. Respondents: State or local governments, Non-profit institutions. Number of Respondents: 56; Frequency of Response: Annually; Estimated Annual Burden: 2,240 hours.

OMB Desk Officer: Shanna Koss

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

SSA: 301–594–5706
HDS: 202–472–4415
HCFA: 301–594–5706

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer)

Dated: October 9, 1987.

Raffie Shahrigian,

Acting Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87–23981 Filed 10–15–87; 8:45 am]

BILLING CODE 4150–04–M

National Institutes of Health

Division of Research Resources; Meeting of the Animal Resources Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, November 5–6, 1987, National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on November 5 from 1 p.m. to approximately 3 p.m. for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 5 from 3:00 p.m. to approximately 5:00 p.m. and on November 6 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20892, (303) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request. Dr. David L. Madden, Acting Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 5B55, Bethesda, Maryland 20892, (301) 496–5175, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: October 1, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–23928 Filed 10–15–87; 8:45 am]

BILLING CODE 4140–01–M

Consensus Development Conference on Geriatric Assessment Methods for Clinical Decisionmaking

Notice is hereby given of the NIH Consensus Development Conference on "Geriatric Assessment Methods for Clinical Decisionmaking," sponsored by the National Institute on Aging in collaboration with the NIH Office of Medical Applications of Research, the National Institute of Mental Health, and the Veterans Administration. The conference will be held on October 19–21, 1987, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The care of older persons is becoming an ever increasing responsibility for all but a few physicians and other health care providers. Before practitioners can make reasonable judgments about the best care strategies for each older individual, it is clear that appropriate patient data must be collected.

The type of data and the methods for its collection can affect the outcome of geriatric care, improve the quality of life, and reduce overall health-care costs. Because diseases in the older patient may present themselves differently, the geriatrician must conduct the assessment with an eye toward total care. Accurate diagnosis requries information about an individual's general medical, cognitive, and behavioral status as well as the person's functional capacity or ability to carry on daily activities. In addition, the health care provider will need to obtain certain data about the individual's social supports, personal resources, and environment. To this end, a body of knowledge is being amassed about the instruments and methodologies of geriatric assessment. Although under most circumstances, information relevant to all of the above areas are needed, it is important that health professionals know which techniques are especially useful in one or another situation.

This conference will bring together physicians and other health care professionals with a special interest in geriatric medicine, social scientists, investigators in the area of health services research, and representatives of the public. Following one and a half days of presentations by leaders in the field and discussion by the audience, a consensus panel will weigh the scientific evidence and formulate a draft statement in response to the following questions:

1. What are the goals, structure, processes, and elements of assessment for clinical decisionmaking?

2. What are the comparative merits of different methods in carrying out a geriatric assessment?

3. What is the evidence that a geriatric assessment is effective? If so, in what settings, for whom, and for which outcomes?

4. Insofar as a geriatric assessment is effective, what linkages to clinical management systems are required?

5. What are the priorities for future research in geriatric assessment?

On the final day of the meeting, the consensus panel chairman will read the draft statement to the conference audience and invite comments and questions.

Information on the program may be obtained from: Marti Bernstein, Prospect Associates, 1801 Rockville Pike, Suite 500, Rockville, Maryland, (301) 468–6555.

Dated: October 8, 1987.

William F. Raub,

Acting Director, NIH.

[FR Doc. 87–23927 Filed 10–15–87; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the National Institute on Aging.

These meetings will be open to the public to discuss administrative details for approximately one-half hour at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in section 552(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Building 31, Room 5C05, National Institutes of Health, Bethesda, Maryland, 20892, (301/496–9322), will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Gerontology and Geriatrics Review Committee, Subcommittee B–C
Executive Secretary: Dr. James Harwood, Dr. David Lavrin, Building 31, Room 5C12, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–9666
Dates of Meeting: November 4–5, 1987
Place of Meeting: National Institutes of Health, Building 31, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892
Open: November 4, 8:30—9:00 a.m.
Closed: November 4, 9:00 a.m. to recess; November 5, 8:30 a.m. to adjournment

Name of Committee: Gerontology and Geriatrics Review Committee, Subcommittee A
Executive Secretary: Dr. Walter Spieth, Building 31, Room 5C12, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–9666
Dates of Meeting: December 2–3, 1987
Place of Meeting: National Institutes of Health, Building 31, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892
Open: December 2, 8:30 to 9:00 a.m.
Closed: December 2, 9:00 a.m. to recess; December 3, 8:30 a.m. to adjournment

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: October 1, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87–23929 Filed 10–15–87; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory Council scheduled to meet during the month of October 1987:

Name: National Advisory Council on Health Care Technology Assessment (Medicare Coverage Process Subcommittee).

Date and Time: October 23, 1987, 9:00 AM to 4:00 PM.

Place: Key Bridge Marriott, Potomac D Room, 1401 Lee Highway, Arlington, Virginia.

Open October 23, 9:00 AM to 9:30 AM.

Closed for remainder of meeting.

Purpose: The Council is charged to provide advice to the Secretary and to the Director of the National Center for Health Services Research and Health Care Technology Assessment (NCHSR) with respect to the performance of the health care technology assessement functions prescribed by section 305 of the Public Health Service Act, as amended. This Subcommittee is charged with studying the Medicare coverage process.

Agenda: The open session of the meeting on October 23 from 9:00 AM to 9:30 AM will be devoted to administrative matters and a presentation of an overview of the agenda for the remainder of the meeting and the process to be used by the Subcommittee to review and discuss the information and opinions gathered on the DHHS technology assessments and coverage recommendation process.

The closed sessions of the meeting will involve the review and discussion of documents which are exempt from disclosure under 5 U.S.C. 552(b), 5 U.S.C. App. 2 section 10 (b) and (d), and 5 U.S.C. 552(c) (2) and (9). These documents reflect the internal procedural practices of the NCHSR and contain the views, judgments, and deliberations of Federal employees and their disclosure would frustrate the implementation of future agency actions.

During the close sessions of the meeting, the Subcommittee will: Examine the documents which contain the information and opinions gathered; discuss the findings which emerge from the materials reflecting and discussing the Department's technology assessment and coverage recommendation practices and their relative significance; and consider options for addressing the major issues emerging form the subcommittee's examination of the assessment and coverage recommendation process. In order to maintain the confidentiality of these documents, the portions of the meeting devoted to discussion of them will be closed to the public.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mrs. Kelly Fennington, National Center for Health Services Research and Health Care Technology Assessment, Room 1805, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443–5650.

Agenda items are subject to change as priorities dictate.

Date: October 6, 1987.

J. Michael Fitzmaurice,

Director, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 87–23982 Filed 10–15–87; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commission

[Docket No. 87–1727; FR–2396]

Transitional Housing Demonstration Program; Notice of Fund Availability; Modification of Selection Procedures

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Fund Availability—Modification.

SUMMARY: On September 3, 1987 (52 FR 33536), HUD published a Notice of Fund Availability announcing the requirements that will govern the use of $65 million in funds appropriated for the Transitional Housing Demonstration Program by the Supplemental Appropriations Act, 1987 (Pub. L. 100–71, approved July 11, 1987). The Notice annouunced that the selection of applications would be governed by the Transitional Housing Demonstration Program Guidelines published June 9, 1987 (52 FR 21743), with certain modifications. This notice announces additional modifications to the selection procedures.

EFFECTIVE DATE: October 16, 1987.

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Director, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410, telephone (202) 755–5720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 3, 1987 (52 FR 33536), HUD published a Notice of Fund Availability announcing requirements that will govern the use of $65 million in funds appropriated for the Transitional Housing Demonstration Program by the Supplemental Appropriations Act, 1987 (Pub. L. 100–71, approved July 11, 1987). The Notice announced that the selection of applications would be governed by the Transitional Housing Demonstration Program Guidelines ("THDP guidelines") published June 9, 1987 (52 FR 21743), with certain modifications, and set dates for the submission of applications.

The Notice was published while HUD was in the process of analyzing applications seeking funding under the first announcement of fund availability under the Transitional Housing Demonstration Program on June 9, 1987. HUD's experience with the applications submitted under that first announcement has prompted HUD to consider additional modifications to the selection procedures.

Under the THDP guidelines, the selection process has four stages: (1) The application is reviewed to determine if it meets certain threshold requirements; (2) Applications meeting the threshold requirements are ranked in relation to other applications under specified ranking critieria; (3) HUD performs a compliance review on a number of highly ranked applications in accordance with environmental requirements; and (4) HUD makes final selections from those applications that pass the environmental review.

HUD has found that many meritorious applications are being eliminated during the threshold stage because the applicants have failed to understand the application requirements and selection procedures. This problem is largely due to the fact that many of the applicants under the Transitional Housing Demonstration Program are inexperienced with HUD procedures. HUD believes that many of these promising applications can be rehabilitated through HUD's provision of technical assistance during the application processing procedure. HUD believes that these revisions to the application selection procedure are essential to permit the use of all of the $65 million available for funding under the September 3, 1987 Notice of Fund Availability.

Accordinlgy, HUD has decided to revise the application selection procedures. Under these revised procedures, HUD will offer assistance to applicants following the submission of their applications to assist them in meeting the following threshold criteria: (1) Leveraging (THDP guidelines—section IV.D.2.(iii), 52 FR at 21764–65); (2) Site control (THDP guidelines—section IV.D.2.(iv)(d)(1), 52 FR at 21765); and (3) Zoning (THDP guidelines—section IV.D.2.(iv)(d)(2). HUD has found that these threshold criteria are the ones most often misunderstood and most readily correctable during the time period set for threshold review.

If, during the threshold review, HUD finds deficiencies in the application under any of the cited threshold criteria and determines that the deficiencies are correctable within a reasonable time, HUD will: (1) Contact the applicant, (2) Identify the deficiency and explain how the deficiency can be remedied, and (3) Provide the applicant with a reasonable time period to correct the application. In addition to this technical assistance, HUD will continue its current practice of contacting applicants for clarification regarding ambiguities in their application submissions.

HUD emphasizes that the June 9, 1987 THDP guidelines, except as revised by the Notice of Fund Availability and this Notice, continue to govern the use of amounts appropriated under the Supplemental Appropriations Act, 1987.

Other Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implements section 102(2) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection in the Office of the General Counsel, Rule Docket Clerk, at the above address.

The information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1960 (44 U.S.C. 3501–3520). The OMB control number is 2502–0361.

The catalog of Federal Domestic Assistance Number is 14.178.

Authority: Title IV, Subtitle C of the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100–77, approved July 22, 1987; section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 7, 1987

James E. Schoenberger,

General Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 87–24053 Filed 10–15–87; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–965–4213–15; F–14880–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Kikiktagruk Inupiat Corporation for approximately 20 acres. The lands involved are in the vicinity of Kotzebue, Alaska.

Tract 10, U.S. Survey No. 2645, Alaska, *excluding* that portion retained in Federal ownership is more particularly described as follows:
Commencing at corner No. 1, Tract 10, U.S. Survey No. 2645, thence S. 32°725′ E., 311 feet to corner No. 1 of this description and the true point of beginning.
From corner No. 1, by metes and bounds:
S. 77°01′30″ E., 945 feet to corner No. 2; thence S. 12°58′30″ W., 666 feet to corner No. 3; thence N. 77°01′30″ W., 945 feet to corner No. 4; thence N. 12°58′30″ E., approximately 666 feet to corner No. 1, the point of beginning.
Containing approximately 14.45 acres.
This tract, as described, contains approximately 20 acres.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Tundra Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office,

701 C Street, Box 13, Anchorage, Alaska 99513, ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until November 16, 1987, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Elizabeth Bonnell,

Lead Land Examiner.

[FR Doc. 87–24020 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–JA–M

Emergency Closure of Public Lands in Travertine Hot Springs, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure of public lands.

SUMMARY: Notice is hereby given that effective immediately all public lands in the SW¼ of Section 34, T. 5 N., R. 25 E., MDM, located west of the Travertine Hot Springs perimeter road with the exception of the Travertine Hot Springs access road are closed to all motorized vehicle and bicycle access. The Travertine Hot Springs perimeter road is also closed to through traffic at the quarry site. The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until further notice.

SUPPLEMENTARY INFORMATION: The purpose of this closure is to protect the scenic and natural resource values located within the Travertine Hot Springs ACEC. Maps of the closed area are available at the Bishop Resource Area Office, Bishop, California.

FOR FURTHER INFORMATION CONTACT: James S. Morrison, Area Manager, 873 N. Main St. Suite 201, Bishop, California 93514 (619) 872–4881.

Dated: October 9, 1987.

Robert E. Beehler,

Acting Area Manager.

[FR Doc. 87–24013 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–40–M

Designation of the Travertine Hot Springs Area of Critical Environmental Concern, Bishop Resource Area, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice that certain public lands in the Bishop Resource Area, Bakersfield District, California are designated as an Area of Critical Environmental Concern (ACEC).

SUMMARY: Notice is hereby given pursuant to authority in the Federal Land Policy and Management Act of 1976 (section 202(c)), 43 CFR Part 1610, and land use decisions developed in the Bodie/Coleville Management Framework Plan (July 1983), that public lands near Bridgeport, California are designated as an Area of Critical Environmental Concern. The approximately 160 acres of public land are described as follows:

Mount Diablo Meridian, California

T. 5 N., R. 25 E.,
Sec 34, SW¼.

SUPPLEMENTARY INFORMATION: The Travertine Hot Springs ACEC is located in Mono County about 1 mile southeast of Bridgeport, within the Bishop Resource Area of the Bakersfield District. This ACEC is established to protect the unique formations of travertine and the associated natural values. The travertine is formed by a combination of evaporation and chemical interaction between the carbonate-laden spring water and the air. This particular location is unique because of the shape and mode of disposition.

Management of this area as an ACEC will include the following:

1. Protect the geologic, interpretive and cultural resources of the site from further extensive degradation;

2. Improve public recreation access to the site and facilitate recreation use of the site;

3. Clean up debris and reclaim the area where feasible to improve aesthetics and public health and safety needs;

4. Geothermal development can occur within the above-identified goals;

5. Allow some sale of the travertine material within the above identified goals.

Opportunities for public participation were provided through the Management Framework Plan process.

FOR FURTHER INFORMATION CONTACT: James S. Morrison, Area Manager, 873 N. Main St., Suite 201, Bishop, California 93514, (619) 872–4881.

Dated: October 9, 1987.

Robert E. Beehler,

Acting Area Manager.

[FR Doc. 87–24012 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–40–M

[WY–040–07–4212–14; W–87192]

Big Sandy Management Framework Plan

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability Amendment to the Big Sandy Management Framework Plan (MFP)/ Notice of Realty Action, Sale of Public Lands, Sweetwater County.

SUMMARY: The BLM has amended the Big Sandy MFP to allow for the direct sale of the following public lands to PacifiCorp and the Idaho Power Company for use as a flue gas desulfurization pond site:

Sixth Principal Meridian

T. 21 N., R. 101 W.;
Sec. 22, SW¼NE¼, S½NW¼, S½;
Sec. 26, N½NW¼.

Containing 520 acres, more or less.

The lands have been examined through the land use planning process and they are suitable for sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the mining laws. The segregative effect will end upon issuance of the patent or 270 days from the date of this publication, whichever occurs first.

DATE: For a period of 45 days from the date this notice is published in the **Federal Register**, any party that participated in the plan amendment and is adversely affected by the amendment may protest this action in accordance with 43 CFR 1610.5–2 only as it affects issues submitted for the record during the planning process.

For a period of 45 days from the date this notice is published in the **Federal Register** interested parties may submit comments regarding the land sale to the District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, WY 82902. Any adverse comments to the sale will be evaluated by the State Director who may vacate or modify the realty action and issue a final determination. In the absence of adverse comments or in the absence of any action by the State Director, this realty action will become final.

FOR FURTHER INFORMATION CONTACT: Sally Haverly, Realty Specialist, (307) 362-6422.

SUPPLEMENTARY INFORMATION: Conveyance of the mineral interest except oil and gas will occur simultaneously with the sale of the land.

The patent, when issued, will be subject to existing valid rights and will contain reservations to the United States for oil and gas and ditches and canals. Grazing privileges have been waived.

The planning document and environmental assessment/land report covering the proposed exchange are available for review at the Bureau of Land Management, Green River Resource Area Office.

Hillary A. Oden,

State Director.

[FR Doc. 87-24043 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-22-M

[AZ-020-08-4322-12]

Kingman Resource Area Grazing Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Kingman Resource Area Grazing Advisory Board will hold a meeting on Tuesday, November 17, 1987. The meeting will start at 9:00 a.m. in the Kingman Resource Area Conference Room, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program.
2. Status of the Bureau's Planning and Environmental Impact Statements.
3. Burro Capture Program and Use of Helicopters and Motor Vehicles.
4. Status of Grazing Program.
5. Report on Range Improvements for F.Y. '87 and F.Y. '88.
6. Range Policy Update.
7. Request for Advisory Board Expenditures.
8. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 8, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-23959 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-08-4322-12]

Phoenix/Lower Gila Resource Areas Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Phoenix/Lower Gila Resource Areas Grazing Advisory Board will hold a meeting on Thursday, November 12, 1987. The meeting will start at 9:00 a.m. in the Phoenix District Office Conference Room, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program.
2. Status of the Bureau's Planning and Environmental Impact Statements.
3. Report on Range Improvements for F.Y. '87 and FY '88.
4. Range Policy Update.
5. Request for Advisory Board Expenditures.
6. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 8, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-23960 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-08-4212-01]

Phoenix District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

DATE: November 19, 8:30 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, Arizona.

SUMMARY: The Phoenix District advisory Council of the Bureau of Land Management meets November 19. The Council will depart from the Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, at 8:30 a.m. and proceed to Lake Carl Pleasant to tour public lands scheduled to become part of the Lake Pleasant Resource Conservation Area. A formal meeting will be held at the lake. Members of the public may accompany the Council, but must provide their own transportation and lunch.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:

—Lake Pleasant Resource Conservation Area
—Phoenix Resource Area Resources Management Plan
—BLM Management Updates
—Business from the Floor
—Public Comments and Statements
—Future Meetings and Agenda Topics

SUPPLEMENTARY INFORMATION: This is a public meeting and the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters are welcome.

Dated: October 8, 1987.

Henri R. Bisson,

District Manager.

[FR Doc. 87-23961 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-32-M

[OR-030-07-4322-02-GP8-004]

Vale District Multiple-Use Advisory Council; Meeting

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is given in accordance with Pub. L. 92-463 that a meeting of the Vale District Multiple-Use Advisory Council will be held November 12, 1987. The Advisory Council will discuss recommendations for the Trout Creek Mountains Management Plan, the district program dealing with agricultural trespass, district recommendations for the final EIS on wilderness, and the proposal for an Oregon Trail visitor center at Flagstaff Hill in Baker County.

The meeting is open to the public. Interested persons may make oral statements to the board or may file written statements for the board's

consideration. Anyone wishing to make oral statements may do so at 1:00 p.m. the day of the meeting.

Summary minutes of the council's meeting will be maintained in the district office and will be available during regular business hours for public inspection, or personal copies may be purchased for the cost of duplication, within 30 days following the meeting.

DATES: The meeting will begin at 9:00 a.m. November 12, 1987.

ADDRESSES: The meeting will take place in the conference room of the District Office, 100 Oregon Street, Vale, OR 97918.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, P.O. Box 700, 100 Oregon Street, Vale, OR 97918.

William C. Calkins,

District Manager.

[FR Doc. 87-23962 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-33-M

[WY-920-08-4111-15; W-88117]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-88117 for lands in Crook County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10 per acre, or fraction thereof, per year and not less than 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-88117 effective September 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andew L. Tarshis,

Chief, Leasing Section.

October 7, 1987.

[FR Doc. 87-23963 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-22-M

[AZ-050-08-4212-11; A-23010]

Realty Action; Lease of Public Land in Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, lease of public land in Mohave County.

SUMMARY: The following described lands are presently a part of a Reclamation Lease for public school purposes to the Bullhead City Elementary School District No. 15. The United States Postal Service is interested in acquiring the lands for construction of a new Main Post Office in Riviera, Arizona. This action involves acceptance of a relinquishment of the subject lands from the school district and a simultaneous notice of our intent to lease them to the U.S. Postal Service under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 et. seq.):

T. 20 N., R. 22 W., Gila and Salt River Meridian, Arizona,
Sec. 20, portion of NW¼SW¼NW¼, containing 5.179 acres.

Leasing of these lands is consistent with the Bureau's planning for this area and would be in the public interest.

The relinquishment from Bullhead City Elementary School District No. 15 will be accepted concurrent with publication of this Notice of Realty Action.

Subject to all valid existing rights, the lands are hereby segregated from appropriations under any other public land law, including location under the mining laws. The segregation will terminate upon issuance of a lease, publication of a Notice of Termination, or 18 months from the date of this publication, whichever occurs first.

DATES: For a period of 45 days from the date of publication of this Notice, interested parties may submit comments to the District Manager, 3150 Winsor Avenue, Yuma, Arizona 85365. Any objects will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior, effective 60 days from the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mike Ford, Area Manager, Havasu Resource Area, Bureau of Land Management, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602-855-8017.

Date: October 6, 1987.

J. Darwin Snell,

District Manager.

[FR Doc. 87-23964 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-32-M

[CA-940-07-5410-10-ZBJK; CA 19781]

Realty Action; Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; conveyance of the reserved mineral interests.

SUMMARY: The private lands described in this order will be examined for suitability for conveyance of the reserved mineral interests pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

FOR FURTHER INFORMATION CONTACT: Joan Mangold, California State Office, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Federal Office Building, Sacramento, California 95825, (916) 978-4815.

The purpose is to allow consolidation of surface and subsurface ownership, for the lands described below, where there are no known mineral values or in those instances where the reservation of ownership of the mineral interests in the United States interferes with or precludes appropriate non-mineral development of the lands and such development would be a more beneficial use of the lands than its mineral development.

Mount Diablo Meridian

T. 4 S., R. 18 E.,
Sec. 15, SW¼ SE¼.

This area described contains 40.00 acres in Mariposa County. Currently 100 percent of the mineral interests in these lands is owned by the United States.

The application was filed on July 20, 1987. Upon publication of this Notice of Realty Action in the **Federal Register** as provided in 43 CFR 2091.3-1(c) and 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and

time of opening; or upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of filing of the application, whichever occurs first (43 CFR 2091.3-2(a)).

Date: October 6, 1987.

Nancy J. Alex,

Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 87-23965 10-15-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-08-4212-13; CA 19492]

Exchange of Public and Private Lands in Calaveras and Placer Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document.

SUMMARY: The purpose of this exchange was to acquire the non-Federal lands because they have high public values for recreation. These lands are within the North Fork of the American River canyon which was designated a Wild and Scenic River in 1978. The acquisition will protect the area and its spectacular scenery as well as provide public access to a remote section of the river. The public interest was well served through completion of this exchange.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4818.

The United States issued an exchange conveyance document to Gerald E. Hodnefield and Shirley A. Hodnefield on April 2, 1987, pursuant to Sec. 206 of the Act of October 21, 1987 (43 U.S.C. 1716), for the following described lands:

Mount Diablo Meridian, California

T. 5 N., R. 14 E.,
Sec. 5, lots 2, 10, 11, 12, and 13;
Sec. 7, E½2NW¼.
T. 6 N., R. 14 E.,
Sec. 31, SE¼NW¼;
Sec. 32, lots 9 and 10.

containing 200.13 acres of public land in Calaveras County.

In exchange for these lands, the United States acquired the following described land from Gerald E. Hodnefield and Shirley A. Hodnefield:

Mount Diablo Meridian, California

T. 15 N., R. 10 E.,
Sec. 1, lots 12 and 15, W½ of lot 1 of E½, lot 2 of E½, E½ of lot 1 and lot 2 of W½, and N½SW¼.

containing 344.09 acres of non-Federal land in Placer County.

A payment in the amount of $1,600 has been paid to the United States by Gerald E. Hodnefield and Shirley A. Hodnefield to equalize values between the non-Federal land and the public lands.

Dated: October 6, 1987.

Rose Fairbanks,

Acting Chief, Branch of Adjudication and Records.

[FR Doc. 87-23966 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-40-M

[OR 910 4212-13 GP8-003]

Exchange of Public Lands in Josephine and Curry Counties, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public lands in Josephine and Curry Counties, Oregon.

SUMMARY: This Notice is to advise the public that the Glendale and Grants Pass Resource Areas of the Medford District Bureau of Land Management (BLM) and private landowner Larry Brown are proposing a land exchange.

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Willamette Meridian

T. 35 S., R. 6 W.,
Section 29: NW¼NW¼.
T. 36 S., R. 7 W.,
Section 11: NW¼NW¼NW¼, N½SW¼NW¼NW¼.
T. 37 S., R. 6 W.,
Section 11: N½NW¼;
Section 17: SW¼SW¼, SE¼SE¼.

The area described comprises approximately 215 (±) acres in Josephine County, Oregon.

The Federal Government will acquire the following described private lands from Larry Brown:

Willamette Meridian

T. 32 S., R. 10 W.,
Section 36: SE¼SW¼, SW¼SE¼.
T. 33 S., R. 10 W.,
Section 1: Lots 1, 2, S½NE¼, S½NW¼, NE¼SW¼;
Section 2: NE¼NE¼SE¼NE¼, S½NE¼NE¼, N½SE¼SE¼NE¼.

The above described area comprises approximately 375 (±) acres in Curry County, Oregon.

The purpose of the land exchange (identified by serial number or 42239) is to facilitate resource management opportunities by the Glendale Resource Area, Medford District. The private land being offered have very important values for timber, which would be managed as mandated by the O&C Act, and for wildlife. The exchange would block of ownership of BLM administered lands in the area. The selected BLM parcels are isolated tracts, non-contiguous to other BLM lands, and in some cases lacking legal access. The parcels are mostly timbered, however, because of the above factors and their direct proximity to rural residences and highly populated areas BLM timber management on the parcel would be uneconomical and difficult. The public interest will be highly served by making this exchange.

Acreage consisting of any or all of the BLM parcels to be exchanged must be approximately equal in value to the acreage offered by Mr. Brown, and upon completion of the final appraisal of the lands, cash equalization payments will be made if the values are within twenty-five percent (25%).

The exchange will be subject to:

1. Reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All other valid existing rights, including, but not limited to, any right-of-way, easement of lease of record.

Publication of this notice in the **Federal Register** will segregate the public lands described above, to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Medford District Manager at the above address.

Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action.

Date: October 8, 1987.

David A. Jones,

District Manager.

[FR Doc. 87-23967 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-33-M

Geological Survey

Establishment of the Closing Date for Transmittal of Applications Under the National Earthquake Hazards Reduction Program (NEHRP) for Fiscal Year (FY) 1989

Applications are invited for research projects under the NEHRP.

Authority for this program is contained in the Earthquake Hazards Reduction Act of 1977, Pub. L. 95–124. (42 U.S.C. 7701, *et. seq.*)

The purpose of this program is to support research in earthquake hazards and earthquake prediction to provide earth-science data and information essential to mitigate earthquake losses.

Applications may be submitted by educational institutions, private firms, private foundations, individuals, and agencies of State or local governments.

Closing Date for Transmittal of Applications: Applications must be received on or before January 28, 1988.

Program Information: This program supports research related to the following general areas of national interest: (1) Current tectonic and earthquake potential studies—analysis of regional seismic network data, identification of source zone characteristics, and earthquake potential estimates; (2) earthquake prediction research—prediction methodology and evaluation, focused earthquake prediction experiments, and theoretical, laboratory, and fault zone studies; and (3) regional earthquake hazards assessments—geologic and seismic hazard evaluation and synthesis, loss estimation modeling, and implementation.

Application Forms: The program announcement is expected to be available on or about November 2, 1987. You may obtain a copy of announcement 7346 by writing to Melissa Calloway, U.S. Geological Survey, Branch of Procurement and Contracts—MS 205C, 12201 Sunrise Valley Drive, Reston, VA 22092.

Organizations that applied for a FY 1988 award and organizations that requested to be retained on the mailing list since the last announcement, will be mailed a copy of the program announcement.

Further Information: For further information contact Dr. Elaine Padovani, Deputy Chief, External Research Program, Office of Earthquakes, Volcanoes, and Engineering—MS 905, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, VA 22092. Telephone: 703–648–6722.

(Catalog of Federal Domestic Assistance Number 15.807)

Dated: October 9, 1987.

Jack J. Stassi,

Assistant Director for Administration.

[FR Doc. 87–23926 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[Ut–942–08–4212–13; U–51367, U–53678, U–53696]

Conveyance of Public Land; Order Providing For Opening; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The action informs the public of the conveyance of 460.30 acres of public land out of federal ownership. This action will also open 492.99 acres of reconveyed land to surface entry and 416.98 acres of reconveyed land to mining and mining leasing.

EFFECTIVE DATE: November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM, Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111 (Telephone 801–524–3074)

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2743, a patent has been issued transferring 11.44 acres of land in Washington County, Utah, from Federal to private ownership.

2. In exchange, the following described land has been reconveyed to the United States.

Salt Lake Meridian

Begining at the center ¼ of Section 22, T43S, R16W, SLB&M; thence N 0 degrees 03'42" W, along the center section line 583.28 feet to the special meander corner of said Section 22; thence along the 1972 meanders of the Virgin River as follows: N 64 degrees 48'00" W, 362.34 feet; thence N 2 degrees 30'16" E, 533.05 feet; thence N 52 degrees 43'00" E, 474.54 feet thence N 69 degrees 35'00" E, 433.00 feet; thence leaving said meander line S 0 degrees 03'42" E, 1,985.98 feet to a point on the East/West center line of said Section 22; thence S 89 degrees 64'47" W, 744.33 feet along the center section line to the point beginning.

The area described contains 36.01 acres in Washington County.

3. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat 2743, a patent has been issued transferring 408.59 acres of land in Box Elder County from Federal to private ownership.

4. In exchange, the following described land has been reconveyed to the United States.

Salt Lake Meridian

T. 11 N., R. 17 W.,
Sec. 7, lot 4, SE¼¼, W½SW¼SE¼, W½E½SW¼SE¼.
T. 12 N., R. 18 W.,
Sec. 15, SW¼NW¼.
Sec. 22, N½NW½, E½W½SW¼NW¼, E½SW¼NW¼, SE¼NW¼,NW¼SE¼, W½NE¼.

The area contains 416.98 acres in Box Elder County.

5. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat 2743, a patent has been issued transferring 40 acres of land in Tooele County from Federal to private ownership.

6. In the exchange, the following described land has been reconveyed to the United States.

Salt Lake Meridian

T. 6. S., R. 6 W.,
Sec. 25, SW¼NW¼.

Area contains 40 acres in Tooele County.

7. The mineral estates in the land described in paragraphs 2 and 6 are not in United States ownership and will not be opened to operation of the mining and mineral leasing laws.

8. At 9:00 am, on November 2, 1987, the lands described in paragraphs 2, 4 and 6 will be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 am, on November 2, 1987, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

9. At 9:00 am, on November 2, 1987, land described in paragraph 4 will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

10. At 9:00 am, November 2, 1987 the land described in paragraph 4 will be open to applications and offers under the mineral leasing laws.

Date: October 9, 1987.

Orval L.Hadley,

Chief, Branch of Lands and Minerals, Operations.

[FR Doc. 87-23919 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-DQ-M

[NV-040-08-4212-14; N-37052]

Realty Action; Nevada; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In the **Federal Register** Vol. 52, No. 181 published on Friday, September 18, 1987, on page 35333 in the second line of the title and in the second line under Action, White Pine County should read Lincoln County.

Dated: October 8, 1987.

Kenneth G. Walker,

District Manager.

[FR Doc. 87-24022 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-HC-M

[UT-060-4410-08]

Public Workshop; San Rafael Resource Management Plan

AGENCY: Bureau of Land Management, Moab, Interior.

ACTION: Notice of public workshop, San Rafael Resource Management Plan.

SUMMARY: A public workshop will be held November 18 at 6:30 p.m. in Huntington, Utah at Canyon View Junior High School. The workshop is to gather public input for alternatives to be assessed in the San Rafael Resource Management Plan environmental impact statement (RMP/EIS).

FOR FURTHER INFORMATION CONTACT: Jim Dryden, San Rafael Resource Area Manager, 900 North 700 East, P.O. Box AB, Price, UT 84501; (801) 637-4584.

SUPPLEMENTARY INFORMATION: In response to public requests, the Moab District will hold a workshop to solicit ideas from the public regarding management of public lands in the San Rafael Resource Area and the Forest Planning Unit of the Sevier River Resource Area. The public will be asked to provide ideas for alternative plans to be assessed in the San Rafael RMP/EIS.

Interested individuals, representatives of organizations, public officials, and representatives of other governmental agencies are invited to attend. The workshop will provide an informal means to gather suggestions.

The San Rafael RMP will provide management direction for the San Rafael Resource Area, containing approximately 1.5 million acres of public land in Emery County, Utah (managed by the Moab District, BLM); and for the Forest Planning Unit, containing about 0.1 million acres of public land in Sevier County, Utah (managed by the Sevier River Resource Area, Richfield District, BLM). The RMP/EIS will also assess impacts to grazing on about 1.6 million acres of public rangelands in Emery, Sevier, and Wayne Counties. The RMP/EIS alternatives will provide different scenarios for managing public lands and resources in order to gauge the potential environmental effects.

The workshop will start at 6:30 p.m. on Wednesday, November 18, 1987. It will be held in the Common Room, Canyon View Junior High School, Huntington Canyon Road, Huntington, Utah.

Gene Nodine,

District Manger.

[FR Doc. 87-23968 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-DQ-M

[CO-942-06-4520-12]

Colorado; Filing of Plats of Survey

October 8, 1987.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., October 8, 1987.

The plat representing the dependent resurvey of a portion of the Old North Boundary of the Southern Ute Indian Reservation (south boundary), the west boundary, and a portion of the subdivisional lines, and the survey of the subdividion of sections 6 and 7, T. 34 N., R. 16 W., North of the Ute Line, New Mexico Principal Meridian, Colorado for Group No. 717, was accepted October 2, 1987.

The plat representing the dependent resurvey of portion of the south and west boundaries and the subdivisional lines, and the survey of the subdivision of certain sections, T. 35 N., R. 16 W., New Mexico Principal Meridian, Colorado for Group No. 717 was accepted October 2, 1987.

The plat representing the dependent resurvey of portion of the north boundaries and the subdivisional lines, and the survey of the subdivision of certain sections, T. 35 N., R. 17 W., North of the Ute Line, New Mexico Principal Meridian, Colorado for Group No. 717, was accepted October 2, 1987.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

The plat representing the corrective dependent resurvey and the retracement of a portion of the subdivision lines, T. 36 N., R. 9 W., New Mexico Principal Meridian, Colorado for Group No. 813, was accepted October 2, 1987.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Duane E. Olsen,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-24014 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.):

PRT-721876

Applicant: Doc Jones Thurston, Charlotte, NC.

The applicant requests a permit to import one captive-born Bengal tiger (Panthera tigris) trophy that he shot while on safari in South Africa for the purpose of display.

PRT-721953

Applicant: National Museum of Natural History, Washington, DC.

The applicant requests a permit to import salvaged specimes of golden lion tamarins (Leontopithecus rosalia) resulting from accidental or natural deaths of specimens held in captivity worldwide for scientific research.

PRT-722143

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant request a permit to import nine unsexed captive-born golden-shouldered (=hooded) parakeets (Psephotus chrysopterygius dissimilis) from Ken Chisholm, Quebec, Canada for the purpose of exhibition, education, and captive propagation.

PRT-72222

Applicant: Wayne H. Viden, Glassboro, NJ.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (Damaliscus dorcas dorcas) culled from the captive herd of George Fletcher in Cape Province, Republic of South Africa, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.), Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service at the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: October 9, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-24059 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 5714, 5715, and 5716, Blocks 202, 203, and 208, respectively, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on October 5, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 7, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-23969 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination Document; Hall-Houston Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Hall-Houston Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5983, Block 752, Mustang Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base locted at Harbor Island, Texas.

DATE: The subject DOCD was deemed submitted on October 5, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: October 7, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-23970 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination Document; McMoRan Oil & Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that McMoRan Oil & Gas Co. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4794, Block 167, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the

development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 7, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 8, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–23971 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Development Operations Coordination Document; Southland Royalty Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Southland Royalty Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5405, Block 88, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 6, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 7, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87–23972 Filed 10–15–87; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Development Operations Coordination Document; Taylor Energy Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Taylor Energy Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 1187, Block 27, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on October 8, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 9, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24015 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination Document; Walter Oil & Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil & Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4721, Block 350, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on October 8, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 9, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24017 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination Document; Walter Oil & Gas Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Walter Oil & Gas Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 8132, Block 385, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hyrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on October 8, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 9, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-24016 Filed 10-15-87; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Action To Restore Channel Capacity in Rio Grande Rectification and Boundary Preservation Projects; Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Based on an environmental assessment, the U.S. Section finds that the proposed action to restore channel capacity to two international projects on the Rio Grande in Hudspeth County, Texas is not a major Federal action that would have a significant adverse effect on the quality of the human environment. Therefore, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500-1508); and the U.S. Section's Operational Procedures for Implementing Section 102 of the National Environmental Policy Act (NEPA), published in the Federal Register September 2, 1981 (46 FR 44083); the U.S. Section hereby gives notice that an environmental impact statement is not being prepared for the joint international project.

ADDRESS: Mr. M.R. Ybarra, U.S. Section Secretary; International Boundary and Water Commission, United States and Mexico, United States Section; The Commons, C-310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 534-6698, FTS 570-6698.

SUPPLEMENTARY INFORMATION:

Proposed Action

The action proposed is that the U.S. Section conduct channel work in the Rio Grande in the uppermost 2.54-mile segment of the Boundary Preservation Project including the Litle Box Canyon, the uppermost canyon reach in that project in order that flood control capacity in the Rectification Project can be restored. The proposed work will include sediment removal, channel widening, channel deepening, and appropriate mitigation. The channel work will be performed in connection with channel maintenance work

scheduled in the lowermost 16 miles of the Rectification Project.

Alternatives Considered

Two alternatives were considered:

The Proposed Action Alternative provides for widening and deepening of the Rio Grande channel from downstream of Little Box Canyon, in the Boundary Preservation Project, upstream to the Rectification Project, a distance of 2.54 miles. The aim of the channel work is to increase channel capacity in order to avoid ponding of the flows upstream of the canyon.

Channel work in the uppermost 2.54 miles of the Boundary Preservation Project requires a channel top width of 90 feet and a depth of 6 to 8 feet for a discharge of 2,000 cfs. Spoil (excavated silt), for the most part, will be placed in Mexico beyond 100 feet from the river centerline. When spoil must be placed in the United States, it will be placed beyond 100 feet from the river centerline according to current Boundary Preservation Project construction practices.

The No Action Alternative is a continuation of current conditions. Routine operation and maintenance activities will continue in both the Rectification and Boundary Preservation Projects when stream conditions permit. The "bottleneck" created by the downstream project and canyon will remain. There will be no change in current conditions with the probability these conditions will become worse in the future. Because the present situation is unacceptable and will only worsen if nothing is done, the "no action" alternative has been rejected.

Environmental Assessment

The U.S. Section completed the Draft Environmental Assessment on October 6, 1987.

Findings of the Environmental Assessment

The Draft Environmental Assessment finds that:

1. The proposed channel work will provide drainage of valuable agricultural lands in Hudspeth County, Texas protected by the Rectification Project.

2. The planned work is not expected to have significant impact on wildlife and habitat in the area, and the habitat within the Boundary Preservation Project that is subject to removal will be mitigated. The mitigation plan is being developed in coordination with the Texas Parks and Wildlife Department.

3. No endangered and/or threatened species in the area or habitat critical to the continued existence of these species will be affected by the action.

4. Existing cultural resources within the area will be avoided during the proposed channel work.

On the basis of the Draft Environmental Assessment, the U.S. Section determines that an environmental impact statement is not required for the proposed action to restore channel capacity in the Rio Grande Rectification and Boundary Preservation Projects and hereby supplies notice of a finding of no significant impact.

An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this notice.

The Draft Finding of No Significant Impact (FONSI) and Draft Environmental Assessment (EA) have been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the Draft FONSI and Draft EA are available to fill single copy requests at the above address.

Dated: October 7, 1987.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 87-24021 Filed 10-15-87; 8:45 am]

BILLING CODE 4710-03-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31119]

Exemption; Aberdeen and Rockfish Railroad Co.; Continuance in Control; Pee Dee River Railway Corp.

Aberdeen and Rockfish Railroad Company (Aberdeen and Rockfish) has filed a notice of exemption under 49 CFR 1180.4(g) regarding its continuance in control of Pee Dee River Railway Corporation (Pee Dee) under the provisions of 49 CFR 1180.2(d)(2). Pee Dee, a wholly owned non-carrier subsidiary of Aberdeen and Rockfish, has filed concurrently a notice of exemption in Finance Docket No. 31118, *Pee Dee River Railway Corporation—Acquisition and Operation Exemption—Marlboro County, SC, Rail Line.* There, Pee Dee seeks an exemption to acquire by lease and operate a 16.79-mile line of railroad extending between McColl and Marlboro, SC, and an additional track known as the Breeden Spur between Bennettsville and Breeden, SC. The line will be acquired from Marlboro County, a South Carolina municipal corporation, after Marlboro County purchases the line from CSX Transportation, Inc. (CSX). CSX recently was authorized to abandon the line in Docket No. AB-55 (Sub-No. 199), *CSX Transportation, Inc.—Abandonment—In Marlboro County, SC* (not printed), served August 25, 1987.

According to Aberdeen and Rockfish, the acquisition and control transaction will result in continuation of service over the line to the benefit of shippers and receivers, and revenues generated by operations over the line will accrue to the benefit of Aberdeen and Rockfish and Pee Dee.

Aberdeen and Rockfish indicates that: (1) Its line will not connect with Pee Dee's line; (2) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the acquisition does not involve a Class I Carrier. Therefore, this transaction involves the continuance in control of a non-connecting carrier, and is exempt from the prior review rquirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 1, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee

Secretary.

[FR Doc. 87-23703 Filed 10-15-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31118]

Exemption Pee Dee River Railway Corp.; Acquisition and Operation; Marlboro County, SC, Rail Line

The Pee Dee River Railway Corporation (Pee Dee), a wholly owned non-carrier subsidiary of Aberdeen and Rockfish Railroad Company (Aberdeen and Rockfish), has filed a notice of exemption to acquire by lease and operate 16.79-miles of railroad extending

[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. The Commisison routinely has imposed labor protection in this type of proceeding.

between McColl, SC (MP AG–259.40) and Marlboro, SC (MP AG–276.19),[1] and including track known as the Breeden Spur between Bennettsville and Breeden, SC (between MP AGA–269.23 and MP AGA–272.38), 485 feet of Track 13 beyond the junction of Track 13 and Track 4 at MP–259.40 in McColl, SC, and the wye connecting Track 4 from MP AG–259.231 to MP AG–259.40 in McColl, SC. The line will be acquired from Marlboro County, a South Carolina municipal corporation, after Marlboro County purchases the line from CSX Transportation, Inc. (CSX). CSX recently was authorized to abandon the line in Docket No. AB–55 (Sub-No. 199), *CSX Transportation, Inc.—Abandonment—In Marlboro County, SC* (not printed), served August 25, 1987. The agreement between Pee Dee and Marlboro County was to be consummated on September 25, 1987, and Pee Dee was to begin operating over the line during the week of September 28, 1987.

A transaction relating to the control of Pee Dee is the subject of a notice of exemption filed concurrently in Finance Docket No. 31119, *Aberdeen and Rockfish Railroad Company—Continuance in Control Exemption—Pee Dee River Railway Corporation.* Any comments must be filed with the Commission and served on William C. Evans, 1660 L Street, NW., Suite 1000, Washington, DC 20036.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 1, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–23704 Filed 10–15–87; 8:45 am]

BILLING CODE 7035-01-M

[1] Pee Dee will also acquire by lease, and operate, the track between MP AG–276.19 and MP AG–277.62. This segment of track, however, is either an industrial track or a spur. This Commission had no jurisdiction over the abandonment of that segment by CSX, nor does it have jurisdiction over its acquisition by Pee Dee. *See* 49 U.S.C. 10907(b)(1). Although nominally designated as a spur, the track between Bennettsville and Breeden was authorized for abandonment in Docket No. AB–55 (Sub-No. 199). Accordingly, the exception in section 10907(b)(1) is apparently not applicable to this track.

DEPARTMENT OF LABOR

Employment and Training Administration Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 26, 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 October 26, 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 5th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Adirondack Steel (Workers)	Watervliet, NY	10/5/87	9/14/87	20, 135	Steel.
Anwelt Shoe Corp. (Workers)	Fitchburg, MA	10/5/87	9/25/87	20, 136	Footwear.
Behring Diagnostics (Company)	La Jolla, CA	10/5/87	9/17/87	20, 137	Biochemicals.
Craddock-Terry Shoe (Workers)	Halifax, VI	10/5/87	9/22/87	20, 138	Shoes.
Eaton Corporation, Fluid Power, Div. (UAW)	Marshall, MI	10/5/87	9/1/87	20, 139	Pumps.
Frazier Engineering Inc. (Workers)	Greenfield, IN	10/5/87	9/14/87	20, 140	Furniture.
Frazier Engineering Inc. (Workers)	Morristown, IN	10/5/87	9/14/87	20, 141	Furniture.
G.A. Gray Co. (USWA)	Cincinnati OH	10/5/87	9/28/87	20, 142	Tools.
International Wire Products Co. (URC & PWA)	Wyckoff, NJ	10/5/87	9/22/87	20, 143	Wire.
Kanawha Coal Co. (UMWA)	Ashford, WV	10/5/87	9/18/87	20, 144	Coal.
LTV Steel Co. Gateway View Plaza (Company)	Pittsburgh, PA	10/5/87	9/20/87	20, 145	Steel.
Lambert Wood Properties	Refugio, TX	10/5/87	9/23/87	20, 146	Oil and Gas.
Latex Industries, Inc. (UPI)	Chippewa Lake, OH	10/5/87	9/24/87	20, 147	Catheters.
Mt. Carmel Fashions (ILGWU)	Mt. Carmel, PA	10/5/87	9/23/87	20, 148	Blouses.
Mt. Carmel Fashions (ILGWU)	Girardville, PA	10/5/87	9/23/87	20, 149	Blouses.
O.M. Edwards Co., Incorp. (IABSOIW)	Syracuse, NY	10/5/87	9/24/87	20, 150	Doors, window sashes.
Sanjo Dress (Workers)	New York, NY	10/5/87	9/23/87	20, 151	Dresses.
Seamless Hospital Products (Workers)	Fayette, AL	10/5/87	9/24/87	20, 152	Medical products.
Shanhouse Outerwear Inc. (Workers)	Magnolia, AR	10/5/87	9/2/87	20, 153	Coats.
Ship & Shore (Workers)	Travelers Rest S.C.	10/5/87	9/27/87	20, 154	Blouses.
Stolper Industries, Inc. (AIW)	Menomonee Falls, WI	10/5/87	9/22/87	20, 155	Stampings.
TRW-EPI (Workers)	Colorado Springs, CO	10/5/87	9/28/87	20, 156	Coding devices.

[FR Doc. 87–24003 Filed 10–15–87; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-19,993]

Cedar Coal Co., Central Rebuild Shop, South Charleston, WV; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Cedar Coal Company, Central Rebuild Shop, South Charleston, West Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,993; Cedar Coal Company, Central Rebuild Shop, South Charleston, West Virginia (October 2, 1987.)

Signed at Washington, DC this 6th day of October 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-24002 Filed 10-15-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,766]

Mattel Toys, City of Industry, CA; Negative Determination Regarding Application for Reconsideration

By an application dated August 10, 1987, counsel for the United Rubber Workers (URW) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at Mattel Toys, City of Industry, California. The denial notice was signed on July 13, 1987 and published in the **Federal Register** on July 28, 1987 (52 FR 28205).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel claims that employees now on layoff were involved in the production of toys known as "Barbie's Dream House", "Chrystal Castle" and various small plastic toys—vacuum cleaners, chain saws, shopping carts and similar small items whose production was transferred to foreign facilities. Counsel states that the negative determination is erroneously based upon an alleged decline in popularity of a line of toys known as "Masters of the Universe".

Mattel Toys produced about 100 plastic toys at Plant IV in 1986 before closing in December, 1986. Investigation findings show that the plant product mix has changed radically as fashions in toys have changed. Company officials indicated that toy production is complicated by the fact that specific toys produced in one year may not be produced in the next year because of the change in popularity.

The two major product lines in recent years have been "Barbie Dolls" and the "Masters of the Universe" series. Sales and company imports of the Masters series increased in 1986 compared to 1985 before declining in the first six months of 1987 compared to the same period in 1986. Investigation findings show that Plant IV only produced some of the accessories for this line. Company officials stated that the decline in the Masters series was due to an abrupt decline in popularity as company sales and imports of this line decreased. Sales and company imports of the Barbie line increased in 1986 compared to 1985. Company officials stated that Plant IV only produced the larger accessories for the Barbie line (i.e., Barbie's Dream House); these accessories were not produced overseas. According to company officials, most of the Barbie line production at Plant IV was transferred to other domestic locations.

Other investigation findings show that Plant IV production of Crystal Castle and other plastic toys—vacuum cleaners, shopping carts and chain saw were transferred to other domestic sources. Only a small percent of the production at Plant IV was transferred to foreign plants during the period applicable to the petition. Workers at Plant IV were not separately identifiable by toy.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 29th day of September, 1987.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87-24001 Filed 10-15-87; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 31, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large

volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II:

Louisiana:
LA87-6—pp. 408a-408b

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I:

District of Columbia:
DC87-1 (January 2, 1987)—pp. 86,91.
Florida:
FL87-17 (January 2, 1987)—p. 154
Virginia:
VA87-14 (January 2, 1987)—pp. 1156-1157

Volume II:

Illinois:
IL 87-2 (January 2, 1987)—p. 98
IL87-7 (January 2, 1987)—p. 136
IL87-16 (January 2, 1987)—p. 206
IL87-17 (January 2, 1987)—p. 216
Louisiana:
LA87-5 (January 2, 1987)—pp. 383-408
Michigan:
MI87-2 (January 2, 1987)—p. 426
Ohio:
OH87-1 (January 2, 1987)—pp. 720-722, pp. 724-732
OH 87-2 (January 2, 1987)—pp. 734-738, pp. 741-747
OH87-3 (January 2, 1987)—pp. 756-760
OH87-28 (January 2, 1987)—pp. 812-813
OH87-29 (January 2, 1987)—pp. 818-829 pp. 831-833, p. 841, pp. 848-853
Listing by Location (index)
pp. xxxii-xxxiv
Listing by Decision (index)
p. lvii

Volume III:

Idaho:
ID87-1 (January 2, 1987) pp. 140-142, pp. 149-150
Nevada:
NV87-5 (January 2, 1987) p. 276c

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 9th Day of October 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-23915 Filed 10-15-87; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 87-83]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by November 16, 1987. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Rayburn A. Metcalfe, NASA Agency Clearance Officer, Code NP, NASA Headquarters, Washington, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Excecutive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: NASA FAR Supplement Part 18-43, Contract Modifications.

OMB Number: 2700-0054.

Type of Request: Extension.

Frequency of Report: On occasion.

Type of Respondent: State or local governments, businesses or other for profit, non-profit institutions, small businesses or organizations.

Annual Responses: 1,440.

Annual Burden Hours: 72,000.

Abstract-Need/Uses: Contract must submit engineering changes for evaluation.

October 5, 1987.

Rayburn A. Metcalfe,

Acting Director, General Management Division.

[FR Doc. 87-23923 Filed 10-15-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-84]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal lettes and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by November 16, 1987. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Rayburn A. Metcalfe, NASA Agency Clearance Officer, Code NP, NASA Headquarters, Washigton, DC 20546; Bruce McConnell, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washigton, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453-1090.

Reports

Title: NASA FAR Supplement, Part 27, Patents, Data and Copyright.

OMB Number: 2700-0052.

Type of Request: Extension

Frequency of Report: Annual, Biennial, Other.

Type of Respondent: State and local governments, businesses or other for profit, non-profit institutions, small businesses or organizations.

Annual Responses: 2,280.

Annual Burden Hours: 27,360.

Abstract-Need-Uses: Records and reports regarding patents and data are required to comply with statutes and the OMB and NASA implementing regulations.

October 5, 1987.

Rayburn A. Metcalfe,

Acting Director, General Management Division.

[FR Doc. 87-23924 Filed 10-15-87; 8:45 am]

BILLING CODE 7510-01-M

[Notice 87-85]

NASA Advisory Council (NAC), Life Sciences Advisory Committee (LSAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee.

Date and Time: November 6, 1987, 8:45 a.m.—8:30 p.m., November 7, 1987, 8:00 a.m.—12:30 p.m.

ADDRESS: Holiday Inn-Capitol, Clark Room, 550 C Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn D. Griffiths, Code EBF, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1545).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee provides advice on the coordination of NASA's life sciences research program. It assists in the long-range planning of space life sciences research and coordinated ground-based research. The committee is composed of 28 members. The meeting will be closed Friday, November 6, from 2 p.m. to 5:30 p.m. to discuss and evaluate the qualifications of candidates being considered for membership on the committee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. Aside from the closed session referenced above, this meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including committee members and other participants).

Meeting: Open—except for a closed session as noted in the agenda below.

Agenda: Friday, November 6, 1987

8:45 a.m.—Welcoming Remarks/ Announcements.

9 a.m.—Office of Space Science and Applications (OSSA) Status Report.

9:30 a.m.—Advisory Committees and OSSA Planning.

10:15 a.m.—Space Station Science Management Study.

11 a.m.—Discussion.

1:15 p.m.—Life Sciences New Initiative Planning.

2 p.m.—Closed Session.

7:30 p.m.—Reports from Other Committees: Committee on Space Biology and Medicine; Committee on Planetary Biology and Chemical Evolution; and Strategic Plan.

8:30 p.m.—Adjourn. Saturday, November 7, 1987.

8 a.m.—LSAC White Paper.

10 a.m.—Status of US/USSR Interaction and COSMOS Flight.

10:30 a.m.—Health Maintenance Facility and Emergency Rescue Vehicle.

11 a.m.—Discussion.

12:30 p.m.—Adjourn.

October 8, 1987.

C. Howard Robins, Jr.,

Deputy Associate Administrator for Management, National Aeronautics and Space Administration.

[FR Doc. 87-23925 Filed 10-15-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Developmental Neuroscience Program; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Developmental Neuroscience Program.

Date and Time: November 4-6, 1987: 9:00 a.m.-5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 642, Washington, DC.

Type of Meeting: Part Open

Closed 11/4—9:00 a.m. to 5:00 p.m.

Closed 11/5—9:00 a.m. to 1:30 p.m. and 2:30 to 5:00 p.m..

Open 11/5/—1:30 p.m. to 2:30 p.m.
Closed 11/6—9:00 a.m. to 5:00 p.m.
Contact Person: Dr. Rodney K. Murphey, Program Director, Developmental Neuroscience Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7042.
Purpose of Meeting: To provide advice and recommendations concerning support for research in the developmental program.
Agenda:
Open—General discussion of the current status and future plans of the Developmental Neuroscience Program.
Closed—To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
October 13, 1987.

[FR Doc. 87–24036 Filed 10–15–87; 8:45 am]
BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Meeting

The National Science Foundation announces the following meeting:
Name: Earth Sciences Proposal Review Panel
Date: November 4, 5 and 6, 1987.
Time: 8:00 a.m. to 6:00 p.m. each day.
Place: The National Science Foundation, Room 643, 1800 G. Street, NW., Washington, DC 20550
Type of Meeting: Closed
Contact Person: Dr. Ian D. MacGregor, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550; Telephone: (202) 357–7958
Summary Minutes: May be obtained from the Contact Person at the above address
Purpose of Meeting: To provide advice and recommendations concerning support for research in Earth Sciences
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reasons for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 622b(c). Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 87–24037 Filed 10–15–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Committee for the Mathematical Sciences; Meeting

The National Science Foundation announces the following meeting:
Name: Advisory Committee for the Mathematical Sciences
Date and Time:
November 2, 1987—1:00 p.m. to 5:30 p.m.
November 3, 1987—8:30 a.m. to 3:30 p.m.
Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550
Type of Meeting: Open
Contact Person: Dr. Judith S. Sunley, Division Director, Division of Mathematical Sciences, Room 339, National Science Foundation, Washington, DC 20550. Telephone (202) 357–9669. Anyone planning to attend this meeting should notify Dr. Sunley no later than October 28, 1987.
Purpose of Committee: To provide advice and recommendations concerning support for research in the mathematical sciences.
Agenda:
Monday, November 2, 1987—1:00 p.m.–5:30 p.m.
Introductory activities
Budget update
FY 1987 overview
Strategic planning overview
How is it done at NSF, other agencies
What has been successful in past
Subgroup discussions
1. Documenting needs and opportunities in the mathematical sciences; possible update of the David Report.
2. Coordination of DMS long range plan with that of the Foundation; elaboration of mechanisms to implement mathematical sciences research groups and innovative interactions.
3. Science and Technology Research Centers; short-term and long-term response for the mathematical sciences.
4. Education and human resources; status within mathematical sciences; strategies for developing leadership in these areas.
5. Scientific directions in the mathematical sciences; using the natural tendencies of the discipline strategically; developing a leadership role in interacting with other sciences.

Tuesday, November 3, 1987—8:30 a.m.–3:30 p.m.
Reports from subgroups 1, 2, 3 of previous day
Subgroup discussions
Reports from subgroups 4, 5
Defining a leadership role for the mathematical sciences; strategic planning for the future.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 87–24038 Filed 10–15–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Panel for the Prokaryotic Genetics Program; Meeting

The National Science Foundation announces the following meeting:
Name: Advisory Panel for the Prokaryotic Genetics Program
Date and Time: November 2, 3, and 4th, from 9:00 a.m. to 5:00 p.m. each day and completed by noon on Wednesday.
Place: National Science Foundation, 1800 G Street NW., Room 1242, Washington, DC 20550
Type of Meeting: Closed
Contact Person: Dr. Marcus Rhoades, Acting Director, Prokaryotic Genetics, Room 325, Phone: (202) 357–9687
Summary Minutes: May be obtained from the Contact Person at the above address.
Purpose of Meeting: To provide advice and recommendations concerning support for research.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552 b (c), Government in the Sunshine Act.

Rebecca Winkler,
Committee Management Officer.
October 13, 1987.
[FR Doc. 87–24039 Filed 10–15–87; 8:45 am]
BILLING CODE 7555–01–M

Advisory Panel for Social and Cultural Anthropology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Cultural Anthropology
Date and Time: November 5–6, 1987, 8:30 a.m.—4:30 p.m. each day.
Place: National Science Foundation, 1800 G. Street, NW., room 639, Washington, DC.
Type of Meeting: Part Open
Closed 11/5—8:30 a.m. to 4:30 p.m.
Closed 11/6—8:30 a.m. to 12:00 p.m.
Open 11/6—1:00 p.m. to 2:00 p.m.
Closed 11/6—2:00 p.m. to 4:30 p.m.
Contact Person: Dr. Stuart Plattner, Program Director, Cultural Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7804.
Minutes: May be obtained from contact person listed above.
Purpose of Meeting: To provide advice and recommendations concerning support for research in cultural anthropology.
Agenda:
Closed—To review and evaluate research proposals as part of the selection process for awards.
Open—To provide advice on trends and opportunities in cultural anthropology.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer
Dated: October 13, 1987.

[FR Doc. 87–24040 Filed 10–15–87; 8:45 am]
BILLING CODE 7555-01-M

United States Antarctic Program Safety Review Panel; Meeting

The National Science Foundation announces the following meeting:

Name: United States Antarctic Program (USAP) Safety Review Panel (USRP)
Date and Time: November 2, 3, 1987: 9:00 a.m. to 5:00 p.m. each day.
Place: C.S. Draper Laboratory, Inc., 555 Technology Square, Cambridge, Massachusetts 02139
Type of Meeting: Open
Contact Person: Mr. Russell L. Schweickart, Chairman USAP Safety Review Panel, Room 510, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7673
Minutes: May be obtained from contact person listed above.
Purpose of Meeting: Second meeting of the USAP Safety Review Panel, to review issues from previous meeting and discuss Panel trip to Antarctica on December 7, 1987.
Agenda: A meeting to receive a pre-deployment briefing, to make plans for the Panel's December 7–11, 1987 trip to Antarctica, and to discuss the safety issues of concern to the Panel on this trip.

M. Rebecca Winkler,
Committee Management Officer.
October 13, 1987.

[FR Doc. 87–24035 Filed 10–15–87; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards; Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company (the licensee) for operation of the Surry Nuclear Power Station, Units 1 and 2, located in Surry County, Virginia.

The proposed amendments would revise section 4.7, "Main Steam Line Trip Valves" of the Surry Units 1 and 2 Technical Specifications by removing the partial-closure test specified in sections 4.7A and 4.7B and replacing it by a more rigorous full-closure test to be performed at each startup. Also, the proposed amendments would remove the discussion of the partial closure test from the Bases section of the Technical Specifications. The proposed amendments would also revise the full-closure test frequency and test conditions, and revise the acceptance criteria for consistency with the accident analysis assumptions. A parallel specification appears in Table 4.1–2A and would be revised to be consistent with the proposed revision to TS 4.7. The Bases section would be expanded to include a discussion of the accident analysis assumptions and derivation of the acceptance criteria for the valve closure time.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the requested amendments involve no significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has proposed a modification to section 4.7, "Main Steam Line Trip Valves," of the Surry Units 1 and 2 Technical Specifications. The proposed modification would result in two changes. The first change is the elimination of the partial-closure test specified in section 4.7A, which would be replaced with a more rigorous full-closure test to be performed at each startup instead of at each cold shutdown. The second change involves a revision to the acceptance criterion for Main Steam Trip Valve (MSTV) closure time testing from the present five seconds to a criterion which would result in a more accurate reflection of the assumptions of the existing safety analyses.

The current safety analysis assumes a 5-second time delay from the time the measured process variables (e.g., steam line flow, steam line pressure) reach the main steam line isolation setpoints to the initiation of MSTV motion, followed by an additional 5-second ramp closure of the valves. The proposed surveillance criteria would confirm that each of these components of the MSTV response time are bounded by the analysis assumptions.

The licensee has reviewed the proposed changes against the criteria of 10 CFR 50.92 and has concluded that the changes do not pose a significant hazards consideration as defined therein. Specifically, operation of Surry Power Station with the proposed amendments would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes impact only the Main Steam Trip Valve response time acceptance criteria and associated surveillance frequencies and therefore have no effect on initiating event frequencies. Since the proposed response time criteria remain bounded by the response characteristics assumed in the safety analysis (main steam line break analysis discussed in section 14.3.2 of the Surry Updated Final Safety

Analysis Report), the current analysis results and conclusions are unchanged. Therefore, the proposed changes do not involve any increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The response time characteristics of the engineered safety features have no impact on the range of initiating events previously assessed. Likewise, the revised surveillance frequencies will have no impact. Therefore, new or different kinds of accidents are not created.

3. Involve a significant reduction in a margin of safety. Since the proposed response time criteria for the MSTV's are consistent with the safety analysis assumptions, the existing accident analysis results remain bounding. Therefore, the safety margins are not impacted.

Based on the above considerations, the Commission has made a proposed determination that the requested amendments involve no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of the **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By November 16, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendments involve no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of the amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (Petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Michael W.

Maupin, Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23213.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petitioner and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated September 25, 1987, as superseded October 7, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland, this 9th day of October, 1987.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager Project Directorate II–2 Division of Reactor Projects—I/II.

[FR Doc. 87–24049 Filed 10–15–87; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Wednesday, November 4, 1987
Wednesday, November 11, 1987
Wednesday, November 18, 1987
Wednesday, November 25, 1987

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 632–9710.

Thomas E. Anfinson,

Chairman, Federal Prevailing Rate Advisory Committee.

October 9, 1987.

[FR Doc. 87–23984 Filed 10–15–87; 8:45 am]

BILLING CODE 6325–01–M

PRESIDENT'S COMMISSION ON PRIVATIZATION

Meeting

Summary: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Privatization will be held.

Date and Time: October 20, 1987, from 9:30 a.m. to 12:30 p.m.

Address: Room 124 of the Dirksen Senate Office Building, Washington, DC.

For Further Information Contact: Wiley Horsley, Commission Staff Manager, temporarily at the Department of the Interior, 18th and C Streets NW., Washington, DC 20240, 202/343–3347.

Supplementary Information: The purpose of this meeting is the resolution of subject areas for study by the Commission. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including committee members). Places will be allocated on a first come, first served basis.

James C. Miller III,

Director, Office of Management and Budget.

[FR Doc. 87–24130 Filed 10–15–87; 8:45 am]

BILLING CODE 3110–01–M

Hearings

Summary: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Privatization will be held.

Date and Time: October 20, 1987, from 2:00 p.m. to 5:00 p.m.

Address: Room 124 of the Dirksen Senate Office Building.

For Further Information Contact: Wiley Horsley, Commission Staff Manager, temporarily at the Department of the Interior, 18th and C Streets NW., Washington, DC 20240, 202/343–3347.

Supplementary Information: The purpose of this meeting is to hold hearings on housing related privatization issues. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including committee members). Places will be allocated on a first come, first served basis.

James C. Miller III,

Director, Office of Management and Budget.

[FR Doc. 87–24131 Filed 10–15–87; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–16045; (812–6745)]

The Horizon Funds; Application

Date: October 9, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Horizon Funds.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from sections 18(f)(1), 18(g) and 18(i).

Summary of Application: Applicant seeks an order to permit the issuance and sale of separate classes of shares representing interests in the same investment portfolio that would be identical in all aspects except for class designation and allocation of certain expenses and voting rights.

Filing Dates: The application was filed on June 3, 1987, and amended on September 16 and 25, 1987.

Hearing or Notification of Hearing: If no hearing is orderd, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on November 3, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Attn: Thomas M. Collins, President, 277 Park Avenue, 38th Floor, New York, New York 10172.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 272–3033, or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4500).

Applicant's Representations

1. Applicant is registered under the 1940 Act as an open-end, management investment company and its registration statement on Form N–1A was declared effective on June 18, 1987. Applicant is a "series" investment company currently offering five series of shares representing interests in five investment portfolios ("Portfolios"), three of which are money market funds. Applicant's distributor and administrator is Concord Financial Group, Inc. ("Concord"), its investment adviser is Security Pacific National Bank ("Security Pacific"), and Mellon Bank, N.A. and Mellon Financial Services Corporation No. 16 are Applicant's custodian and transfer agent, respectively.

2. Shares of Applicant's existing Portfolios ("Existing Shares") are sold solely to institutional investors, such as banks, insurance companies, investment counselors and brokers. Although individuals may not purchase such shares directly, institutional investors may purchase shares for accounts maintained by individuals. Most investors in Applicant's Existing Shares are banks acting in a fiduciary, advisory, agency, custodial or other similar capacity. Such banks often charge the customers for whose benefit they invest in Existing Shares a "sweep fee" or some other fee to compensate them for providing services to their customers. Certain institutional investors may also invest as principal for their own accounts.

3. Shares in the Portfolios are sold and redeemed daily at net asset value without the imposition of a sales or redemption charge. The net asset value per share in each money market Portfolio is calculated based on the amortized cost method of valuation. Net asset value per share in each other Portfolio is calculated based on the mean between bid and asked prices for securities for which market quotations are available and fair value as determined by Applicant's investment adviser for other securities and assets, except that debt securities with remaining maturities of 60 days or less will be valued at their amortized cost. Net asset value per share is determined daily at 4:00 p.m. for each money market Portfolio and at 4:00 p.m. on each day the New York Stock Exchange is open for trading for each other Portfolio. The net investment income of each Portfolio is declared daily and paid monthly to shareholders.

4. All expenses of each Portfolio currently are borne pro-rata by the shareholders of that Portfolio. Portfolio expenses consist of advisory, administrative, custodial and transfer agency fees, as well as other types of operating expenses set forth in Applicant's prospectuses and statement of additional information, subject to certain reimbursement arrangements with Security Pacific and Concord. Applicant has not yet adopted a distribution plan pursuant to Rule 12b–1 under the 1940 Act and does not currently pay Concord for distribution services.

5. Applicant is contemplating the creation of new classes of shares ("New Shares") with the following characteristics. Like the Existing Shares of a Portfolio, the New Shares of a Portfolio would be offered only to institutional investors and could not be purchased directly by individuals. Further, except for class designation and the allocation of certain expenses and voting rights as described below, each class of New Shares of a Portfolio would be identical in all respects and would be subject to the same investment objectives, policies and limitations that apply to the class of Existing Shares to which it is "matched". Unlike the Existing Shares, however, each class of New Shares would be offered in connection with a distribution plan adopted by Applicant pursuant to Rule 12b–1 under the 1940 Act ("Plan"). Under each Plan, Applicant would enter into a servicing agreement ("Servicing Agreement") with each institutional investor concerning the provision of administrative support services to customers ("Customers") of such institutional investors who beneficially own the New Shares offered in connection with such Plan, and distribution assistance to Applicant in connection with such Plan, and distribution of New Shares.

6. Under a Plan, Applicant would pay participating institutions an amount not to exceed .25% (on an annualized basis) of the average daily net asset value of the New Shares owned of record by such participating institutions. Because Servicing Agreements necessarily contemplate provision of services and assistance by an institution to its Customers, Applicant will not knowingly enter into a Servicing Agreement with an institution in those situations where the institution invests for its own account. The provision of administrative support and distribution services under the Plans would not be duplicative of the services currently provided to Applicant by its investment adviser, distributor, transfer agent or custodian.

7. Applicant's Board of Trustees ("Board") believes that by creating and offering New Shares in connection with the Plans, and by concurrently offering Existing Shares independent of such Plans, Applicant may be able to achieve added flexibility in meeting the service and investment needs of shareholders and future investors. The Board also believes that it would be inefficient, and in some instances economically or operationally unfeasible, to organize a separate investment portfolio for each class of New Shares created. Not only would Applicant incur unnecessary accounting and bookkeeping costs in organizing and operating such new portfolios, but the management of the new portfolios as well as the Existing

Portfolios might be hampered. In this regard, Applicant notes that unless the new portfolios grew at a sufficient rate and to a sufficient size, they could be faced with liquidity and diversification problems that would prevent them from producing a favorable yield. Applicant submits that the risk that the new portfolios would ultimately fail because of duplication of costs and management problems would be significant in light of today's extremely competitive environment, in which investors may choose from a broad range of investment alternatives and expect to obtain services suited to their needs without sacrificing safety or yield.

8. To obviate these perceived risks, Applicant proposes to create the New Shares representing interests in the same Portfolios as the Existing Shares, rather than in separate portfolios. Under the proposed arrangement, each New and Existing Share in a particular Portfolio, regardless of class, would represent an equal pro-rata interest in such Portfolio and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (1) The New Shares and Existing Shares would have different class designations; (2) the New Shares would bear the entire expense of the Plans and the related payments ("Service Payments") made under the Servicing Agreements entered into with institutional investors with respect to such New Shares; and (3) only the benefical holders of the New Shares would be entitled to vote on matters pertaining to a Plan or Servicing Agreement.

9. The net asset value of all outstanding shares representing interests in the same Portfolio would be computed on the same dates, at the same times and by the same methods. Further, the gross income of a Portfolio would be allocated on a pro-rata basis to each outstanding New and Existing Share in the Portfolio regardless of class, and all expenses incurred by the Portfolio would be borne on a pro-rata basis by such New and Existing Shares, except for Service Payments made under a Plan. Because of the payments that would be borne exclusively by the New Shares of a Portfolio, the net income of the dividends payable to such New Shares would be somewhat lower than that paid on the Existing Shares of such Portfolio. On the other hand, beneficial owners of Existing Shares will usually be charged a fee directly by the institutional investors for investing in such Shares on their behalf and, thus, in cases where such fee exceeds expenses related to a Plan, the Existing Shares of a Portfolio may ultimately have a lower rate of return to the beneficial owners than the New Shares of such Portfolio. Applicant notes, however, that although it is unaware of any institutional investor that would charge a direct fee (other than a basic account fee) in addition to receiving payments relating to a Plan, it cannot guarantee that this will never be the case. Applicant has agreed to a specific condition (Condition No. 6 below) to prevent unfair discrimination against the beneficial owners of Existing Shares upon implementation of the Plans. Dividends paid to the New and Existing Shares of a Portfolio would, nonetheless, be declared and paid on the same days and at the same times and, except as noted with respect to the expense of the Plans, would be determined in the same manner and paid in the same amounts.

Applicant's Legal Analysis

1. Applicant requests an order pursuant to section 6(c) of the 1940 Act to the extent that the proposed dual class arrangement might be deemed: (1) To result in a "senior security" within the meaning of section 18(g) and thus prohibited by section 18(f) (1); and (2) to violate the equal voting rights requirement of section 18(i). In support of the requested order, Applicant contends that the proposed allocation of expenses and voting rights relating to the Plans in the manner described is equitable and will not discriminate unfairly against any group of shareholders. Investors purchasing New Shares offered in connection with a Plan and receiving the services provided thereunder would bear the costs associated with such services, and would also enjoy exclusive shareholder voting rights with respect to matters affecting that Plan. Conversely, investors purchasing Existing Shares would not bear those expenses or exercise such voting rights but instead, would bear those fees assessed by the institutions for offering such Existing Shares to their customers.

2. Applicant also submits that the proposed arrangement does not involve borrowing, does not affect its existing assets or reserves and will not increase the speculative character of the shares in a Portfolio, because all shares will participate pro-rata in all of the Portfolio's income and all of the Portfolio's expenses (with the exception of expenses of the Portfolio's Plan and related Service Payments). Accordingly, Applicant asserts that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicant's Conditions

If the requested order is granted Applicant expressly consents to be subject to the following conditions:

1. The only differences between each class of New and Existing Shares representing interests in the same Portfolio will relate solely to priorities with respect to: (a) The payment of dividends, and such priority will reflect only the impact of the Service Payments made by the Applicant under the Plans relating to particular classes of New Shares, (b) voting rights on matters which pertain to the Plans (and Servicing Agreements and Service Payments thereunder), which rights will be granted solely to the classes of New Shares, and (c) the different designation of each class of shares.

2. The Plans, Servicing Agreements and Service Payments relating to the New Shares will be approved and reviewed by the Applicant's Board of Trustees in accordance with the procedures set forth in Rule 12b-1 under the 1940 Act both currently and as that Rule may be modified in the future, and, in addition, the Plans (and, to the extent required, the Servicing Agreements and Service Payments thereunder) relating to the New Shares will be approved by Applicant's shareholders in accordance with said Rule. In addition, Applicant's Board of Trustee, in approving and reviewing payments to an institution pursuant to any Plan, will conclude in good faith based on information available to it that such expenditures are competitive with those offered in the industry.

3. Dividends paid by Applicant with respect to a class of new Shares of a Portfolio will be calculated in the same manner, at the same time, on the same day, and will be in the same amount as dividends paid by Applicant with respect to the class of Existing Shares in the same Portfolio, except that the expenses of any Service Payments made by Applicant under the Servicing Agreements relating said class of New Shares will be borne exclusively by that class.

4. Each prospectus relating to a class of New Shares that is offered in connection with a Plan will:

(a) Describe the services rendered by institutional investors under Servicing Agreements with respect to the new Shares and the fees payable by Applicant for such services; and (b) state that the beneficial owners of the New Shares should read the prospectus in light of the terms governing their

institutional accounts. In addition, each Servicing Agreement entered into by Applicant will contain a representation by the institutional investor involved that any compensation payable to the institution by its Customers in connection with the investment of their assets in the Applicant: (i) Will be disclosed by it to its Customers; (ii) will be authorized by its Customers; and (iii) will not result in an excessive fee to the institution.

5. Applicant will operate a Portfolio issuing new Shares only when and for so long as such Portfolio declares a daily dividend, accrues its Service Payments daily, and has received an undertaking from any person entitled to receive any Service Payment waiving such portion of any such payment to the extent necessary to assure that the Service Payments required to be accured by any class of New Shares on any day does not exceed the income to be accrued to such class of New Shares on that day. In this manner the net asset value per share for

6. For the purpose of preventing unfair discrimination against the beneficial owners of Existing Shares, each institutional investor acquiring Existing Shares will be required to represent on its application with the Applicant that it will not impose a fee or fees upon the beneficial owners of such Shares, for automatically investing such beneficial owners' assets in such Shares, in an amount which exceeds .50% (on an annualized basis) of the average daily net asset value of the Existing Shares of such beneficial owners.

7. Applicant acknowledges that granting of the requested exemptive order will not imply SEC approval, authorization or acquiescence in any particular level of payments that the Applicants may make to institutions pursuant to any Plan in reliance on this exemptive order.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-23936 Filed 10-15-87; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5461]

Issuer Delisting; Application To Withdraw From Listing and Registration; Welded Tube Co. of America (10% Subordinated Debentures Due October 15, 1955)

October 9, 1987.

Welded Tube Co. of America ("Company"), a Pennsylvania corporation, has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the American Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The Company considered various factors including (i) the limited number of record holders of Debentures, (ii) the limited trading of debentures on the Exchange and (iii) the application by the Exchange to the Commission for the delisting of the Common Stock, par value $1.00, of the Company. The Company has also considered the expense of continuing listing of the Debentures on the Exchange in light of the limited number of holders and limited trading on the Exchange.

The Company's Common Stock was stricken from listing on the Exchange on September 4, 1987 following application by the Exchange to the Securities and Exchange Commission ("Commission") to effect the delisting. Subsequently the Company filed with the Commission certification/notices on Form 15 respecting the Common Stock. The Form 15 was filed immediately following consummation on September 30, 1987, of a merger involving the Company. As a result of the merger, the Company has become a wholly-owned indirect subsidiary of Palmer Tube Mills Limited, a Queensland, Australia Corporation.

Any interested person may, on or before November 2, 1987, submit by letter to the Secretary of the Securities Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-23937 Filed 10-15-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-25009; File No. SR-NASD-87-38]

Self-Regulatory Organizations; Order Approving on Accelerated Basis Proposed Rule Change; National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 1, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this order to solicit comments on the proposed rule change from interest persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to extend the pilot program for NASDAQ Workstation Service through October 31, 1987. All other aspects of the current pilot program, as approved by the Commission on July 27, 1987, will remain unchanged during this brief extension.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASDQ Workstation Service commence with the Commission's issuance of an order authorizing a pilot

[1] *See* Securities Exchange Act Release No. 24749 (July 27, 1987), approving File No. SR-NASD-87-29. The NASD recently submitted File No. SR-NASD-87 to establish the NASDAQ Workstation Service on a permanent basis and to set the applicable subscriber fees. In that connection, the Association requested Commission approval by October 31, 1987.

program from July 31 to October 1, 1987.[2] During this interval, participating NASDAQ market (i.e., NASDAQ Level 3 subscribers) have utilized the service, at no charge, in order to familiarize themselves with its features. Based on that experience, participants will have objective information to apply in deciding whether to continue NASDAQ Workstation Service after the pilot period. The purpose of this rule proposal is to obtain Commission approval of an extension of the pilot program through October 31, 1987. This extension is needed to assure continuity of Workstation Service while the Commission deliberates such matters as permanent status, subscriber fees, and expanded access proposed in File No. SR–NASD–87–36. The requested extension will also allow the NASD to initiate NASDAQ Workstation Service to certain market makers who had volunteered earlier, but not yet participated due to delays in the installation of local circuitry (a factor completely beyond the NASD's control) required to access the Workstation Service. Assuming Commission approval of this extension, about 30 market maker firms will have participated by the pilot program's conclusion. Although this total is lower than the NASD's original projection, it is sufficient to provide a meaningful test of Workstation equipment under actual trading conditions. Accordingly, the Association urges prompt Commission approval of this filing to assure service continuity and to facilitate an orderly transition of the Workstation Service from pilot to permanent status in early November.

The only modification posed in this filing is an extension of the Workstation Service pilot program from October 1, to October 31, 1987 (inclusive). The NASD cites Section 11A and 15A of the Act as providing the statutory basis for this extension. Subsections (A)–(D) of section 11A(1) contain a series of Congressional findings respecting the goals of a national market system. Enhancing market efficiency through application of advanced data processing and communications technologies is the recurrent theme of these provisions. The NASDAQ Workstation Service combines powerful PC's with specialized software developed by NASDAQ, Inc. to provide state-of-the-art data management capabilities to all interested subscribers. In particular, the NASDAQ Workstation's market monitoring and display capabilities were designed to increase the operational efficiency of subscribing marketmakers, to increase their competitiveness, and to contribute to the liquidity of the NASDAQ market. Extension of the pilot program will permit participating market makers to utilize NASDAQ market data more effectively and also facilitate an orderly introduction of the service to other subscribers at the pilot's conclusion. Such results are fully consistent with the policy goals articulated under section 11(A)(a)(1) of the Act.

The Association also relies on Section 15A(b)(6) of the Act in support of this proposal. Section 15A(b)(6) requires, inter alia, that the Association's rules promote just and equitable principles of trade, facilitate securities transactions, perfect the mechanism of a free and open market and a national market system, and generally protect investors and the public interest. Extending the NASDAQ Workstation pilot enables participating market makers to access the advanced data management features under actual trading conditions. Such access means opportunities for subscribers to utilize NASDAQ market data more efficiently in making trading decisions. Continued monitoring of this experience is vital to facilitate an orderly introduction of the Workstation Service to other interested subscribers in November. Moreover, the requested estension will provide some additional market makers with an opportunity to test the service, at no cost, before deciding whether to elect it on a paying basis. The NASD submits that access to the NASDAQ Workstation Service, via an extension of the pilot program, will ultimately serve to facilitate securities transactions, advance the policy goals underlying a national market system, and generally protect investors and the public interest. Therefore, the NASD posits that Commission approval of the instant filing is fully justified under the above-cited elements of section 15A(b)(6)

B. Self-Regulatory Organization's Statement on Burden on Competition

The instant proposal does not involve the imposition of any competitive burden. This conclusion is supported by several factors. First, subscription to the NASDAQ Workstation Service will be voluntary and open to each participant on the same terms. At the conclusion of the extended pilot program, a firm's decision to elect the new service will be based upon an assessment of its costs and benefits relative to accessing the desired level of NASDAQ service via Harris standard terminal or the NQDS service from independent vendors. (The relevant costs are set forth in File No. SR–NASD–87–36 which is pending with the Commission.) Second, the NASD will continue to make available the Harris terminal equipment. The NASD expects that many firms opting for NASDAQ Workstation Service will continue to use some of their existing Harris terminals. Third, the modifications embodied in this filing do not create a competitive burden vis-a-vis vendors of securities market information. Extending the pilot period will not impair any vendor's ability to access NASDAQ market makers' quotes (i.e., the NQDS service) of NASDAQ/NMS last sale reports via high speed data feeds. Fourth, it must be emphasized that the NASDAQ Workstation Service was principally designed to provide sophisticated data management capabilities to NASDAQ market makers. Such capabilities promote greater efficency in market makers' routine activities and thereby enhance the quality of the NASDAQ marketplace. This situation is analogous to an exchange's upgrading of systems that support market making on a physical trading floor. Consequently, an extended pilot program for NASDAQ Workstation Service does not pose a competitive impact upon vendors servicing a much broader range of end users.

It is believed, therefore, that no competitive burden will result from the Commission's approval of this filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the 35th day after its publication in the **Federal Register**. Accelerated approval is necessary and appropriate for a variety of reasons including (i) continuity of service to existing participants in the pilot program until subscriber fees are set; (ii) allowing additional market makers, who had volunteered earlier, to participate in the pilot; (iii) allowing additional opportunities for testing Work station terminals under actual and varied trading conditions; (iv) allowing pilot program participants, as well as the Association's technical staff, further opportunity to evaluate the operation of

[2] Securities Exchange Act Release No. 24749, supra note 1.

Workstation terminals and related software; and (v) to promote an orderly transition of NASDAQ Workstation Service to permanent status. For these reasons, the NASD urges that the Commission find good cause to grant accelerated approval of this proposed rule change.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. Specifically, accelerated approval will allow continuity of Workstation Service to existing participants and allow some additional market makers to participate for the extended pilot period. These participants will benefit by gaining experience with the Workstation Service under actual trading conditions before deciding to subscribe on a paying basis. Similarly, the NASD's technical staff will have a further opportunity to evaluate operation of the Workstation terminals and related software in order to address any unforeseen problems. This monitoring process should assure an orderly transition to permanent status at a future date. Likewise, the proposed extension will allow continuation of the pilot program while the Commission considers the fees and permanent status proposed in File No. SR–NASD–87–36. Based on the foregoing, the Commission finds good cause for granting accelerated approval of this rule change proposal in accord with section 19(b)(2)(B) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 6, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 9, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–24034 Filed 10–15–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0207]

Issance of a Small Business Investment Company License; ANB Venture Corp.

On August 7, 1987, a notice was published in the **Federal Register** (52 FR 29463) stating that an application has been filed by ANB Venture Corporation, Chicago, Illinois with Small Business Administration (SBA) pursuant to § 107.102 of 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 September 7, 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. 05/05–0207 on September 11, 1987, to ANB Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: October 6, 1987.

[FR Doc. 87–23922 Filed 10–15–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of The Secretary

[Public Notice 1033]

Foreign Assistance Determination; Bolivia

In accordance with the authorities delegated to me as Secretary of State by Executive Order 12163, I hereby determine that funds withheld from Bolivia pursuant to section 611 of the International Security and Development Cooperation Act of 1985, Pub. L. 99–83, cannot be used effectively in halting illicit drug production or trafficking during their remaining period of availability for such purposes; and I therefore direct that, in accordance with section 553(2)(A) of the Foreign Assistance and Related Programs Appropriations Act, 1987, Pub. L. 99–591, such funds shall be reprogrammed within the accounts to which they were originally appropriated.

George P. Shultz,

Secretary of State.

[FR Doc. 87–23973 Filed 10–15–87; 8:45 am]

BILLING CODE 4710–17–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Hazardous Materials; 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.

DATES: Comment period closes October 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: 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
3569-X	NL McCullough/NL Industries, Inc., Houston, TX.	3569
5112-X	Austin Powder Co., Cleveland, OH.	5112
5112-X	U.S. Department of Defense, Falls Church, VA.	5112
6325-X	J.H. Van Amburgh Explosives, Inc., Dallas, TX.	6325
6530-X	Liquid Air Corp., Walnut Creek, CA.	6530
6530-X	Scott Specialty Gases, Plumsteadville, PA.	6530
6530-X	Airco Industrial Gases, Murray Hill, NJ.	6530
6530-X	Liquid Carbonic Corp., Chicago, IL.	6530
6530-X	Air Products & Chemicals, Inc., Allentown, PA.	6530
6765-X	.....do	6765
6765-X	L'Air Liquide Corp., Le Blanc-Mesnil, France.	6765
6800-X	Plasti-Drum Corp., Lockport, IL.	6800
6861-X	Teledyne McCormick Selph, Hollister, CA.	6861
7052-X	Power Conversion, Inc., Elmwood Park, NJ.	7052
7052-X	U.S. Department of Defense, Falls Church, VA.	7052
7052-X	Geophysical Research Corp., Tulsa, OK.	7052
7052-X	Martin Marietta Corp., Denver, CO.	7052
7052-X	Plainview Electronics, Boca Raton, FL.	7052
7052-X	National Aeronautics and Space Administration, Washington, DC.	7052
7052-X	The Boeing Co., Seattle, WA.	7052
7052-X	ENMET Corp., Ann Arbor, MI.	7052
7052-X	Eagle-Picher Industries, Inc., Joplin, MO.	7052
7052-X	Telonics, Inc., Mesa, AZ.	7052
7052-X	Leigh Instruments, Ltd., Carleton Place, Ontario, VA.	7052
7052-X	Magnavox Government & Industrial Electronics Corp., Fort Wayne, IN.	7052
7060-X	Federal Express Corp., Memphis, TN.	7060
7060-X	Airborne Express, Inc., Wilmington, OH.	7060
7542-X	U.S. Cylinders, Inc., Citronelle, AL.	7542
7549-X	Stauffer Chemical Co., Westport, CT.	7549
7638-X	Minnesota Valley Engineering, Inc., New Prague, MN.	7638
7694-X	Borg-Warner Fluid Controls, Van Nuys, CA.	7694
7753-X	Stauffer Chemical Co., Westport, CT.	7753
7876-X	Ashland Oil, Inc., Dublin, OH.	7876
7887-X	Vulcan Systems, Inc., Colorado Springs, CO.	7887
7915-X	U.S. Department of Defense, Falls Church, VA.	7915
7963-X	Stauffer Chemical Co., Westport, CT.	7963
8175-X	Norac Co., Inc., Azusa, CA.	8175
8264-X	Hercules, Inc., Wilmington, DE.	8264
8265-X	.....do	8265
8307-X	U.S. Department of Energy, Washington, DC.	8307
8348-X	Frell, Inc., Corpus Christi, TX.	8348
8354-X	VTG, Hamburg, West Germany.	8354
8377-X	Teledyne McCormick Selph, Hollister, CA.	8377
8390-X	Ashland Oil, Inc., Dublin, OH.	8390
8453-X	Nelson Bros., Inc., Parrish, AL.	8453
8453-X	Pacific Powder Co., Tenino, WA.	8453
8453-X	Pacific Motor Transport, Inc., Tenino, WA.	8453
8453-X	Pacco, Inc., Tenino, WA.	8453
8465-X	C-I-L, Inc., Brampton, Ont., Canada, PA.	8465
8465-X	Chase Bag Co., Greenwich, CT.	8465
8556-X	L'Air Liquide, Le Blanc-Mesnil, France.	8556
8602-X	Minnesota Valley Engineering, Inc., New Prague, MN.	8602
8720-X	Applied Cos., San Fernando, CA.	8720
8732-X	Chemcentral, Inc., Chicago, IL.	8732
8837-X	Fabricated Metals, Inc., San Leandro, CA.	8837
8917-X	Morrison-Knudsen Co., Inc., Boise, ID (see footnote 1).	8917
8938-X	Cryogenic Services, Inc., Canton, GA (see footnote 2).	8938
8995-X	Foam Supplies, Inc., Olivette, MO.	8995
9003-X	General Electric Co., San Jose, CA (see footnote 3).	9003
9016-X	Van Leer Verpackungen GmbH, Hamburg, West Germany (see footnote 4).	9016
9047-X	Union Carbide Corp., Danbury, CT.	9047
9080-X	Henderson's Welding & Manufacturing Corp., Seminole, TX.	9080
9130-X	Bio-Lab, Inc., Decatur, GA (see footnote 5).	9130
9158-X	General Ceramics, Inc., Haskell, NJ.	9158
9164-X	Fabricated Metals, Inc., San Leandro, CA.	9164
9198-X	U.S. Department of the Interior, Boise, ID.	9198

Application No.	Applicant	Renewal of exemption
9256-X	U.S. Department of Defense, Falls Church, VA.	9256
9269-X	Columbia Nitrogen Corp., Augusta, GA.	9269
9316-X	Fluoroware, Inc., Chaska, MN (see footnote 6).	9316
9330-X	MarkAir, Inc., Anchorage, AK.	9330
9346-X	Pennzoil Products, Co., Rouseville, PA.	9346
9352-X	Maloney Pipeline Systems, Inc., Houston, TX.	9352
9355-X	Black & Decker Corp., Hampstead, MD.	9355
9363-X	Columbia Astrophysics Laboratory, New York, NY.	9363
9393-X	Sexton Can Co., Inc., Cambridge, MA.	9393
9421-X	Taylor-Wharton, division of Harsco Corp., Harrisburg, PA (see footnote 7).	9421
9441-X	Amtrol, Inc., West Warwick, RI.	9441
9463-X	Guzzler Manufacturing, Inc., Birmingham, AL.	9463
9478-X	Systron Donner Corp., Concord, CA.	9478
9489-X	Custom Air Service, Howell, MI.	9489
9498-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9498
9503-X	Rotational Molding, Inc., Gardena, CA.	9503
9505-X	Norac Co., Inc., Azusa, CA.	9505
9790-X	Taylor-Wharton, division of Harsco Corp., Indianapolis, IN (see footnote 8).	9790

(1) To authorize renewal and deletion of section 7.c., which would eliminate the required polyethylene liner.

(2) To authorize two (2) additional models of non-DOT specification cylinders, similar to DOT-4L cylinders, for shipment of Carbon Dioxide, refrigerated liquid.

(3) To authorize renewal and an additional non-DOT specification portable steel tank for shipment of Sodium, metal, classed as flammable solid.

(4) To approve for shipment those commodities presently authorized in a DOT Specification 21C fiber drum in two different style non-DOT specification fiber drums.

(5) To authorize an additional oxidizer for shipment.

(6) To authorize polyethylene overpacks in lieu of the currently authorized steel overpacks.

(7) To authorize an additional non-DOT specification cylinder for shipment of gases classed as nonflammable, flammable and poison A.

(8) To authorize removal of section 8.a., which requires carrying the exemption aboard the motor vehicle.

Application No.	Applicant	Parties to exemption
6530-P	American Gas, Industrial Gases Division, Elk Groove Village, IL.	6530
6614-P	Clearwater Chemical Co., Clearwater, FL.	6614
7052-P	DYMEC, Inc., Winchester, MA.	7052
7607-P	Smith & Denison, Inc., Hayward, CA.	7607
7616-P	Wisconsin Central, Ltd., Rosemont, IL.	7616
7835-P	Airweld Inc., Farmingdale, NY.	7835
8451-P	LTV Missiles & Electronics Group, Dallas, TX.	8451
8451-P	Atlantic Research Corp., Gainesville, VA.	8451
8451-P	Aerojet Solid Propulsion Co., Sacramento, CA.	8451
8489-P	Syn-Tex Converters, Ltd., Winnipeg, Manitoba, Canada (see footnote 1).	8489
9066-P	Allied-Signal Inc., Bendix Safety Restraints Division, Mt. Clemens, MI.	9066
9498-P	C-I-L Inc., North York, Ontario, Canada, NC.	9498
9654-P	Degussa Corp., Teterboro, NJ.	9654
9837-P	Larson Tool & Stamping Co., Attleboro, MA.	9837
9863-P	L'Air Liquide Corp., Le Blanc-Mesnil, France.	9863

(1) To authorize shipment of copper arsenate as an additional commodity.

This notice of receipt of applications for renewal exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 8, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-23917 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, 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.

DATES: Comment period closes November 12, 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 affected	Nature of exemption thereof
9857-N	Van Leer Verpackungen, GmbH, Am Westhover Berg, West Germany	49 CFR Part 173	To authorize manufacture, mark, and sell non-DOT specification fiber drums with metal heads and a flat bottom polyethylene bag for shipment of those commodities presently authorized in DOT Specification 21C fiber drum. (modes 1, 2, 3)
9858-N	Fomo Products, Inc., Norton, OH	49 CFR 173.1200(a)(8)(ii)(2)	To authorize an alternative testing method for DOT Specification 2O cans containing consumer commodities, classed as ORM-D. (mode 1)
9859-N	Container Products, Inc., Newnan, GA	49 CFR 173.346, 173.358, 173.359	To authorize shipment of ethyl parathion and methyl parathion, classed as poison B, and other materials, once identified, classed as flammable liquid or corrosive material, in DOT Specification 34 polyethylene drums. (modes 1, 2, 3)
9860-N	Hoover Group, Inc., Beatrice, NE	49 CFR 178.82	To authorize manufacture, marking and sale of non-DOT specification steel containers, complying with DOT Specification 5B—with certain exceptions, for shipment of those materials authorized in DOT Specification 5B containers. (modes 1, 2, 3)
9861-N	Degussa Corporation, Teterboro, NJ	49 CFR 173.154, 175.3	To authorize shipment of sodium perborate anhydrous (oxoborate), classed as oxidizer, in DOT Specificaiton 44B and 44C bags. (modes 1, 2, 3, 4)
9862-N	Morton Thiokol, Inc., Huntsville, AL	49 CFR 173.88(e)(2), 175.3	To authorize shipment of a rocket motor, classed as Class B explosive, in a propulsive state, in a DOT Specification 15A wooden box. (modes 1, 4)
9863-N	Liquid Air Corporation, Walnut Creek, CA	49 CFR 173.34(e), 175.3	To authorize retesting of DOT Specification 3, 3A, 3AA, 3AX and 3AAX cylinders by acoustic emissions testing. (modes 1, 2, 3, 4)
9864-N	Wheaton Aerosols Co., Div. of Wheaton Industries, Mays Landing, NJ.	49 CFR 173.306, 173.1200, 175.3	To authorize shipment of certain materials charged with various propellants, classed as nonflammable and flammable gases, in non-DOT specification polyethylene terephthalate containers. (modes 1, 2, 3, 4)
9865-N	Atlas Powder Company, Dallas, TX	49 CFR 173.64	To authorize shipment of ethylene diamine dinitrate solution, classed as Class A explosive, in DOT Specification 17H drums with DOT Specification 2S liners. (mode 1)
9866-N	Akzo Coatings America, Inc., Troy, MI	49 CFR 173.128	To authorize shipment of paint, classed as a flammable liquid, in non-DOT specification packagings, described as pressure fluid and paint spray tanks. (mode 1)
9867-N	Olin Hunt Specialty Products, Inc., Seward, IL	49 CFR 173.247(a)(10), 175.3	To authorize silicon chloride and titanium tetrachloride, classed as corrosive materials, for shipment in 2.2 liter or less, stainless steel containers, insider Military Specification MS27684-21 metal drums, and overpacked in DOT Specification 19B boxes. (modes 1, 2, 4)
9868-N	Pennwalt Corporation, Buffalo, NY	49 CFR 173.224	To authorize a dicumyl peroxide solution, classed as an organic peroxide, for shipment in DOT Specification MC-331 or MC-312 cargo tanks. (mode 1)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on October 8, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-23918 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 9, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau of Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Financial Management Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Annual Letter—Certificate of Authority.

Description: Information is collected from currently Treasury certified insurance companies for determination of renewal of their certification to write/reinsure Federal surety bonds and for inclusion in Circular 570 for use by Federal bond approving officers.

Respondents: Businesses or other for-profit.

Estimated Burden: 19,431 hours.

OMB Number: 1510-0047.

Form Number: TFS 2211.

Type of Review: Extension.

Title: List of Data.

Description: Information is collected from insurance companies to provide Treasury with a basis for determining acceptability of insurance companies applying for a Certificate of Authority to write or reinsure Federal surety bonds.

Respondents: Businesses or other for-profit.

Estimated Burden: 360 hours.

Clearance Officer: Hector Leyva (301) 436-5300, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Comptroller of the Currency

OMB Number: 1557-0163.

Form Number: None.

Type of Review: Extension.

Title: Rules, Policies, and Procedures for Corporate Activities; Bank Service Corporations.

Description: This rule utilizes a simple notification process for national banks seeking OCC approval for an investment in a bank service corporation.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 32 hours.

Clearance Officer: Eric Thompson (202) 447-1632, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Robert Fishman (202) 395-7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-24044 Filed 10-15-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

October 9, 1987.

The Department of Treasury has made

revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0704.
Form Number: 5471, Schedules M, N, and O.
Type of Review: Resubmission.
Title: Information Return with Respect to a Foreign Corporation.
Description: Form 5471 and its related schedules are used by U.S. persons that have an interest in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to report a U.S. person's acquisition of a 5 percent interest in a foreign corporation; and to report income and deductions of a foreign personal holding company. The IRS uses Form 5471 to determine if U.S. persons have correctly reported income from the foreign corporation.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Burden: 135,657 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 87–24045 Filed 10–15–87; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 13, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0034.
Form Number: 942/942PR.
Type of Review: Extension.
Title: Employer's Quarterly Tax Return for Household Employees.
Description: Household employers must prepare and file Form 942 or Form 942PR (Puerto Rico only) to report and pay social security tax and (942 only) income tax voluntarily withheld. The information is used to verify that the correct tax has been paid.
Respondents: Individuals or households.
Estimated Burden: 699,306 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Alcohol, Tobacco and Firearms

OMB Number: 1512–0059.
Form Number: ATF F 5120.29 (698 Supplemental).
Type of Review: Extension.
Title: Bonded Wineries-Formula and Process for Wine, Letterhead Applications and Notices Relating to Operations.
Description: ATF F 5120.29 is completed by proprietors of bonded wineries who intend to produce wine, to ensure that the formulas and processes used in the production of wine are in accordance with the regulations of the Federal Alcohol Administration Act and the Internal Revenue Code.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 1,520 hours.

OMB Number: 1512–0142.
Form Number: ATF F 2734 (5100.25).
Type of Review: Extension.
Title: Specific Export Bond-Distilled Spirits or Wine.
Description: ATF F 2734 (5100.25) is used to ensure the payment of taxes on shipments of wine and distilled spirits. The form describes the taxable articles, the surety company, the specific conditions of the bond coverage and the persons that are accountable for tax payment.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 500 hours.

OMB Number: 1512–0204.
Form Number: ATF F 5110.38.
Title: Formula for Distilled Spirits Under the Federal Alcohol Administration Act.
Description: ATF F 5110.38 is used to determine the classification of distilled spirits for labeling and for consumer protection. The form describes the person filing, type of product to be made, and restrictions to the labeling and manufacture. The form is used by AFT to ensure that a product is made and labeled properly and to audit distilled spirits operations.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 4,000 hours.

OMB Number: 1512–0392.
Form Number: ATF REC 5190/1.
Type of Review: Extension.
Title: Record of Things of Value Furnished to Retailers Under the Federal Alcohol Administration Act.
Description: These records (bills of sale, invoices) are used to show compliance with provisions of the Federal Alcohol Administration Act which prevents wholesalers, producers, or importers from giving things of value to retail liquor dealers. These records are commercial invoices showing the furnishing of goods to retailers.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 1 hour.
Clearance Officer: Robert Masarsky (202) 566–7077; Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Office.
[FR Doc. 87–24046 Filed 10–15–87; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: October 13, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau

Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0010.
Form Number: W–4.
Type of Review: Resubmission.
Title: Employee's Withholding Allowance Certificate.
Description: Employees file this form to tell employers (1) the number of withholding allowances claimed, (2) the dollar amount they want withholding increased each pay period, (3) if they are entitled to claim exemption from withholding. Employers use this information to figure the correct tax to withhold from the employee's wages.
Respondents: Individuals or households.
Estimated Burden: 14,395,556 hours.

OMB Number: 1545–1012.
Form Number: 5305A–SEP.
Type of Review: Resubmission.
Title: Salary Reduction and Other Simplified Employee Pension Elective-Individual Retirement Accounts Contribution Agreement.
Description: This form is used by an employer to make an agreement to provide benefits to all employees under a salary reduction Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with IRS but to be retained in the employer's records as proof of establishing such a plan, thereby justifying a deduction for contributions made to this SEP. The data is used to verify the deduction.
Respondents: Businesses or other for-profit.
Estimated Burden: 34,773 hours.

OMB Number: 1545–1017.
Form Number: 33.
Type of Review: Resubmission.
Title: Affidavit of Individual Surety on Bond.
Description: Form 33 is required under Regulations § 301.7101–1(b)(3)(v) to provide information on the adequacy of security of individual surety given when posting a bond. This form is attached to Form 928, Gasoline Bond.
Respondents: Individuals or households.
Estimated Burden: 26 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC. 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87–24047 Filed 10–15–87; 8:45 am]

BILLING CODE 4810–25–M

Departmental Offices; Notice Listing Instruments Previously Exempted Under the Securities Exchange Act of 1934

AGENCY: Department of the Treasury; Departmental Offices.

ACTION: Notice listing instruments previously designated by the Secretary of the Treasury are exempt under the Securities Exchange Act of 1934.

SUMMARY: Since the enactment of the Securities Exchange Act of 1934 (the 1934 Act), the Secretary of the Treasury has designated securities issued by several government and government-sponsored entities for exemption pursuant to section 3(a)(12) (15 U.S.C. 78c(a)(12)). The Notice is a compilation of such designations to date.

EFFECTIVE DATE: October 16, 1987.

FOR FURTHER INFORMATION CONTACT: Jill K. Ouseley, Associate Director, Office of Government Finance and Market Analysis; Room 3212, Main Treasury, Washington, DC 20220, (202) 566–8741.

SUPPLEMENTARY INFORMATION: Section 3(a)(12) of the 1934 Act (15 U.S.C. 78(a)(12)) provides in part that, unless the context otherwise requires, the term "exempted security" or "exempted securities" shall include "such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors." The Government Securities Act of 1986, Pub. L. 99–571, 100 Stat. 3208 (1986), in part amends the 1934 Act to add a new subparagraph to section 3(a) defining government securities to include "securities which are issued or guaranteed by corporations in which the United States has a direct or indirect interest and which are designated by the Secretary of the Treasury for exemption as necessary or appropriate in the public interest or for the protection of investors." Pub. L. 99–571, § 102 (adding 3(a)(42)(B), 15 U.S.C. 87c(a)(42)(B)).

This Notice lists designations that have been provided by the Secretary of the Treasury under section 3(a)(12) and which are also referred to in the provision of the Government Securities Act that is quoted above. None of the designations has been rescinded. Securities of the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association, however, are now designated by statute as exempted securities within the meaning of the laws administered by the SEC. Moreover, the securities of certain other entities, such as the Student Loan Marketing Association, are designated as exempt by statute and are not listed in this Notice.

For additional information regarding securities designated by the Treasury, interested parties should refer to the full text of the designations cited in the attached table and to the statutory provisions cited therein.

Dated: October 7, 1987.

Charles O. Sethness,

Assistant Secretary (Domestic Finance).

TREASURY DESIGNATIONS OF EXEMPTED SECURITIES

Issuer or guarantor	Federal Register	Description of Securities
Commodity Credit Corp	31 FR 4899 (1966); 34 FR 8713 (1969).	Special Series Certificates of Interest.
Export-Import Bank	32 FR 2789 (1967)	Participation certificates or other securities issued by the Export-Import Bank.
Farm Credit System:		
a. Central Bank for Cooperatives	14 FR 6138 (1949)	Securities issued under the Farm Credit Act of 1933, as amended.
b. Central and Regional Banks for Cooperatives	19 FR 7162 (1954)	Securities issued under the Farm Credit Act of 1933, as amended in 1954.
c. Federal Intermediate Credit Banks	(1)	Debentures issued under the Federal Farm Loan Act of 1916.
d. Federal Land Banks	(1)	Bonds issued under the Federal Farm Loan Act of 1916.

TREASURY DESIGNATIONS OF EXEMPTED SECURITIES—Continued

Issuer or guarantor	Federal Register	Description of Securities
e. Federal Intermediate Credit Banks and Federal Land Banks.	35 FR 6716 (1970)	Farm Credit Investment Bonds issued under the Federal Farm Loan Act of 1916 and the 1923 amendment.
f. Central and Regional Banks for Cooperatives, Federal Intermediate Credit Banks and Federal Land Banks.	40 FR 4946 (1975)	Federal Farm Credit Banks—Consolidated Systemwide Notes issued under the Farm Credit Act of 1971.
g. Central and Regional Banks for Cooperatives, Federal Intermediate Credit Banks and Federal Land Banks.	42 FR 3242 (1977)	Federal Farm Credit Banks—Consolidated Systemwide Bonds issued under the Farm Credit Act of 1971.
h. Central and Regional Banks for Cooperatives	43 FR 24933 (1978)	Farm Credit Investment Bonds issued under the Farm Credit Act of 1971.
Federal Home Loan Bank Board and Federal Home Loan Banks.	2 FR 775 (1937)	Securities issued under the Federal Home Loan Bank Act, as amended.
Federal Home Loan Mortgage Corp.[2]	36 FR 5623 (1971)	Securities guaranteed under the Federal Home Mortgage Corporation Act of 1970.
	([3])	Securities issued under the Federal Home Loan Mortgage Corporation Act of 1970.
Federal National Mortgage Association[4]	3 FR 1419 (1938)	Securities issued under the National Housing Act of 1934, as amended.
	19 FR 8068 (1954)	Securities issued under the 1954 amendments to the National Housing Act.
	20 FR 1382 (1955)	Common stock issued under the 1954 amendments to the National Housing Act.
	29 FR 13977 (1964)	Participation certificates and other instruments guaranteed under the 1964 amendments to the National Housing Act.
Tennessee Valley Authority	25 FR 7544 (1960)	Securities issued under the Tennessee Valley Authority Act of 1933, as amended.
U.S. Postal Service	36 FR 21365 (1971)	Obligations issued pursuant to Section 2005 of Title 39, United States Code.

[1] This designation predates publication of the **Federal Register.** See Securities and Exchange Commission Exchange Act Release No. 34-28 dated October 24, 1934 and Farm Credit Administration release dated October 5, 1934.

[2] In 1983, Congress enacted 12 U.S.C. 1455(g) which amends the Federal Home Loan Mortgage Corporation Act to provide that securities issued or guaranteed by the Federal Home Loan Mortgage Corporation (other than securities guaranteed by the Corporation that are backed by mortgages not purchased by the Corporation) are exempt securities within the meaning of the laws administered by the SEC.

[3] Unpublished letter of designation dated September 28, 1981.

[4] In 1968, Congress amended 12 U.S.C. 1723c to provide in part that all securities issued by the Federal National Mortgage Association, including stock, are deemed to be exempt securities within the meaning of the laws administered by the SEC.

[FR Doc. 87-23997 Filed 10-15-87; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is requesting approval of the extension of a program OMB 3116-0197, which will enable Radio Marti to continue to conduct the various surveys and interviews associated with assessing audience reaction to the effectiveness of Radio Marti Programming. Respondents will be required to respond only one time.

DATE: Comments must be received by November 10, 1987.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/ASP, 301 4th Street, SW., Washington, DC 20547. Telephone (202) 485-7501, and OMB review: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Title: "Surveys, interviews and other audience research of the Research and Policy Department of Radio Marti."

Abstract: Radio Marti was created by Pub. L. 98-111, the Radio Broadcasting to Cuba Act, "to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes". Radio Marti needs to conduct research among recent Cuban arrivals in the U.S. and abroad to determine audience reaction to its programming and gather information on conditions and events in today's Cuba. Information gathered will be used to improve Radio Marti transmissions in providing the Cuban people with news, information and other programming that is relevant, interesting, timely and appealing.

Proposed Frequency of Responses:

No. of respondents	4,311
Recordkeeping hours	.6033
Total annual burden	2,061

Charles N. Canestro

Federal Register Liaison

[FR Doc. 87-23974 Filed 10-15-87; 8:45am]

BILLING CODE 8230-01-M

Bureau of Educational and Cultural Affairs, University Affiliations Program; Application Notice for Fiscal Year 1988

Applications for grants from U.S. institutions of higher education are invited under the University Affiliations Program.

Authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87-256 (Fulbright-Hays Act). The purpose of the Fulbright program is "to enable the government of the United States to increase mutual understanding between the people of the United States and people of other countries."

(Information collection involved in this program has been approved by OMB Action Number 3116-0179, expiration date November 30, 1989

Summary

The Bureau of Educational and Cultural Affairs of the United States Information Agency announces a program of support for institutional partnerships between U.S. and non-U.S. institutions of higher education, including graduate schools, four-year and two-year colleges and universities, and community colleges. One-time grants-in-aid are available for a period of two to three years. Total funding available for each gant may not exceed $50,000 or $60,000, depending on locality.

The goal of the program is to faciliate bilateral institutional relationships which promote mutual understanding through faculty and staff exchanges.

Applications on behalf of the collaborating institutions must be received by USIA no later than 5:00 p.m., EST on Wednesday, January 27, 1988.

Participating institutions should be prepared to assign faculty or staff to the partner institution for teaching, lecturing or research assignments of one month or longer, maintain said person(s) on full salary and benefits, and receive visiting faculty or staff from the partner institution for one month or longer for the same or complimentary activities. USIA funds may be used only for participant travel costs and modest supplements for maintenance expenses. Institutional overhead is not allowable and all other costs related to the exchange program must be borne by the participating institutions.

Participants traveling under USIA grant support must be U.S. citizens (or nationals) if representing the U.S. partner institution, and nationals of the country or area of the foreign partner.

USIA support may be requested for a minimum of two years and a maximum of three years. The total request to USIA, covering eligible expenses of both institutions for the two- or three-year period, may not exceed the maximum allowable for the locality of request, as listed below.

Subject to the availability of funds in Fiscal Year 1988, up to 30 grants will be available on a competitive basis for specific geographic locations and themes. Awards will reflect Agency priorities and academic considerations. Complete program criteria and application guidelines appear below.

Proposal will be accepted either for the establishment of new affiliations or for the development of programs in new areas for existing affiliations not previoulsy funded by USIA's Affiliations Program.

Proposals for funding ad hoc research projects, technical assistance projects and feasibility studies to plan affiliations will not be considered under this program.

All proposals recommended for funding will be subject to Agency review for conformity to relevant OMB and legal considerations. Funding of any proposal is subject to the regular procedures, regulations and requirements for Bureau of Educational and Cultural Affairs grants, including review by USIA's Office of General Counsel.

Eligibility

Because one of the program's purposes is to strengthen ties between the U.S. and many areas of the world, geographic and thematic priorities have also been identified.

Africa: Proposals will be considered for any discipline(s) in the *humanities, social science, education* and *communications* for all countries listed below; however, special consideration will be given to proposals in any of the fields noted after each country. Applicants should focus on one or two specific topics of interest.

Eligible for grants up to *$50,000* maximum each:

Botswana: *Economics, management* and/or *accounting*
Burkina Faso: *Humanities, social sciences* and/or *education*
Ethiopia: *History*
Kenya: *Education, law* and/or *journalism*
Lesotho: *Any eligible field*
Mauritius: *Social sciences*
Mozambique: *Social sciences*
Nigeria: *Any eligible field*
South Africa: *Any eligible field*
Swaziland: *International economics*
Tanzania: *Law, social sciences* and/or *humanities*
Zambia: *Education, political science* and/or *social sciences*
Zimbabwe: *Any eligible field*

Eligible for grants up to *$60,000 maximum* each:

Benin: *Any eligible field*
Burundi: *Economics* and/or *library science*
Cameroon: *Journalism* and/or *international affairs*
Congo: *Any eligible field*
Liberia: *Mass communications*
Niger: *Any eligible field*
Rwanda: *Any eligible field*
Senegal: *Economics, social science, political science, humanities, law, mass communications* and/or *international relations*
Sierra Leone: *American studies* and/or social sciences
Togo: *Any eligible field*
Uganda: *Fine arts, mass communications, social sciences* and/or *education*
Zaire: *Economics*

American Republics: Proposals for the following *countries* and *fields* listed below will be considered in 1988. USIA will give priority to proposals including the foreign institution specified after each listing. The maximum amount of each grant is *$50,000.*

Argentina: *Business administration* (University of Buenos Aires); *interdisciplinary* with focus on *economic policy* (National Uviversity of Cuyo-Mendoza)
Brazil: *Public administration* (National School of Administration-ENAP and University of Brasilia-UNAB under Secretariat of Public Administration to the Presidency-SEDAP-ER)
Chile: *Journalism* (Catholic University-UCC/Santiago)
Colombia: *Journalism* (Externado University-Bogota)
Dominican Republic: *Economics* (Madre y Maestra Catholic University-UCMM/Santa Domingo)
Jamaica: *Journalism* (Caribbean Institute of Mass Communications-CARIMAC/Kingston)
Mexico: *Interdisciplinary* with focus on *economic policy and industrial economics* (National University of Mexico-UNAM/Mexico City)
Trinidad and Tobago: *Law* (University of the West Indies-UWI/St. Augustine, Trinidad)
Uruguay: *International relations* (Center for Advanced Studies, University of the Republic/Montevideo)
Venezuela: *Economics* with focus on *undergraudate cirriculum* (Central University-UCV/Caracas)

East Asia/Pacific: Only proposals for the following *countries* or *localities* and *any of the fields specified* for each country or area listed below will be considered in 1988. The maximum amount of each grant is *$60,000.*

Korea: *U.S. studies, Korean studies, cross-cultural studies on contemporary issues, communications, education*
New Zealand: *Political science*

Pacific Islands (limited to Micronesia, Tonga, and Western Samoa): *Humanities, secondary education and/or university administration*

People's Republic of China (provinces of Guangxi, Guizhou, Sichuan, Yunan, Gansu, Qinghai, Xinjing, and Xizang only): *Constitutional, business, and/or copyright law; business management with emphasis on international investment and/or international relations*

Philippines: *U.S. studies, Philippine studies and/or education*

Europe: Proposals will be considered for any discipline(s) in the *humanities, social sciences, education and/or communications.* Applicants should focus on one or two specific topics of interest. The maximum amount of each grant is *$50,000.*

Eligible for 1988 are: Czechoslovakia, Finland, Italy, Portugal and Sweden.

Near East/South Asia: Exchanges should concentrate on *American studies.* In addition to traditional themes in American studies such as *history* and *literature,* proposals may also use themes in, for example, *journalism, law, economics, education, art and/or political science.* Applicants should focus on one or two specific topics of interest. USIA will give special consideration to proposals received for funding in the italicized locations.

Eligible for grants up to *$50,000 maximum* each: *Bangladesh,* Egypt, India, Israel, *Jordan, Mauritania,* Morocco, *Nepal,* Pakistan, Tunisia, the West Bank and the Yemen Arab Republic.

Eligible for grants up to *$60,000 maximum* each: *Algeria, Iraq, Qatar, Sudan* and *Syria.*

N.B.: All proposals for India must be accompanied by proof of approval of the project from the University Grants Commission (UGC) in New Delhi in order to comply with Agency technical review requirements. UGC approval must be sought through the U.S. Educational Foundation in India.

Special Competition for Exchanges of Secondary School Teachers

Subject to the availability of funds, USIA may also fund in 1988 projects to develop bilateral relationships between one or more school districts, in consortium with U.S. and foreign colleges or universities, to promote *exchanges of secondary teachers* in all subject areas. Detailed guidelines would appear at a later date. Interested institutions should contact USIA at the address below for further details: Teacher Exchange Branch (E/ASX), Office of Academic Programs, United States Information Agency, 301 4th Street, SW, Washington, DC 20547, Attn: Peter Piness, (202) 485–2556.

Requirements for Application

1. *Eligiblity:* Applications on behalf of the collaborating institutions must be submitted by the U.S. partner. Eligible partner institutions are:

a. Accredited, degree-granting two-year and four-year undergraduate and/or graduate-level U.S. institutions of higher education.

b. Recognized degree-granting institutions of higher education overseas.

2. *Review Process:* Proposals will be reviewed for technical, academic and Agency considerations. Proposals which are technically ineligible (eligibility criteria follow) will not be forwarded for further review by the academic or Agency review committees.

Proposals must be received by USIA no later than *5:00 p.m. EST, Wednesday, January 27, 1988.*

Upon completion of the technical review, project directors of ineligible proposals will be informed in writing. Technically eligible proposals will be forwarded for substantive review. Proposals recommended on substantive grounds will be further considered by USIA review committees. Agency review committees will then evaluate the proposals by specific criteria addressing foactors of quality and geographical and program balance.

Technical Review Criteria: Within deadline, original proposal and fifteen (15) complete copies, including: Abstract, narrative, three-column budget, bio-sketches, required letters of agreement and summary of international linkages; eligible geographic and academic area(s); two- or three-year program (see detailed requirements below).

(For India only: University Grants Commission clearance, as described above, is also required)

N.B.: U.S. institutions are responsible for assuring complete understanding of and compliance with financial requirements by the foreign partner; and for obtaining the letter of commitment so stating in the specific format described below. No exceptions will be made. Academic Review Criteria: a. Soundness of proposal, as reflected by focussed academic goals and selection of topics and activities;

b. Evidence of mutuality of benefits to the institutions involved in the exchanges;

c. Feasibility of the program plan as it relates to the stated goals and selected topics and activities;

d. Academic experience of participants in relation to the goals of the proposed exchange plan (including linguistic proficiency, where required);

e. Evidence of strong mutual institutional commitment;

f. Evidence of participation and integration of faculty and administration of both institutions (department, college, division or school) in the planning of the proposed activities;

g. Evidence that the proposed individual exchanges are likely to achieve the program's overall goal of institutional academic development;

h. Mutual advancement of cultural and political understanding of the countries or geographic areas represented in the partnership through development of individual and institutional ties;

i. Demonstration that the partnership is likely to continue after the conclusion of the USIA grant.

j. If the proposal requests support for an established, active linkage, evidence that the University Affiliations funding would allow for innovation in the exchange relationship.

Agency Review Criteria: a. USIA overseas post assessments, in terms of need, feasibility and quality;

b. Advancement of mutual cultural and political understanding between the countries or geographic areas represented in the partnership;

c. Academic quality, reflected in academic peer review committee's evaluation and review summary notes;

d. Feasibility of program plan;

e. Promise of long-term impact;

f. Cost-effectiveness.

3. *Application Procedures:* Applicants must send or deliver one original and fifteen (15) complete copies of their proposals to the following address: USIA University Affiliations Program (AED/IEEP), 1255 23rd Street, NW., 4th floor, Washington, DC 20037.

All other correspondence or communications concerning this program should be directed to: University Affiliations Program (E/AS), United States Information Agency, 301 4th Street, SW., Washington, DC 20547, (202) 485–8489.

In order to be eligible for review the proposal *must* include:

(1) *Summary document:* A typed, double-spaced abstract of approximately two pages.

(2) *Narrative,* total text not to exceed fifteen (15) typed, double-spaced pages, including:

a. A brief (two-page) description of the participating institutions and participating departments;

b. A detailed description of the proposed affiliation program including but not limited to: The name and qualifications of the designated project director; the roster of participants or representative sample of potential participants and their qualifications, including language skills; a statement of need; a detailed, specific description of proposed activities, including when and where they will occur; and the anticipated benefits of the program. First-year exchange participants must be identified. A plan for institutional evaluation of the program must also be included.

(3) A detailed, *three-column budget* outlining specific expenditures and source(s) from which funds are anticipated. *Required format for budget:*

All proposed expenditures should be individually listed, using the format below. Each request for travel should specify the number of round trips by number of particpants per fiscal year. Each maintenance request should specify number of participants times per diem rate (*not to exceed published Federal government rates*) per fiscal year. Direct costs, in-kind or cash contributions, and applicable overhead costs absorbed by each institution should be included, along with regular salary and benefits, under the column of contributions for each partner:

	USIA	U.S. Inst.	For. Inst.
Year 1 Travel	$X	$X	$X
Maintenance costs	$X	$X	$X
Salary & Benefits	n/a	$X	$X
Direct or Overhead costs (waived).	n/a	$X	$X
Year 2 Travel	$X	$X	$X
Maintenance costs	$X	$X	$X
Salary & Benefits	n/a	$X	$X
Direct or Overhead costs (waived).	n/a	$X	$X
Year 3 Travel	$X	$X	$X
Maintenance costs	$X	$X	$X
Salary & Benefits	n/a	$X	$X
Direct or Overhead costs (waived).	n/a	$X	$X
Totals	$X	$X	$X

(4) *Appendices*, which should be kept to a minimum but must include:

a. *Bio-sketches* of professional accomplishments of the potential participants, *not to exceed two pages in length each*, clearly indicating the level of language skills, overseas experience, knowledge of the prospective partner country or area as demonstrated through courses taught, relevant scholarly and non-scholarly travel, citizenship, publications, and research activities. *Lengthy academic vitae should not be submitted.* Bio-sketches for the U.S. participants must be included; those of non-U.S. participants are strongly recommended but not required.

b. *Documentation of institutional support* for the proposed affiliation, including a signed letter of endorsement from the U.S. institution's (or consortium members') *President, vice-president, chancellor* or *Provst*, as well as a signed letter of endorsement from the *President (or equivalent)* of the non-U.S. institution. Both letters must specifically refer to the 1988 University Affiliations Programs and commit the institution to maintaining exchange participants on full salary and benefits during the exchange.

N.B.: A general letter or agreement between the two institutions without reference to this specific program and its financial requirements will not fulfill this requirement.

A brief *summary of ongoing, active international linkages* at both partner institutions.

For India only: Proof of University Grants Commission clearance, as described above, is required. (U.S. institutions are reminded that in certain areas, host government approval must be obtained before any exchange program of this type may be carried out.)

Budget: The only eligible budget items are: a. International airfare or overland travel costs for participants;

Compensation (supplements to salary and/or benefits) or modest per diem may be requested for such specific items as housing, food and other maintenance items while in exchange status. Participating universities will be expected to continue full salary and benefits for their own faculty. The maximum amount that may be requested for compensation supplements/per diem may not exceed the rates set by the U.S. Department of State for overseas locations and the General Service Administration (GSA) per diem allowances for U.S. localities. The USIA officers listed below will supply these rates upon request.

The maximum rates described above are legal limitations only. *Institutions are encouraged, in planning their budgets, to set temporary living allowances at a lower level which can be more easily maintained after the period of USIA funding.*

(U.S. institutions are reminded that in certain cases, restrictions may be placed on the export of salary in other currencies.)

Ineligible Budget Items for USIA Grant Support: a. Institutional overhead, including postage, telephone or teletex expenses;

b. Administrative expenses incurred in connection with the affiliation;

c. Expenses for student exchanges;

d. Costs for dependents;

e. Conference, seminar or publication costs;

f. Any costs for non-U.S. citizens or nationals from the U.S. institution, or non-citizens or non-nationals of the overseas host country or locality.

5. *Deadline:* Complete proposal packages must be received by USIA *no later than* Wednesday, January 27, 1988, 5:00 p.m. EST.

Applicants are responsible for the submission of complete applications. *All* required items must be received by deadline.

Notification: All applicants will be notified of the results of the review process on or about May 15, 1988. Funded proposals will be subject to periodic reporting and evaluation requirements.

INQUIRIES: For questions concerning programming and budget, please contact:

Africa: Ms. Winnie emoungu (E/AEA), Academic Exchanges Division, Africa Branch, (202) 485–7355

American Republics: Ms. Paula Durbin (E/AEL), Academic Exchanges Division, American Republics Branch, (202) 485–7365

East Asia and the Pacific: Mr. Ted Grouya (E/AEF), Academic Exchanges Division, East Asia/Pacific Branch, (202) 485–7402

Europe: Ms. Pamela Smith (E/AEE), Academic Exchanges Division, Europe Branch, (202) 485–7420

Near East/South Asia: Mr. Michael Graham (E/AEN), Academic Exchanges Division, Near East/South Asia Branch, (202) 485–7368

General Inquiries: Mr. William Dant, Coordinator, University Affiliations Program, Office of Academic Programs, (202) 485–8489

Dated: October 7, 1987.

Mark Blitz,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 87–23930 Filed 10–15–87; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 200
Friday, October 16, 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 RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, October 21, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C. Street entrance between 20th and 21st Street, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed Board meeting on October 14, 1987.)
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 14, 1987.

James McAfee,
Associate Secretary of the Board.

FR Doc. 87-24072 Filed 10-14-87; 10:44 am]
BILLING CODE 6210-01-M

PAROLE COMMISSION

DATE AND TIME: Monday, October 19, 1987—2:00 p.m. to 5:00 p.m.

PLACE: 2nd and Chestnut Streets, Customs House, Seventh Floor, Philadelphia, Pennsylvania 19106.

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 13 cases decided by the National Commissioners 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.

CONTACT PERSON FOR MORE INFORMATION: David J. Dorworth, Chief Analyst, National Appeals Board, United States Parole Commission, (303) 492-5987.

Date: October 14, 1987.

Patrick J. Glynn,
General Counsel, United States Parole Commission.

[FR Doc. 87-24117 Filed 10-14-87; 1:25 pm]
BILLING CODE 4410-01-M

PAROLE COMMISSION

PLACE: 2nd and Chestnut Streets, Customs House, Seventh Floor, Philadelphia, Pennsylvania 19106.

DATE AND TIME:

Tuesday, October 20, 1987—9:00 a.m. to 5:30 p.m.
Wednesday, October 21, 1987—9:00 a.m. to 5:00 p.m.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of July 22 through July 23, 1987.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Management, and Administration Section.
3. Adoption of final rule on revising the dollar thresholds for property offenses.
4. Discussion and development of Commission policy on AIDS.
5. Adoption of final rule on offenses involving immigration, naturalization, and passports.
6. Adoption of final rule on rewarding assistance in the prosecution of other offenders.
7. Approval of the Witness Protection Manual.
8. Reaccreditation by the American Correctional Assocation (discussion only).
9. Treatment of Transfer Treaty cases, 18 U.S.C. section 4106, under the Sentencing Reform Act of 1984.
10. Development of policy regarding parole eligibility for prisoners sentenced after November 1, 1987, the effective date of the Sentencing Reform Act of 1984.
11. Consideration of innovative uses of parole supervision (discussion only.)
12. Consideration of use of intensive supervision programs.
13. Consideration of use of a mutual agreement program, in which Commission would create a contract with a prisoner, providing for parole in exchange for successful completion of specified programs (discussion only.)
14. Consideration of development of a Commission-wide policy for telephone inquiries posing hypothetical cases (discussion only).
15. Treatment of Immigration and Naturalization Service and State Department detainers (discussion only).
16. Identification of files which may be purged (discussion only).
17. Report on examiner travel time (discussion only).

Consent Agenda

18. Proposed clarification of the requirement for a statement of reasons for Category Eight offenses exceeding the lower guideline limit by more than 48 months.
19. Proposed revision of the Procedures Manual, section 2.2-04 regarding non-parolable sentences.
20. Proposed clarification of the term "adjudication withheld" which is used as a case disposition in the State of Florida.
21. Proposal coordinating costs for disclosures pursuant to 28 CFR 2.56 with Department of Justice fee regulations.

CONTACT PERSON FOR MORE INFORMATION: Jim L. Beck, Director of Research, United States Parole Commission (301) 492-5980.

Date: October 14, 1987.

Patrick J. Glynn,
General Counsel, United States Parole Commission.

[FR Doc. 87-24118 Filed 10-14-87; 1:25 pm]
BILLING CODE 4410-01-M

POSTAL SERVICE (BOARD OF GOVERNORS)

Notice of Vote To Close Meeting

At its meeting on October 5, 1987, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for November 2, 1987, in Washington, DC. The members will consider pros and cons of independent advisers for Governors in considering rate decisions.

The meeting is expected to be attended by the following persons: Governors Griesemer, McConnell, Nevin, Pace, Peters, Ryan and Setrakian; Postmaster General Tisch; Deputy Postmaster General Coughlin; Secretary to the Board Harris; and General Counsel Cox.

The Board determined that pursuant to section 552b(c)(10) of Title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regulations, discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act, [5 U.S.C. 552b(b)], because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or

the litigation of a particular case involving a determination on the record after opportunity for a hearing.

In accordance with section 552b(f)(1) of Title 5, United States Code, and §7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(10) of Title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 87–24119 Filed 10–14–87; 1:26 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on October 23, 1987, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Final Rule Regulation on Primary Insurance Amount Determinations
(2) Amendment of Consolidated Board Order 75–5
(3) Proposed Changes in the RUIA Regulations
(4) Revisions to the Basic Board Orders
(5) Special Service Award Recommendation 87–12–G
(6) Transfer of Functions
(7) Review of and Proposal for RRB Automation Efforts of August 31, 1987
(8) Sectional Meetings—FY88
(9) 1986 Annual Report
(10) FTE Allocation for FY88
(11) Alternative Registration Procedure for RUIA Benefits
(12) Training for Word Processing Pilot
(13) Appeal of Alexander Zelinsky of the Service and Compensation Credited Under the Railroad Retirement and Railroad Unemployment Insurance Acts
(14) Appeal of Nonwaiver of Overpayment, Jessie E. Larrison

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 386–4920.

Dated: October 13, 1987.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 87–24120 Filed 10–14–87; 1:27 pm]

BILLING CODE 7905–01–M

Corrections

Federal Register
Vol. 52, No. 200
Friday, October 16, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3190-3]

Standards of Performance for New Stationary Sources; Polypropylene, Polyethylene, Polystyrene, and Poly(ethylene terephthalate) Manufacturing Industry

Correction

In proposed rule document 87-22288 beginning on page 36678 in the issue of Wednesday, September 30, 1987, make the following corrections:

1. On page 36678, in the second column, under **FOR FURTHER INFORMATION CONTACT**, in the seventh line, "(MU-13)" should read "(MD-13)".

2. On page 36696, in the third column, in the last complete paragraph, in the 11th line from the bottom, "subrogate, A" should read "surrogate, a".

3. On page 36704, in the second column, in the second complete paragraph, in the last line, "11-B-76" should read "II-B-76".

§ 60.560 [Corrected]

4. On page 36706, in § 60.560(c), in Table 1, in the third column, in the 19th line, "0.16^{ck}" should read "0.16^{c}" and in the 28th line, "1" should read "l".

§ 60.561 [Corrected]

5. On page 36708, in the second column, in § 60.561, in the definition for "Recovery system", in the fourth line, "absorbers" should read "adsorbers".

§ 60.562-1 [Corrected]

6. On the same page, in the third column, in § 60.562-1(a)(1)(ii)(E)(*3*), in the sixth line, "§ 60.564(c)(b)" should read "§ 60.564(c)(5)".

§ 60.564 [Corrected]

7. On page 36711, in § 60.564(c)(7), the equation printed below the second column should appear below the third column.

§ 60.565 [Corrected]

8. On page 36713, in the first column, in § 60.565(a)(6)(i), in the fifth line, "rated" should read "routed".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-940-07-4520-12; (ES 037647, Group 155)]

Filing of Plat of Dependent Resurvey; Minnesota

Correction

In notice document 87-22493 beginning on page 36637 in the issue of Wednesday, September 30, 1987, make the following correction:

On page 36637, in the third column, the date below the heading should read "September 21, 1987."

BILLING CODE 1505-01-D

Federal Register

Friday
October 16, 1987

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405, 442, and 483

Medicare and Medicaid; Conditions of Participation for Long Term Care Facilities; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 442, and 483

[BERC-396-P]

Medicare and Medicaid; Conditions of Participation for Long Term Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would revise and consolidate the conditions that facilities furnishing long term care would be required to meet to participate in both the Medicare and Medicaid programs. Long term care facilities include both skilled nursing facilities (SNFs) and intermediate care facilities (ICFs). These conditions would replace the existing separate conditions for SNFs participating in the Medicare program, and SNFs and ICFs participating in the Medicaid program. Although some essential distinctions imposed by the statute remain, these new conditions reflect common needs in SNFs and ICFs. These regulations would not apply to ICFs for the mentally retarded or persons with related conditions.

The purpose of these revisions is to focus on actual facility performance in meeting residents' needs in a safe and healthful environment, rather than on the capacity of a facility to provide appropriate services. The result of this change in focus will be to enforce requirements from the perspective of quality of care and life for long term care residents, not only under Medicare and Medicaid, but generally, since most of these requirements pertain to all the patients of an SNF or ICF. These revisions are also expected to simplify Federal enforcement procedures by using a single set of conditions, which would apply to those activities common to all facilities.

This proposed rule deals only with the conditions of participation of long-term care facilities. We are also publishing a separate proposed rule in this edition of the **Federal Register** which would revise the survey and certification process, which is used to determine whether providers are in compliance with the conditions of participation.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on January 14, 1988.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-396-P, P.O. Box 26676, Baltimore, Maryland 21207.

Please address a copy of comments on information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-396-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION, CONTACT: Samuel W. Kidder, (301) 597-5909.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to establishment of the Medicare and Medicaid programs by legislation, in 1965, each State applied its own standards to nursing homes. Medicare established conditions of participation and Medicaid established standards for payment which included, for SNFs, the requirement that Medicare conditions of participation for SNFs were met. These were the requirements that facilities had to meet in order to participate in the programs. The Medicaid ICF benefit was established in 1972 under sections 1905(c) and (d) of the Social Security Act (the Act), and is governed exclusively by Medicaid's ICF standards in 42 CFR Part 442. Existing Medicare conditions for SNFs are located in 42 CFR Part 405, Subpart K, and implement section 1861(j) of the Act. The current Medicare conditions were originally published in 1974. Current Medicaid standards for SNFs and ICFs are in 42 CFR Part 442, Subparts D, E and F. The current Medicaid standards have been in effect since 1974.

The 1965 Medicare legislation enacted fairly specific provisions for the furnishing of post-hospital extended care benefits by what were then called "extended care facilities" (Social Security Amendments of 1965, Pub. L. 89-97, § 102(a)). By comparison, the 1965 Medicaid legislation provided for "skilled nursing home services" without defining the scope of the benefit (Pub. L. 89-97, § 121(a)). States defined the Medicaid benefit very broadly, so that it came to cover a level of care much lower than the Medicare extended care benefit. Consequently, in 1972, Congress established a single, uniform definition of "skilled nursing facility," extending the same level of care requirements to both programs (Social Security Amendments of 1972, Pub. L. 92-603, §§ 246-249A). It designates essentially the Medicare definition of SNF to describe the conditions of participation that would apply to both the Medicare and Medicaid programs.

Meanwhile, in 1971, Congress enacted the ICF benefit, section 1905(c) of the Act, under which ICFs would provide regular, health-related care and services to individuals in an institutional setting (Pub. L. 92-223, § 4(a)(2)). These individuals would not require the degree of care and treatment that a hospital or SNF is designed to provide, but because of their mental or physical condition, would require institutional care and services above the level of room and board but below the skilled level of care. This benefit was intended to allow facilities which did not meet SNF conditions of participation to participate as ICFs and provide health related, but not skilled level care to Medicaid patients (see Sec. 4 of Pub. L. 92-223).

The division between SNF and ICF "levels of care" reflected a belief that the needs of both populations were sufficiently different so that different types of facilities could be used to meet them. Consequently, our regulations included separate rules for SNFs and ICFs. However, in practice, a single facility may include both SNF and ICF beds. Also, a person's medical status may initially be evaluated to require SNF care and improve to the point where ICF care may be sufficient, or an ICF patient could deteriorate and require SNF care. Consequently, the distinctions between requirements for the two types of facilities may not always be clear.

The existing regulations prescribe detailed conditions of participation for Medicare that SNFs must meet in order to receive Federal funds. The Medicaid ICF rules are similarly detailed. The Medicaid SNF rules on the other hand, cross-refer to and require that facilities comply with the Medicare SNF conditions of participation; consequently, they lack detail. The focus of all existing conditions and standards is on institutional arrangements and

credential requirements that emphasize the capacity of a facility to furnish quality care.

State survey agencies are responsible for determining the extent of facility compliance with the Federal standards. Failure of a facility to meet these conditions and standards may result in termination of a provider agreement with the facility, under sections 1866(b)(2) and 1902(a)(28) of the Act, and termination of Federal funds under the Medicare or Medicaid programs. Under certain circumstances, however, a State survey agency is permitted to certify a facility with deficiencies, if those deficiencies do not jeopardize the residents' health and safety. The facility must then develop a written plan for correcting the deficiency.

Past attempts by the Department to revise the regulations have been surrounded by controversy and have met with strong opposition from a variety of sources. This controversy has demonstrated the difficulty of establishing effective standards to protect residents, while not imposing unreasonable rigidity and costs that would hinder the ability of facilities to meet those standards. As a result of the controversy over long term care conditions, in September 1983, we awarded a contract to the Institute of Medicine (IoM), a group chartered by the National Academy of Sciences, to enlist distinguished members of appropriate professions to study Federal regulations concerning long term care facilities and recommend changes that might enhance the ability of the regulatory system to assure that residents receive satisfactory care.

In conducting the study, the IoM solicited the views of nursing home residents and their families, administrators, professional staff, State and Federal agency officials and long term care ombudsmen to identify all possible issues. Information was gathered through interviews, reviews of hearings conducted by HCFA in 1978, and Congressional hearings, and a series of public meetings. Information was also gathered on how States regulate nursing homes through a mail survey of all 50 States, through review of 15 State nursing home investigatory commission reports covering the last 10 years, and through extensive case studies in six States. Finally, a workshop was conducted to examine problems of certification and enforcement of the regulations and to recommend improved enforcement.

In February 1986, the IoM issued a report outlining its findings and recommendations. In proposing our revisions to these conditions and standards, we are basing our proposals largely on the recommendations of the Institute of Medicine.

II. Proposed Rule

General Approach

Our proposed revisions to the conditions of participation for SNFs under Medicare, and the conditions and standards for SNFs and ICFs under Medicaid embody the following basic principles:

- The focus of the conditions is on facility performance rather than on compliance with procedural requirements or potential capacity to furnish services.
- The conditions provide that residents needs be assessed, and that, based on the assessment, a plan of care is developed for each resident, and that appropriate care and services are furnished.
- The conditions provide facilities with the flexibility to implement resident plans of care and furnish services without overly prescriptive requirements, as long as resident outcome measures are assured.
- The conditions ensure that residents' rights are protected by facilities, and that residents receive care and services to which they are entitled.
- The conditions enable inspectors to determine whether residents are receiving care and services in accordance with their assessments and plans of care in a safe and healthful environment.

These proposed regulations would not only revise the conditions that all SNFs and ICFs would need to meet to participate in the Medicare and Medicaid programs, but would consolidate in a new Part 483 all conditions for SNFs participating in the Medicare and Medicaid programs, and standards for ICFs participating in the Medicaid program. These regulations would not apply to ICFs for the mentally retarded or persons with related conditions (ICFs/MR) or to the Medicaid ICF/MR benefit. Medicaid standards for ICFs/MR remain in Part 442, Subpart G. Our intent in consolidating long term care facility requirements into a single set of conditions is to highlight the common resident care requirements of the Medicare and Medicaid programs with respect to SNFs and ICFs and to assure the quality of services in all settings, while retaining basic statutory distinctions between SNFs and ICFs. The use of a set of conditions in which common program requirements are uniform will emphasize HCFA's commitment to quality, and should also increase cost effectiveness and improve Federal enforcement. Except when different requirements are imposed by the Act, SNFs under both programs and ICFs would need to be in compliance with identical conditions. A facility's performance, consistent with these requirements, would be measured by whether it meets residents' needs in a safe and healthful environment, emphasizing quality of life, quality of care, and resident rights.

Thus, while we are retaining the statutory distinction between SNFs and ICFs and the coverage and payment distinctions that go with it, we are unifying common elements and stressing quality of care and quality of life issues in all settings. The use of a set of conditions that are generally uniform recognizes the overall commitment of the agency to assure that basic standards of quality are met in all settings by emphasizing care outcomes rather than stressing differences.

Outline of Major Revisions

We are accepting virtually all the IoM recommendations that we believe may be implemented under existing provisions of the Act. In a number of instances, conditions of participation are mandated by specific wording in the Act, and the IoM recognized that new legislation would be necessary to revise those conditions. In summary, we would:

1. Integrate the Medicare SNF conditions of participation (which also apply to Medicaid SNFs) and Medicaid standards of participation for ICFs into a single set of conditions;
2. Use the SNF conditions as the starting point in drafting a combined set of requirements, making distinctions only where the Act requires distinctions;
3. Revise the conditions to emphasize outcomes rather than process;
4. Use the Secretary's authority to impose requirements necessary to the health and safety of inpatients to add a new condition on quality of life and a new condition on quality of care;
5. Make a complete and accurate assessment of each resident's functioning a condition of participation;
6. Elevate the existing SNF standard on resident rights to a condition of participation;
7. Establish "Administration" as a single condition. The new condition would include, among others, seven standards that are conditions under the existing regulations (governing body and management, utilization review, transfer agreements, disaster preparedness, medical direction, laboratory and radiological services, and medical records);

8. Add two new standards under the Administration condition to require facilities to provide nurse's aide training, and that nurse's aides demonstrate proficiency in patient care.

The existing regulations emphasize the potential ability of a facility to provide care, and the procedures that a facility uses to furnish care. One general result of State survey agency use of these standards to evaluate compliance with health and safety requirements is that evaluation of outcomes, i.e., resident health, safety and satisfaction, is subordinated to evaluation of the process used to reach that outcome. An important feature of these proposed regulations is the use of objectively measurable standards that describe desirable, positive outcomes to be achieved by a facility, and negative outcomes to be avoided.

In keeping with the IoM recommendation to emphasize that a "nursing home" is primarily a place of residence for its clients even though a number of them may be in need of relatively intensive medical care, we have, therefore, adopted the term resident rather than the term patient as a general term of reference for nursing home clients.

We would also note that these proposed conditions of participation are applicable to all of the residents in a nursing home that participates in the Medicare or Medicaid programs, or both, regardless of whether they are Medicare or Medicaid patients or have another source of payment. This means, for instance, that no distinctions in care required by these conditions may be made on the basis of payment levels.

III. Discussion of Proposed Conditions

Resident Rights (§ 483.10)

The IoM study reported that patterns of resident rights violations were cited by consumers, consumer advocates and regulators. The IoM believes that the existing rights standard in § 405.1121(k) is ambiguous, and that enforcement is difficult because a resident's rights and a facility's obligations are unclear. The recommendation of the IoM was to elevate the existing rights standard to a condition level, and to expand on and clarify those rights.

In response to the IoM recommendation, we would revise the current resident rights provisions and elevate them to a condition in proposed § 483.10 to specify clearly the resident rights that must be honored by the staff of a facility, and to provide a clearer statement of the agency's expectations that they be honored. A facility would be required to assert, protect and facilitate those rights. Should a resident be adjudicated incompetent in accordance with State law, we specify that those rights would be exercised by a resident's next of kin or guardian. These revisions are in accordance with sections 1861(j)(15), 1902(a)(28), and 1905(c) of the Act, which give the Secretary general authority to promulgate standards that relate to the health and safety of residents in these facilities. As the IoM study clearly indicates on page 85, resident rights are related to the residents' health and safety because they are a critical component of self-determination and healthy psychosocial functioning, and they act to prevent residents from resigning themselves to unreasonable and unwanted circumstances which can affect their physical health.

The statement of resident rights has been couched in clear, concise, and affirmative statements to make our commitment to assuring that they are observed as clear as possible. We plan to provide more detailed indicators by which compliance with the standards may be measured in our long term care survey instrument to assist our surveyors in determining whether the proper outcomes have been achieved. While we do not plan to include these more detailed items in this rule, we invite suggestions as to specific indicators that may assist in measuring these rights in the survey process.

Quality of Life (§ 483.15)

For many individuals, a nursing home is their residence for an extended period of time, not a facility in which temporary medical care is given. The IoM noted that quality of life in a nursing home is important to the mental and physical well being of a resident. Quality of life is evident in a resident's sense of satisfaction with his or her environment, the quality of care received, and extent of control over his or her life. Quality of life is enhanced by caring and competent staff who treat each resident with dignity and respect, close relationship with others, an environment that encourages independence and the opportunity to have some control over life decisions and over personal belongings. Privacy, quality and variety of food, and participation in one's own health care planning are also important. In addition, the quality of medical and nursing care provided, the sensitivity with which it is provided, and the range of services provided all affect a resident's quality of life, and consequently the resident's functional, physical and mental well-being.

In response to the IoM recommendations, and in recognition of the importance of quality of life, we would create a new condition of participation in § 483.15, which requires that a facility ensure that residents receive care in a manner, and in an environment that maintains or enhances their quality of life. Within this condition, we would include the following five standards: (a) Dignity; (b) environment; (c) freedom of choice; (d) food, and (e) activities.

We would stress, however, that the quality of life in a facility also depends heavily on the proper operation of the other conditions of participation as well. The quality of the medical and nursing care provided, the sensitivity with which it is provided, and the range of services provided all affect a resident's quality of life. Thus, we view the components of the resident rights condition and the quality of care condition as essential to the quality of life in a facility, as we do the other conditions of participation. In fact, it is the desire to measure the quality of care and life that has prompted us to develop our outcome oriented survey instrument and to retrain our surveyors to assure that it is evaluated. Thus, the five standards that comprise the condition, while critical to quality of life in a facility, should be viewed in context with requirements in the other conditions that are also critically important.

a. Dignity. We would require that a facility treat each resident with dignity and respect, and maintain a resident's privacy.

b. Environment. We would require that a facility provide a clean, comfortable and homelike environment for residents. We would retain the present requirement that a facility provide housekeeping and maintenance services needed to maintain a sanitary, orderly and comfortable interior. We would eliminate specificity that deals primarily with the manner of supervision and contracts with outside resources, since we are placing greater emphasis on results rather than, as in the past, on the process by which a facility achieves the standards.

c. Free Choice. In this standard we would require that facilities permit residents to choose freely regarding activities, schedules and health care consistent with their interests, assessments and plans of care. Further, the facility must permit residents to interact freely with members of the community both inside and outside the facility.

d. Food. This standard incorporates the requirements in the existing SNF

dietetic services condition at § 405.1125(e), including the requirement that a patient who refuses food served be offered appropriate substitutes of similar nutritive value.

e. Activities. This standard would require that the facility offer residents an ongoing program of meaningful and appropriate activities. This incorporates the existing activities program requirements for ICFs at § 442.345(a) and the SNF patient activities program standard at § 405.1131, beginning with paragraph (b). The remainder of existing § 405.1131(b) deals primarily with providing adequate space, supplies, and equipment to support the activities program. This requirement is now included in the space and equipment standard of the proposed new condition on Physical Environment, § 483.70(c).

As noted above, many quality of life requirements are outcome oriented expressions of previously existing requirements. The purpose in expressing them in this context is to shift the focus of enforcement from general procedural requirements imposed on the facility to specific care outcomes in the lives of the residents. The authority for these revisions is found at sections 1861(j)(15), 1902(a)(28), and 1905(c) of the Act, since the quality of life in the facility (like the resident rights discussed above) directly affects residents overall morale and adjustment to the facility and is thus related to resident health and safety.

Resident Assessments (§ 483.20)

The existing regulations do not contain a separate SNF condition or ICF standard on resident assessments. Currently, requirements in the regulations regarding resident assessments are scattered among several standards that pertain to patient care plans in §§ 405.1123, 405.1124, 442.319, and 442.341. Because of the importance of unified and coordinated resident assessments to the provision of high quality care, we propose to create a specific condition of participation in § 483.20 that recognizes this need by requiring facilities to perform comprehensive and accurate assessments of a resident's total needs both upon admission and at certain specified intervals throughout the stay. Because accurate and complete assessments are critically important in ensuring that the care received by the resident is appropriate and thus contributes to his or her health and safety, these revisions are in accordance with authority in sections 1861(j)(15), 1902(a)(28), and 1905(c) of the Act.

a. Preliminary assessment. This standard would require that a facility make an initial assessment of each resident's medical, functional and psychosocial needs within 48 hours of the resident's admission to a facility. The initial assessment is necessary so the facility will know what care and services are necessary to meet the immediate needs of the resident. A more thorough and comprehensive assessment must be conducted after 14 days to identify the resident's full spectrum of medical, physical and psychosocial needs.

b. Comprehensive assessment. Within 14 days of admission, we would require the facility to conduct a comprehensive and accurate assessment of each resident's needs. The facility would also be required to reevaluate the assessment of each resident and, if the reevaluation demonstrates a need, update the assessment every 3 months after the first comprehensive assessment, or when a significant change in the resident's status occurs. We propose that periodic assessments be conducted for two reasons: (1) To check on the resident's status changes, and (2) to see what, if any, modifications in the patient's care plan should be made.

The proposed regulations would specify that the assessment must include certain basic information. Except for the requirement that the initial assessment be based on a medical evaluation completed by a physician, we would not specify the qualifications of the staff authorized to do the assessments. We believe that the qualifications of staff responsible for assessments should be left to the judgment of each facility, in accordance with applicable State laws, regulations, and licensure requirements.

c. Accuracy of assessments. We would require that assessments accurately represent a resident's status. Assessments must be accurate not only to reflect correctly the resident's medical, physical and psychosocial needs, but also to establish at a point in time an accurate record of the resident's status, which should not deteriorate as a result of neglect.

d. Comprehensive care plans. In the existing regulations there are various standards on care plan requirements (see for example, § 405.1124(d), nursing plan of care; § 405.1123(b), physician plan of care). Current SNF regulations at § 405.1123(b) require a physician to prescribe a planned regimen of total patient care. The regulations, at § 405.1124(d), require a written patient care plan to be developed and maintained by the nursing service consistent with the physician's plan of medical care. The plan must be reviewed, evaluated, and updated as necessary by all professional personnel involved in the patient's care. The SNF regulations contain additional plan of care requirements for rehabilitative services (§ 405.1126(b)) and, when offered, for social services (§ 405.1130). The ICF regulations currently require an overall plan of care (§§ 442.318(c)(3) and 442.319), as well as a written health care plan developed by appropriate staff and reviewed at least quarterly (§ 442.341). Additional plan of care requirements are specified for rehabilitative services (§ 442.343) and social services (§ 442.344).

In the proposed rule we have consolidated care plan requirements into one standard, § 483.20(d). This standard would require that a facility develop a comprehensive care plan, an individualized document for each resident, that includes short-term and long-term goals and timetables to meet the needs of the resident as identified by the comprehensive assessment. To coincide with the updating of the resident assessments, we would require the facility to review and modify the comprehensive care plan, as necessary, when the resident's comprehensive assessment is updated to ensure that the care plan meets the resident's current needs, as identified by the most recent assessment. It is our intention to assure that the plan of care is directly related to the findings of the assessment and that the care of the patient is consistent with both these documents. Our proposed plan of care requirements would establish a uniform review schedule for both the SNF and ICF settings. We have not attempted to link this review schedule to the Medicaid schedule for physician visits; we believe that the comprehensive plan of care review is essentially a nursing activity and, more importantly, that the physician should be involved whenever physician input is needed rather than waiting until the next scheduled physician visit.

e. Discharge summary. This standard would require that a facility provide a discharge summary for each resident that contains specified information. We would require that the summary also include a post-discharge plan to assist in meeting the resident's needs following discharge, and to facilitate continuity of care.

We view the resident assessment and care planning as the essential element in assuring that the facility evaluates and serves the needs of its residents. Our outcome oriented survey process, which focuses on health care outcomes, will evaluate this process not only by viewing the condition of the resident but also in relating the resident's condition

to the assessment and plan of care to assure that the facility is operating this critical process correctly.

We recognize that the IoM recommended a more comprehensive resident assessment system, including a uniform assessment instrument, national patient data collection, and other features. The IoM believes that the content of the outcome-oriented survey process should be specified in a uniform assessment instrument out of concern that otherwise data on resident outcomes across nursing homes will not be fully comparable. While we are receptive to this concern, we believe that the current proposal goes a long way towards addressing it by including detailed standards on quality of care, which are specifically pegged to the findings on quality of resident assessment. We expect when this regulation is implemented, it will provide more precise guidelines for surveyors to apply and will thus foster more uniform results. We have not at this point taken the further step of requiring specific data elements or of requiring a specific instrument for use in preparing assessments in order to facilitate comparisons of resident outcomes. This is a difficult issue, which we are continuing to study. Unfortunately, there is not yet agreement on what such data elements should be. We prefer to gain operational experience with the system in order to develop appropriate modifications based on experience with an implemented system. We will, however, closely monitor the results of our survey process to determine whether the assessment and care planning requirements we have instituted are producing the desired care outcomes and will continue to consider whether further refinement of the process is appropriate. We will be looking at the experience of individual States which do require the use of an assessment instrument (e.g., New York and Maryland). If we determine that we should take this approach, we will ensure that the views of relevant groups are considered.

The IoM also recommended that resident assessments be conducted by a registered nurse. We have not incorporated this requirement into this regulation because we do not believe that it is appropriate to insist that an assessment be conducted by a registered nurse in all cases. We do expect that nurses would be involved in virtually all assessments, and that, in many cases, nurses will conduct the assessments. However, we also know that other practitioners are often needed to assess a resident's condition properly, and we do not want to preclude their involvement. For example, the major role in assessing the care needs of a resident with a hip fracture, who has been admitted for rehabilitation care, may well be assumed by a physical therapist. Rather than require that a particular practitioner conduct the assessment, we prefer simply to require that they be accurate and to hold the facility accountable for their accuracy when we perform our surveys.

Quality of Care (§ 483.25)

We would add a new quality care condition under § 483.25 in response to IoM recommendations. An important feature of this new condition is the use of resident care outcomes, especially negative ones, to assess whether residents are receiving satisfactory care. Outcomes can be positive, or negative. Positive outcomes are generally desirable goals of resident care, including physical rehabilitation, restoration of skin breakdown, and restoration of toileting ability. Negative outcomes are situations that should not occur when there is no apparent reason for a resident's decline except neglect. The negative outcomes to be avoided include skin breakdown (decubitus ulcers), urinary tract infections, malnutrition, and contractures that occur after the resident's admission. In the use of negative outcomes, we would identify those specific instances in which undesirable results occur without justification, and provide a basis for imposing sanctions to enforce quality of care standards.

Each of the 14 standards included in this new condition are stated in terms of desired outcomes or outcomes that should be avoided in the areas of functional status, physical well-being and safety, emotional well-being, social involvement and participation, cognitive functioning, and resident satisfaction. All outcomes would be evaluated by a surveyor using each resident's comprehensive assessment as a baseline. We believe that these standards will be useful, objective measures in assessing the quality of care furnished by a facility. However, we welcome public comment on any additional factors that may be appropriate in this condition.

Nursing Services (§ 483.30)

Section 1861(j)(6) of the Act requires that SNFs provide 24 hour nursing services that are sufficient to meet nursing needs in accordance with policies developed by a group of professional personnel (including one or more physicians and one or more registered nurses), and the SNF must have at least one registered professional nurse employed full time. Existing SNF regulations for nursing services are in 42 CFR 405.1124. Specific ICF requirements for nursing services are in existing regulations at §§ 442.338, 442.339, 442.340, and 442.342.

In developing new nursing requirements we have two objectives in mind. First, we wish to promulgate requirements that assure nursing homes have adequate nurse staffing to meet the care needs of their residents. Second, we wish to provide maximum flexibility for staffing and to avoid requiring 24 hour nurse staffing if there are cases in which the needs of the residents can be met through the use of other personnel. The IoM recommended nurse staffing at the SNF level; however, it also indicated that nurse staffing should be sensitive to patient mix. We recognize that the IoM believed that 24 hour nursing should be the basic minimum requirement, and believe that the patient mix in most facilities will be such that 24 hour nursing is warranted. We are not, however, certain that this is the case for all facilities. Also, we are concerned that some facilities would have difficulty in recruiting the nurses necessary to meet the requirement and do not wish to create a situation in which needed nursing home beds are unavailable to program beneficiaries because facilities cannot meet staffing requirements.

We currently believe that 24 hour nurse staffing will most often be appropriate whether as a result of the IoM's recommendation or a more general test of sufficiency. However, in order to assure that our decision on staffing is made only after full consultation and consideration of the alternatives, we are proposing three alternative staffing requirements, as discussed below. We will choose one alternative based on the comments we receive.

The first alternative would be essentially to adapt the current SNF staffing requirements for both SNFs and ICFs. All nursing homes would be required to have a sufficient number of licensed nurses and other personnel on a 24 hour a day basis, including a registered nurse on duty on the day shift at least 8 hours a day, 7 days a week. All facilities would be required to have a director of nursing, although in an ICF this individual could be a licensed professional rather than a registered nurse. All facilities would also be required to have a charge nurse designated for each tour of duty and, in facilities with 60 or more residents, the

charge nurse could not be the director of nursing. The currently existing waiver for SNFs of a portion of the 7 day a week registered nurse requirement would be extended to ICFs as well.

The second alternative would be to retain the above requirements for SNFs and to retain essentially the current requirements for ICFs. ICFs would be required to have a sufficient number of licensed nurses and other nursing personnel on a 24 hour basis 7 days a week to meet the nursing needs of the residents (as determined by their assessments and plans of care). At a minimum, the ICF would be required to have an RN or LPN or licensed vocational nurse on duty full time, on the day shift, 7 days a week. If the nurse was not an RN, the ICF would be required to have a formal contract with an RN for consultation with the LPN or vocational nurse at regular intervals but not less than four hours a week. The ICF would still be required to name a director of nursing and, on shifts with more than one nurse on duty, to designate a charge nurse. These requirements are basically the same as the requirements currently imposed upon ICFs.

The third alternative would be to adapt the current SNF staffing requirements (as described above) to both SNFs and ICFs but to provide a waiver of the nurse staffing requirements in cases in which the ICF can provide appropriate nursing care to its residents (i.e., nursing services sufficient to meet the needs identified in their patient assessments and described in their plans of care) with a lower level of staffing. The specific measure of staffing adequacy for purposes of this determination would be compliance with the quality of care condition of participation at § 483.25. The waiver could only be granted if each of the condition's standards is met. Determinations about the adequacy of nursing services would be based on surveys and waivers would be granted for 6 month periods. A survey every six months would be performed to assure that the waiver is appropriate. The waiver provision is reflected in proposed regulations governing the survey and certification process in a new Part numbered Part 488, which is to be published separately in the Federal Register.

While we believe that the first alternative reflects the staffing levels that are appropriate for nursing homes, we are soliciting comments on the other alternatives and will review them carefully before making a determination.

In addition, in § 483.30(d), unless prohibited in writing by the attending physician, we would allow facilities to permit each resident to retain and administer his or her own drugs. Residents who self-administer drugs would be responsible for storing them securely and maintaining a record of drugs taken. We have not included a more general requirement for drugs to be stored securely, since we believe that State licensure laws adequately address the issue of a facility securing drugs against tampering and pilferage. However, we welcome comments on whether there is a need to have this type of requirement explicitly included in these regulations.

Dietary Services (§ 483.35)

The proposed dietary services condition, § 483.35, would incorporate many elements of the existing SNF dietetic services condition in § 405.1125 and the existing ICF standards on meal service in §§ 442.331 and 442.332. This condition would include the following standards:

a. Staffing. We would require that all facilities employ a staff member who is trained or experienced in food management or nutrition. However, to focus on outcomes and allow facilities to employ only the staff necessary to comply with the proposed conditions, we would not specify numbers of staff to be employed. In the staff qualifications standard of the proposed administration condition, § 483.75(j), we would require a facility to employ, on a full-time, part-time, or consultant basis, those professionals needed to carry out the provisions of these conditions.

b. Menus and nutritional adequacy. We would continue present requirements that a facility provide each resident with a nourishing, palatable, well-balanced diet including modified and specially prescribed diets. We would eliminate, however, prescriptive details. Contracts with a food management company would be addressed in the standard on use of outside resources in the administration condition, § 483.75(l). While we would retain the requirement that a facility plan menus to meet residents' needs in accordance with physicians orders in the existing SNF standard on menus and nutritional adequacy, § 405.1125(b), we would delete the reference to the recommended daily allowances of the National Academy of Sciences, as part of our increased emphasis on the needs of the resident as defined by his or her physician.

c. Therapeutic diets. In proposed standard § 483.8(c), on therapeutic diets, we would retain the existing requirement in § 405.1125(c) for SNFs and § 442.332(b) for ICFs that therapeutic diets be prescribed by the attending physician. However, we are deleting the SNF requirements for a written plan and a therapeutic diet manual, as well as the ICF requirement for retention of a record of each menu for 30 days, to de-emphasize process-oriented standards and to remove unnecessarily prescritive requirements.

d. Frequency of meals. The proposed standard, § 483.35(d), on frequency of meals would retain the existing requirement for SNFs at § 405.1125(d) and for ICFs at § 442.331(a) that a facility serve at least three meals daily, or their equivalent, at regular hours, with not more than 14 hours between a substantial evening meal and breakfast except when a nourishing bedtime snack is served. We would modify the existing SNF provision that a facility serve snacks at bedtime daily to add that snacks should be offered to the extent permitted by the physician.

e. Assistive Devices. This proposed standard would incorporate the existing provisions in § 442.331(c) that an ICF must furnish residents with necessary special eating equipment and utensils.

f. Sanitary Conditions. The proposed standard at § 483.35(f) would incorporate the existing SNF standard for sanitary conditions, in § 405.1125(g).

We propose to incorporate a number of provisions of the existing dietary services regulations elsewhere in these regulations. We would place the existing standard on staff hygiene in 42 CFR 405.1125(f) in the personnel policies and procedures standard of the proposed administration condition, §483.75(e). This standard would continue to require that the facility ensure that food service personnel are free of communicable diseases and prevent the spread of communicable diseases and infections by facility employees. The existing standard regarding preparation and service of food for SNFs (§ 405.1125(e)) has been incorporated into the food standard of the proposed new quality of life condition, § 483.15(d).

Physician Services (§ 483.40)

Section 1861(j)(4)(A) of the Act requires that SNFs have the health care of their residents under the supervision of a physician. Section 1861(j)(4)(B) of the Act requires that a SNF must provide for having a physician available in case of emergency. We would retain in the new condition in § 483.40 the provision in existing regulations that requires that residents in need of care are admitted to the facility only upon the approval of, and remain under the care of, a physician.

a. Physician supervision. We would continue to require that a facility ensure that the medical care of each resident is supervised by a physician, as currently provided in § 405.1123(b). Further, the facility must assure that another physician supervises the medical care of residents when the attending physician is unavailable. This is unchanged from existing requirements.

b. Physician visits. To ensure that resident care is adequately supervised, we would retain the requirements contained in the existing regulations at §405.1123(b), that the resident's total program of care be reviewed during required physician visits, and a progress note be written and signed by the physician at the time of each visit, and that the physician sign all his or her orders.

c. Frequency of physician visits. We would adopt prescribed time intervals for physician visits which, together with the visit schedule established in the plan of care, would be applied by the facility in determining how frequently physicians must visit each resident. These provisions will bring the required physician visit schedule more closely in line with the statutory Medicaid periodicity schedule for physician certifications and recertifications, which was revised in 1984 (see Pub. L. 98–369, § 2363). We believe that continuing to specify these time intervals in the regulations provides parameters that will help ensure adequate physician supervision of resident care.

d. Availability of physicians for emergency care. We would retain the basic content of current § 405.1123(c), which requires a facility to have a physician available to furnish necessary medical care in case of emergency. We would add the requirement that the facility must provide or arrange for the provision of physician services 24 hours a day in case of emergency.

e. Delegation of tasks. We would include in § 483.40(e) a provision that allows a physician, under certain conditions, to delegate tasks to a physician assistant or nurse practitioner working under the physician's supervision.

Specalized Rehabilitation Services (§ 483.45)

The proposed condition on specialized rehabilitative services, § 483.45, would incorporate two major elements of the existing regulations for SNFs found at § 405.1126, and for ICFs, at §§ 442.306 and 442.343. We would include the following standards in this condition:

a. Provision of services. We would include in § 483.45(a) the requirement that the facility provided rehabilitative services (i.e., physical therapy, occupational therapy, and speech therapy) or obtain them under a written arrangement, as called for in each resident's plan of care. In addition, if the facility does not provide or obtain such services it does not admit residents in need of rehabilitative care.

b. Qualifications. We would include in § 483.45(b) the existing SNF requirement found at § 405.1126(d) that facilities providing outpatient physical therapy services must meet the applicable health and safety regulations pertaining to such services that are included in Part 405, Subpart Q.

Social Services (§ 483.50)

Under section 1861(j)(15) of the Act, the Secretary may not require as a condition of participation that medical social services be furnished by skilled nursing facilities. Therefore, the existing SNF regulations, at § 405.1130, provide that a facility may either provide social services directly to its residents, or have procedures for referring residents in need of social services to appropriate social agencies.

The proposed condition in § 483.50 retains the option for facilities either to provide directly, or obtain under an agreement, services to meet the medical social service needs of its residents. We are including this condition of participation because it is a major recommendation of the IoM and because we believe, as does the IoM, that the meeting of psychosocial needs is essential to the health and welfare of nursing home residents. In creating this condition of participation, however, we do not mean to imply that the psychosocial needs of residents must or should be met primarily through specific scheduled interventions or through the efforts of individuals with particular credentials.

We recognize that individual residents may well receive assessments by professionals and may well have individual needs which must be addressed by specific interventions. We would stress, however, that both we and the IoM view the psychosocial responsibilities of the facility in a far broader context. Other conditions such as Patient's Rights, Qaulity of Care, and Quality of Life all relate to some extent to the psychosocial needs of the residents. Nursing services should be provided in a manner that is sensitive to the needs of the residents in this respect, as should the activities of other facility employees.

Based on this view, our long term care survey will look not only at the facility's compliance with this specific condition of participation but at the overall effect of its activities on the well-being of the residents. We specifically invite public comments as to what types of specific outcome measures might be used to evaluate this care and as to whether a specific condition should be included in the final regulation or whether these functions should be entirely integrated with other conditions.

Dental Services (§ 483.55)

In proposed § 483.55, We would retain the essential elements of the existing dental services condition in § 405.1129 for SNFs participating in the Medicare program.

We would retain essentially the language in the existing SNF dental services condition except for the explanation of dental services coverage under Parts A and B of Medicare. This explanation is unecessary because the proposed condition would apply equally to facilities under Medicare and Medicaid, and because Medicare's special policies with regard to dental services are discussed elsewhere in the Medicare Regulations, at § 405.310(i) for Part A, and at §§ 410.20(b)(2) and 410.24 (published Nov. 14, 1986, at 51 FR 41341, formerly § 405.232a(a)(2)) for Part B.

a. Advisory dentist. We propose to require that a facility ensure that a dentist is available in an advisory role to the nursing staff.

b. Agreement for outside services. We would require the facility to have an agreement with a dentist to provide care to residents, to maintain a list of dentists for residents to choose from, and to assist residents in making appointments and arranging transportation for dental visits.

Pharmacy (§ 483.60)

a. Methods and Procedures. The proposed condition of participation for pharmacy in § 483.60 would retain, in proposed standard (a) (Methods and Procedures), the existing provision in section 1861(j)(7) of the Act, and in regulations at § 405.1127, that requires the facility to provide appropriate methods and procedures for the dispensing and administering of drugs and biologicals. We would also retain the requirement that the facility be responsible for providing drugs and biologicals to its residents. We propose to divide the existing standard in § 405.1127(a) on supervision of services into two standards, and reduce the content.

b. Supervision of services. In proposed § 483.60(b), we would require that the facility employ or obtain the services of a licensed pharmacist, who must establish a system of records of receipt

and disposition of all controlled drugs, and periodically determine that accurate records are maintained. We would remove existing requirements that a pharmacist work a sufficient number of hours during regularly scheduled visits to the facility necessary to carry out that responsibility.

c. Drug regimen review. In § 483.60(c), we would require that the facility be responsible for conducting a drug regimen review for each resident on a monthly basis. The existing regulations for SNFs at $405.1127(a) designate the pharmacist as responsible for conducting drug regimen reviews, and in ICFs (§ 442.336), a registered nurse is designated. In proposed § 483.60(c), we would retain the requirement that pharmacists be responsible for conducting the reviews in SNFs, and would make this requirement applicable in ICFs as well.

These proposed standards dealing with quality of care outcomes (see the quality of care condition, § 483.25) emphasize the accuracy of the drug distribution system and the quality of drug reviews and allow the facility broad discretion in deciding how to achieve those goals.

Existing standards in § 405.1127(b), "Control and accountability" and § 405.1127(c), "Labeling of drugs and biologicals" are deleted in this proposal since State laws adequately address these issues.

We would not include the existing standard in § 405.1127(d), on "Pharmaceutical services committee" in the revised regulation because the emphasis would now be placed on the outcome of the service and not on process or paper requirements.

Infection Control (§ 483.65)

The proposed condition on Infection Control, § 483.65, incorporates many of the elements of the existing regulations governing infection control for SNFs at § 405.1135 and for ICFS at §§ 442.327 and 442.328. These include the requirements that a facility: Provide a sanitary environment; conduct an active program for the prevention, control, and investigation of infection and communicable diseases; implement corrective action in problem areas; use aseptic and isolation techniques; and handle, store, process, and transport linens in such a manner as to prevent the spread of infection. We would continue to require that facilities isolate residents with infectious diseases in single rooms ventilated to the outside with private toilet and handwashing facilities, identified by precautionary signs. This requirement is in the existing conditions for SNFs at § 405.1134(f).

In revising the proposed conditions, we emphasized residents' needs, the effects of care on residents, and the performance of a facility in providing care rather than its capacity to perform. Thus, we removed the requirement for an infection control committee, leaving the governing body and management free to determine the means by which it develops and implements a program of infection control. Similarly, we would not require that the facility have written effective procedures for aseptic and isolation techniques. Instead, we would specify that the facility must ensure that aseptic and isolation techniques are followed by all personnel, in accordance with acceptable professional practice. This shifts the emphasis from paper compliance to an outcome orientation based on current professional standards. To emphasize further the importance of outcome measures, we would provide that the facility must implement successful corrective action in affected problem areas, and the facility must maintain a record of incidents and corrective actions related to infections. These revisions are made in accordance with sections 1861(j)(15), 1902(a)(28), and 1905(c) of the Act.

Physical Environment (§ 483.70)

Under authority of sections 1861(j)(15), 1902(a)(28), and 1905(c) of the Act, we would add a physical environment condition, which would include the following standards: a. Fire Safety. We would retain or modify the existing requirements as follows:

- We would require newly participating facilities (SNFs or ICFs) to meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (LSC), rather than the 1981 edition currently required.
- We would retain the policy in existing §§ 405.1134(a) and 442.321(c) that allows a facility that is already participating to continue to comply with previous editions of the LSC, including the 1981 edition.
- We would retain the policies in existing §§ 405.1134(a), 442.321 and 442.323 that HCFA (or for ICFs, the State survey agency) may waive specific requirements of the LSC, and permit a State to use the State's fire and safety code in lieu of the LSC, if that code adequately protects residents.
- We would discontinue for SNFs and ICFs the policy in §§ 405.1134(a) and 442.323 that prohibits the placement of blind, non-ambulatory and physically handicapped residents above the street level floor, if the facility is participating on the basis of a waiver of construction type or height and is not of fire resistive construction. Our experience shows that these provisions are unnecessary because a waiver of the LSC can be granted only if it does not affect the health and safety of all residents. A waiver of provisions that would allow any residents to be on the second story of a woodframe building that has no sprinkler system would not be granted since the facility would be unsafe and, therefore, not meet the provisions of the LSC. In addition, the likelihood of a facility requesting such a waiver has been reduced significantly since the introduction of the Fire Safety Evaluation System (FSES).
- We would discontinue the existing ICF requirement found at § 442.322 that allows smaller ICFs (15 beds or less) primarily engaged in the treatment of alcoholism and drug abuse to comply with the less stringent lodging and rooming houses section of the residential occupancy requirement of the 1981 edition of the LSC. These less stringent requirements are allowed in small ICFs if a physician certifies that the residents are ambulatory, engaged in active treatment, and capable of following directions. If the proposal to adopt the "applicable provisions" of the 1985 LSC is adopted, Chapter 21, the Residential Board and Care chapter, will be among the "applicable provisions." Thus, Chapter 21 could be applied to smaller facilities primarily engaged in the treatment of alcoholism and drug abuse, and, depending on the evacuation capability of the residents and staff, the facility could be subject to less stringent physical plant requirements.

b. Emergency Power. We would discontinue the SNF requirements now in § 405.1134(b) that a facility must provide emergency power for exit lighting, and equipment to maintain fire detection, alarm and extinguishing systems because these requirements are covered by the Life Safety Code in standard (a). We would retain the policy in existing § 405.1134(b) that SNFs must provide emergency electrical power to life support systems by means of an emergency generator. To this, we would add the requirement that the generator must be one that meets the requirements of the National Fire Protection Association. Emergency power requirements are not currently in the ICF standards, and consequently, this would be a new requirement for facilities previously meeting ICF standards only, but only to the extent that they have residents on life support systems.

c. Space and Equipment. We would modify the policy in the existing SNF standard in § 405.1134(d) that requires a

nursing unit to contain certain basic service areas, such as a drug preparation area, by requiring that there be adequate space and equipment for dining, health services, recreation, and program areas to provide residents with needed services. This approach does not limit the scope of the regulations just to those functions listed in the regulations.

d. Resident Rooms. We would retain the existing requirements in §§ 405.1134(e), 442.324, 442.325 and 442.326 that: (1) Facilities place no more than four residents per bedroom; (2) that bedrooms in existing facilities measure at least 80 square feet per resident in multiple bedrooms, and 100 square feet in single rooms; (3) each bedroom has direct access to the corridor; (4) the floor of the room be at or above grade level; and (5) the Secretary or the survey agency may waive these requirements under certain circumstances. In addition, the facility must provide each resident with: (1) A separate bed of proper size and height; (2) a clean, comfortable mattress; (3) bedding appropriate to the weather and climate; and (4) furniture appropriate to the resident's needs, as well as individual closet space in the resident's bedroom. We would require that bedrooms be designed or equipped to assure full visual privacy for each resident. This means that the facility must implement measures, such as ceiling-suspended curtains which extend completely around the resident's bed, which enable each resident to obtain complete protection from the view of others, without infringing on the freedom of movement of other occupants of the same room. Further, each bedroom must have outside exposure in existing facilities, and have at least one window to the outside in new facilities.

e. Toilet Facilities. In proposed § 483.70(e), we would incorporate existing standards for SNFs now found in § 405.1134(e) and for ICFs in § 442.325(a)(1) that require each resident room to be equipped with or conveniently located near toilet and bathing facilities.

f. Resident Call System. In proposed § 483.70(f), we would add a standard that requires that the nurses station be equipped so that nurses can be summoned from resident rooms, toilet and bathing facilities, and common resident areas. This standard would incorporate existing requirements for SNFs now in § 405.1134(d) and for ICFs in § 442.325(a)(7) for a resident call system.

g. Dining and Activities. In proposed § 483.70(g), we would incorporate existing SNF requirements in § 405.1134(g). This standard would require that the facility provide one or more rooms for resident dining and activities. These rooms must be clean, well lighted and ventilated, adequately furnished, and have sufficient space to accommodate all activities. We would also specify that if the dining room is used for other activities, there must be sufficient room for all activities so that there is no interference between functions.

h. Other Environmental Considerations. In proposed § 483.70(h), we would retain the content of the existing SNF standard now in § 405.1134(j) that a facility must provide a functional, sanitary, and comfortable environment for residents, personnel and the public. There presently is no comparable ICF requirement. In addition, we would require, in accordance with IOM recommendation 3–8, that the facility maintain a comfortable and safe room temperature. The IOM recommended that we adopt a temperature range for sedentary or slightly active persons developed jointly by the American National Standards Institute (ANSI) and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. (ASHRAE) specified in the ANSI–ASHRAE Standard 55–1981.

While we have not specified this standard in the regulation, our surveys will find facilities that maintain the 71–81°F temperature range it specifies to be in compliance.

We invite comment as to whether a specific temperature range should be specified in the regulation.

We would also retain the content of the SNF requirements now in § 405.1134(j) and the ICF requirement in § 442.325 that handrails be securely attached to all corridor walls.

Administration (§ 483.75)

We would create a new condition titled "Administration" in § 483.75, in which we would incorporate the following seven existing conditions as standards: governing body and management, utilization review, transfer agreement, disaster preparedness, medical direction, laboratory and radiologic services, and medical records. We would also add several other standards. We have grouped these requirements, many of them statutory for SNFs, in a single condition of participation based on the IoM's recommendations. The IoM favored a format for the conditions that emphasized the resident care outcomes as of greatest overall importance and subordinated other requirements to those concerns. We agree that the emphasis ought to be on the resident outcomes; however, we note that enforcement of the statutory requirements is essential. Thus, while a condition of participation might generally still be met if one of the standards of which it consists is not met, we would enforce the Administration condition in such a manner that a facility would be out of compliance with the condition if any statutory requirement contained in its standards is not met (i.e., utilization review, institutional plan and budget, transfer agreement, medical records, compliance with licensure laws, resident care policies, resident finances, disclosure of ownership, and independent medical evaluation and audit). We do not believe that the Act permits us to deemphasize these requirements to the extent recommended by the IoM. However, as noted throughout this document, we do plan to increase our emphasis on the resident quality of care outcomes embodied in these new conditions. The Administration condition would include the following standards:

a. Licensure. Under the authority of sections 1861(j)(9) and 1905(c)(1) of the Act, the proposed standard in § 483.75(a) would require a facility to be licensed or approved in accordance with applicable State or local laws. This would incorporate the general requirements now found in SNF regulations at § 405.1120(a) and in ICF regulations at § 442.251.

b. Compliance with Federal, State and local laws. In accordance with sections 1861(j)(9) and 1905(c)(3) of the Act, the proposed standard in § 483.75(b) would require that the facility comply with all applicable provisions of Federal, State, and local laws, regulations and codes. This would incorporate the general requirements now found in SNF regulations at § 405.1120 (b) and (c) and ICF regulations at § 442.315.

c. Governing body. In proposed § 483.75(c)(1), we would require a facility to have a governing body that is legally responsible for establishing and implementing policies concerning management and operation of the facility. This requirement would include various provisions of the existing SNF governing body and management condition in existing § 405.1121, and the existing ICF standard on methods of administration in § 442.301. The governing body would be responsible for the following:

1. Appointing an administrator who is State licensed. This requirement is statutory for Medicaid (section 1908 of the Act) but it is not for Medicare. Therefore, this represents a new

Medicare requirement for SNFs that participate in Medicare only. Since licensure of nursing home administrators for Medicaid is a longstanding community standard, HCFA believes it is not unreasonable to impose this requirement on Medicare-only SNFs. Since the requirement helps to assure the health and safety of residents, this revision is in accordance with the authority provided in sections 1861(j)(15), 1902(a)(28) and 1905(c) of the Act;

2. Making available to residents and the public written policies regarding the rights and responsibilities of residents as specified in § 483.10;

3. Permitting access to designated ombudsmen, both volunteer and paid, within normal visiting hours, in accordance with State law. The facility must allow the obudsmen to examine a resident's records if the resident or legal guardian agrees. This is in accordance with IoM recommendation 3–7(F)(1);

4. Permitting access within normal visiting hours to authorized employees or agents of public agencies (consistent with the resident's right to privacy). This is in accordance with IoM recommendation 3–7(F)(2);

5. Posting—

• Information on Federal, State or local agencies responsible for enforcing nursing home rules, and resident advocacy;

• Notification of the results of Federal and State surveys, and plans of correction;

• The name, address and phone number of the State survey office, the State or local ombudsman office, and the State or local legal service office.

6. Assuring that the facility provides space and privacy to resident advisory and family councils (we would specify that staff or visitors may attend only by council invitation); also the facility must provide a designated staff person to provide assistance and responsed to written requests that result from council meetings.

d. Institutional plan and budget. In proposed § 483.75(d), we require a SNF to develop an institutional plan and budget. In doing so, we are simply restating the statutory requirement in section 1861(j)(10) and (z) of the Act. However, the legislative history of the statutory provision makes it clear that it does not envision governmental involvement in the process by which a facility satisfies this requirement:

> The plan would not be reviewed for substance by the Government or any of its agents. The purpose of the provision is to assure that such institutions carry on budgeting and planning *on their own*. It is not intended that the Government will play any role in that process. (Emphasis added.)
>
> H.R. Rep. No. 231, 92d Cong., 2d Sess., *reprinted in* 1972 U.S. Code Cong. & Ad. News, 4989, 5089; S. Rep. No. 1230, 92d Cong., 2d sess. 203–204 (identical provision).

e. Personnel policies and procedures. In proposed § 483.75(e), we would incorporate most of the provisions of existing SNF regulations in § 405.1121(g), but we would delete the requirement for written personnel policies and procedures, as they are unnecessarily prescriptive.

f. Nurse's aide training. In proposed § 483.75(f), we would add a new standard that would require a facility to provide nurse's aide training to untrained aides. There are no existing Federal requirements concerning qualifications of nurse's aides. According to the IoM study, most aides are at the lowest entry level requiring no experience, formal education or training. Yet, aides constitute over 70 percent of nursing home personnel, and furnish most of the patient care. For these reasons, IoM recommended that all nurse's aides complete a preservice, State-approval training program in a State accredited institution such as a community college. While we support preservice training programs, few State-approval training programs exist. We would encourage States and the private sector to develop such training programs. In the interim, we have implemented the IoM recommendation, but modified it to provide that the facility must provide 80 hours of training for new aides before they are allowed to care for patients.

g. Proficiency of nurse's aides. In proposed § 483.75(g), we would add a related standard requiring that nurse's aides be able to demonstrate competency in resident care skills and techniques.

h. Notification of changes. In proposed § 483.75(h), we would include provisions from existing SNF regulations at § 405.1121(j) on notification of changes in patient status. To this, we would add the requirement that the facility record and periodically confirm or update the indentity of each resident's representative to be notified in the event of certain specified occurrences. Notification would be required when there is a significant change in physical, mental or emotional state, an accident involving the resident, a change in billing, a change in room assignment, a decision to discharge the resident (except in a medical emergency), or a change in Federal or State requirements concerning resident rights.

i. Resident care policies. In proposed § 483.75(i), we would include the requirement that a facility have written resident care policies. It would include the provisions of similar ICF regulations found at § 442.305 (resident services director) and § 442.306 (written policies and procedures). For SNFs, § 483.75(i)(2) would incorporate the existing requirements in section 1861(j)(2) of the Act, and existing SNF regulations at §405.1121(1).

j. Resident finances. In proposed § 483.75(j), we would incorporate existing statutory requirements in section 1861(j)(14) of the Act, and replace requirements for SNFs now found in § 405.1121(m), and for ICFs in §442.320.

k. Staff qualifications. In proposed § 483.75(k), we would incorporate the general provisions of existing ICF regulations at § 442.302, as well as the definitions of various types of staff contained in existing SNF regulations at § 405.1101. To eliminate unnecessary requirements, and to focus on outcomes, we would require only that a facility employ those professional staff necessary to meet the conditions of participation, and would not specify numbers of each type of employee. We would also eliminate the SNF requirement for submission of quarterly staffing reports in existing § 405.1121(b).

1. Contracted services. Proposed § 483.75(1) incorporates provisions of the existing SNF regulations on use of outside resources now in § 405.1121(i) and of ICF regulations on arrangements with outside resources in § 442.317. In requiring the facility to ensure the quality and timeliness of services furnished by outside resources, we do not intend to make the facility responsible for actually enforcing separate standards that may be applicable to those outside entities. Rather, we are, as a matter of resident health and safety, making the facility responsible for selecting and continuing to utilize only those outside resources that are professionally competent and that furnish services promptly and accurately (see §§ 405.1121(i) and 442.317 for the current provisions).

m. Medical director. In proposed paragraph (m), we would apply to SNFs and ICFs the basic requirements of existing SNF regulations for a medical director at § 405.1122. The existing ICF regulations contain no comparable provision.

n. Laboratory services. o. Radiology and other diagnostic services. These proposed standards include the provisions of the existing SNF regulations on laboratory (paragraph (n)) and radiologic (paragraph (o)) services currently found at § 405.1128.

The existing ICF regulations contain no comparable provision.

p. Medical records. In proposed § 483.75(p), we would incorporate most of the requirements in existing SNF regulations at § 405.1132, and ICF regulations at §§ 442.310 and 442.318, which implement requirements in section 1861(j)(5) of the Act. The content of existing § 405.1132(g) concerning indexes would not be retained as the regulations already require that the medical records be systematically organized, and we believe the specific process by which this is achieved should be left to the facility. In addition, we would add to the standard in paragraph (p) the requirement that a facility must permit each resident to inspect his or her medical records upon request and the facility must provide photocopies of the records to each resident on request. The facility would be permitted to charge a resident an amount for photocopying not to exceed the amount customarily charged in the community.

q. Disaster preparedness (§ 483.75(q)). We would retain the content of existing SNF regulations on disaster preparedness at § 405.1136, and similar regulations at § 442.313.

r. Transfer agreements (§ 486.75(r)). With some modification, we would retain the content of existing SNF regulations on transfer agreements found at § 405.1133 and on patients' rights with regard to transfers and discharges, in § 405.1121(k). These provisions implement requirements in section 1861(l) of the Act. Existing ICF regulations on transfer and discharge are located in §§ 442.307, 442.316, and 442.311(c). We would add a requirement that the facility notify the resident, the resident's representative, and the attending physician in writing at least 3 days before the end of a period when a bed is held, and, except in documented emergencies, at least 4 days before discharge or transfer from the facility. The written notice must describe the reason for the transfer, the effective date of transfer, the location to which the resident is being transferred, appeal rights, and the address and phone number of the State and local long term care ombudsman.

s. Utilization review requirements (§ 482.75(s)). This proposed section would basically apply to SNFs the existing SNF requirements that are now in § 405.1137. We propose to incorporate in this standard those provisions of the existing regulations that are necessary to achieve the statutory intent of sections 1861(j)(8) and 1861(k) of the Act. These sections of the Act require a skilled nursing facility to have in effect a utilization review plan that provides for the review of its admissions, the duration of its residents' stays, and the professional services furnished, with respect to the medical necessity of the services and for the purpose of promoting the most efficient use of available health facilities and services. The utilization review plan, as required by the Act, must also provide for the prompt notification of the facility, the resident, and his or her attending physician of any finding that further stay in the facility is not medically necessary.

t. Disclosure of ownership. This paragraph references the disclosure of ownership requirement of § 420.206 of this chapter.

u. Resident participation. In proposed § 483.75(u), we would add a new standard that would require facilities to ensure resident participation in the facility's policy and operational decision-making. There are currently no existing Federal requirements for such activities. The IoM study recommended such a requirement based on the observation that residents who have opportunities for choices have higher morale, greater life satisfaction, and better adjustment.

v. Independent Medical Evaluation and Audit. In proposed § 483.75(v), we restate the statutory requirement, at section 1861(j)(12) of the Act, for a SNF to cooperate in an effective program of independent medical evaluation and audit of its residents, to the extent required by Medicare (for SNFs that participate in Medicare) or Medicaid (for SNFs that participate in Medicaid).

III. Revisions to the Regulations

We propose to make the following revisions to the regulations in title 42:

1. In Part 405, Subpart K, Conditions of Participation; Skilled Nursing Facilities, would be removed and reserved. The content of Subpart K would be revised and redesignated as a new Part 483.

2. In Part 442, Subpart A, we would revise paragraph (a) to reflect the revised content of Part 442.

3. In Part 442, Subpart B, we would revise § 442.30(a)(1) to replace references to Subparts D, E, and F with a reference to Part 483.

4. In Subpart C, we would revise § 442.100 to add a reference to Part 483.

5. In Subpart C, we would revise § 442.101(d)(1) to replace references to Subparts D, E, and F with a reference to Part 483.

6. In Subpart C, we would revise the introductory paragraph in § 442.105 by replacing references to Subparts D, E and F with a reference to Part 483.

7. In Part 442, Subpart D, Skilled Nursing Facility Requirements, would be removed and reserved. The content of Subpart D would be revised and redesignated as a new Part 483.

8. In Part 442, Subpart E, Intermediate Care Facility Requirements; All Facilities, would be removed and reserved. The content of Subpart E would be revised and redesignated as a new Part 483.

9. In Part 442, Subpart F, Standards for Intermediate Care Facilities Other than Facilities for the Mentally Retarded, would be removed and reserved. The content of Subpart F would be revised and redesignated as a new Part 483.

10. In Subchapter E, a new Part 483 would be added to describe the conditions of participation for skilled nursing facilities and intermediate care facilities.

IV. Derivation Table

The following table identifies conditions or standards in current rules that are most closely related to the proposed new conditions in Part 483. It provides identification of the extent to which the proposed rule would modify existing rules.

Subject	Proposed Part 483 (section)	Current Part 405 (Section)	Current Part 442 (Section)
Basis, Scope Definitions	483.1(a) and (b)		442.300
	483.5		
Resident Rights	483.10(a)(1)	405.1121(k)(5)	442.311(d)
	483.10(a)(2)	405.1121(k) following (14)	442.312
	483.10(b)(1)	405.1121(k)(1)	442.311(a)(1)–(3)
	483.10(b)(2)	405.1121(k)(8)	442.310
	483.10(b)(3)	405.1121(k)(3)	442.311(b)
	483.10(b)(5)		442.309
	483.10(b)(6)	405.1121(k)(2)	442.311(a)(4)
	483.10(c)	405.1121(k)(6)	442.311(e)
	483.10(d) and (e)	405.1121(k)(7)	442.311(f), 442.308

Subject	Proposed Part 483 (section)	Current Part 405 (Section)	Current Part 442 (Section)
	483.10(f)	405.1121(k)(9)	442.311(g)(1)–(4)
	483.10(g)	405.1121(k)(10)	442.311(h)
	483.10(h)	405.1121(k)(11)	442.311(i)(2)
	483.10(i) and (j)		442.311(i)(1)
	483.10(k)	405.1121(k)(12)	442.311(j)
	483.10((1)	405.1121(k)(13)	442.311(k)
	483.10(m)	405.1121(k)(14)	442.311(g)(5)–(6)
Quality of Life	483.15(b)	405.1135(c)	442.325(a)(4) and 442.327
	483.15(c)	405.1125(e)	
	483.15(e)	405.1132(b)	442.345(a)(b) and (d)
Assessment	483.20(a)	405.1123(a), 405.1123(b), 405.1124(d), 405.1126(b), 405.1130	442.319, 442.341, 442.343, 442.344, 442.345
	483.20(d)		
	483.20(d)(3)	405.1137(h)	
Quality of Care	483.25	405.1124(c)	442.342
Nursing Services	483.30	405.1124 (general)	442.338
	483.30(a)	405.1124(a)	
	483.30(a)(2)		442.339(a)–(d)
	483.30(b)	405.1124(b)	442.339(e)
	483.30(c)	405.1124(c)	442.340
Dietary Services	483.35	405.1125 (general)	
	483.35(a)	405.1125(a)	442.332(a)
	483.35(b)	405.1125(b)	
	483.35(c)	405.1125(c)	442.332(b)
	483.35(d)	405.1125(d)	442.331(a)
	483.35(e)		442.331(c)
	483.35(f)	405.1125(f) and (g)	442.331(b)
Physician Services	483.40	405.1123 (general)	442.346(a)
	483.40(a)–(c)	405.1123(b)	442.346(b)
	483.40(d)	405.1123(c)	
Specialized Rehabilitation Services	483.45(a)	405.1126 (general)	442.343(a)–(c)
	483.45(b)	405.1126(d)	
Social Services	483.50	405.1130	442.344
Dental Services	483.55	405.1129	
Pharmacy Services	483.60(a)	405.1127 (general)	442.333
	483.60(b)	405.1127(a), (b)	
	483.60(c)	405.1127(a)	442.336
Infection Control	483.65(a)	405.1135(a), (b), (f)	442.328(b)
	483.65(b)	405.1135(d)	
Physical Environment	483.70	405.1134	442.321–442.323
	483.70(b)	405.1134(b)	
	483.70(c)	405.1134(h), (i)	442.328, 442.329
	483.70(d)	405.1134(e)	442.324, 442.325
	483.70(e)	405.1134(e)	442.326
	483.70(f)	405.1134(d)	
	483.70(g)	405.1134(g)	
	483.70(h)	405.1134(j)	
Administration	483.75(a)	405.1120, 405.1134	442.315, 442.330
	483.75(b)(1)	405.1121(general)	442.301
	483.75(b)(2)	405.1121(e)	442.303
	483.75(b)(3)	405.1121(k)	442.311
	483.75(c)	405.1121(f)	
	483.75(d)	405.1121(g)	
	483.75(e)	405.1121(h)	442.314
	483.75(g)	405.1121(j)	
	483.75(h)	405.1121(c)	442.304–442.306
	483.75(i)	405.1121(m) and (k)(6)	442.320
	483.75(j)	405.1101(f), (l), (m), (n), (p), (q), (r), (s), and (t)	442.302
	483.75(k)	405.1101(i)	442.317
	483.75(k)	405.1101(i)	442.317
	483.75(l)	405.1122	
	483.75(m) and (n)	405.1128	
	483.75(o)	405.1132, 405.1126(c), 405.1130(c)	442.310, 442.318
	483.75(p)	405.1136	442.313
	483.75(q)	405.1133, 405.1121(k)(4)	442.316, 442.307, 442.311
	483.75(r)	405.1137	
	483.75(s)	405.1121	

IV. Impact Analysis

A. Introduction

Executive Order (E.O.) 12291 requires us to prepare and publish a regulatory impact analysis for any major rule. A proposed regulation is a major rule if its implementation would be likely to 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 government agencies, or geographic regions; or

(3) Significant adverse efforts on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we prepare and publish an initial regulatory flexibility analysis, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, States and individuals are not small entities, but we treat all long term care facilities as small entities.

Although we view the anticipated results as beneficial to the nursing home industry as well as to residents and State and Federal governments, we recognize that some of the proposed changes could be controversial and may be responded to unfavorably by some affected facilities.

We also recognize that not all of the potential effects of these proposals can be definitely anticipated, especially in view of their interaction with other Federal, State, and local activities regarding health and safety assurance. In particular, considering the effects of our simultaneous efforts to improve

survey and certification activities, through both survey procedures and instruments and regulation, it is impossible to quantify meaningfully a projection of the future effect of all of these proposals on facilities' compliance costs or on the frequency of substantial deficiency findings and termination proceedings. The following observation of the IoM study on the cost implications of their recommendations in general applies also to this proposed rule.

> The effects of the recommendations on the costs of regulation and on the costs of providing care to residents are not easily calculated for two reasons: (1) The quantitative and qualitative changes in behavior of the various actors in the system, and the effects on efficiency of the regulatory agencies and nursing homes, cannot be predicted on the basis of current data; (2) current data about staffing and costs in nursing homes and in state regulatory agencies are not available in sufficient detail; and (3) some immediate costs are likely to produce long-term savings that cannot be estimated. Given these uncertainties, any estimates made—even with the assistance of a very elaborate cost model—would have to present a wide range of costs to account for interactions of varying assumptions.—(Page 214)

We do, however, expect adverse findings to be more consistent, better documented, and more effectively acted upon than under the current conditions of participation.

It is clear that a large number of small entities would be affected by adoption of these conditions of participation, and a substantial number of those entities could be required to make changes in their operations in order to comply with these proposed health and safety standards. Further, our available data indicate that the additional costs of meeting the proposed alternative in which we would establish a 24-hour nursing staff requirement would add costs of approximately $100 million for the nursing home industry.

For these reasons, we have determined that this is a major rule and prepared the following analysis. This analysis, in combination with the rest of the preamble, is consistent with the standards for analysis set forth by both E.O. 12291 and the RFA.

B. Affected Entities

As of January, 1986, there were nearly 16 thousand long term care facilities participating in Medicare and Medicaid. Of this total, 6,725 SNFs were participating in Medicare, and many of these were also participating in Medicaid. In addition, 2,246 SNFs were participating in Medicaid only. A total of 6,883 ICFs were participating in Medicaid.

Individual SNFs and ICFs vary in size, type of ownership, financial viability, geographic situation, and local market conditions for institutional services and qualified staff. These factors and more will be related to the kind and magnitude of the effects these proposals would have on an individual facility.

A major area of concern raised in the IoM study was the recommendation to employ more highly qualified personnel, particularly licensed nurses and social workers. We are convinced that the primary effect of these provisions should be to set personnel requirements that are appropriate to the needs of patients. In section II, above, we indicate that the main thrust of these proposed changes, other than increased nursing requirements, would be to emphasize resident outcomes as contrasted to prescriptive processes such as more rigorous credentialing. We believe this would increase competition among potential employees by removing artificial barriers to employment in certain jobs. Thus it is likely that the final regulations would enable small SNFs and ICFs to reduce some costs by increasing the number of candidates for many SNF and ICF positions. In other words, by the removal of some restrictions not harmful to patient outcomes, these facilities will have optimal personnel resources available to choose from.

Only newly participating facilities (SNFs or ICFs) would be required to meet the most recent (1985) Life Safety Code of the National Fire Protection Association rather than the 1981 edition currently required. This should keep costs to a minimum for existing facilities. Facilities will be allowed to waive LSC requirements in favor of State fire safety laws as long as the health of residents is not in jeopardy by such actions. Facilities will also be able to waive the emergency power requirements provided they have no residents on life safety support systems.

C. Effects on SNFs

SNFs are currently required to abide by the majority of the requirements included in this proposed rule, and therefore they should have very little increased cost. Further, there may be several areas (quarterly staff reports, infection control committees, and written personnel policies) which, when eliminated, may offset increased costs that may otherwise be required for SNFs by these proposals.

D. Effects on ICFs

There are several categories of ICFs: the hospital-based ICF; the ICF with some SNF-certified beds; and the freestanding ICF that is usually a separate entity financially and physically. These proposals would result in a greater cost increase for freestanding ICFs than for SNFs because many of the proposed requirements are not currently in effect for ICFs. ICFs that also maintain SNF residents should not be as adversely affected because many of these proposed requirements are already in effect the same as for SNFs.

The heaviest costs experienced by long term care facilities are staff costs, especially for nurses. The proposed requirements would significantly affect ICFs that currently are relatively lightly staffed. As noted above, we are proposing three alternative staffing requirements.

Alternative 1. Under the first alternative, we would require all ICFs to meet 24-hour nurse staffing standards comparable to those currently required for SNFs. We estimate that fewer than 30 percent of participating ICFs (that is, ICFs that do not have any SNF beds) currently meet this requirement. The great majority would have to upgrade many LPNs to RNs and would have to hire additional RNs and LPNs. Our data indicate that this could cost affected facilities an additional $100 million. This, in turn, would result in some increase in Medicaid program expenditures. (The Medicare program does not cover ICF services.

Our estimate is based on staffing data provided by ICFs during the calendar year 1986 certification cycle as reported through MMACS. It includes data received through November 1986. In developing the estimate, we assumed that ICFs generally would adopt the most economical available means of meeting the requirement. That is, where possible we assumed that LPNs would be replaced by RNs (rather than augmented by them) and considered only the added cost of employing an RN (in salary and fringe benefits).

Our estimate reflects the total cost to ICFs to meet the minimum requirement for facilities with less than 60 beds, which is 5 nurses (2 RNs and 3 LPNs) and the minimum requirement for facilities with 60 beds or more, which is 6 nurses (3 RNs and 3 LPNs). Most facilities meet the standard that requires a minimum total number of nurses, but have a disproportionate number of LPNs, and thus do not meet the minimum requirements for RNs. These facilities will be required to hire additional RNs at an average cost of about $25,000 each for salaries and fringe benefits, or replace LPNs with RNs, at an average of $6,250 ($25,000 RN–$18,750 LPN). In addition, some

facilities would need to hire additional LPNs. Our general estimates, using the salary figures cited above, are that this proposal would cause nursing homes to hire an additional 2600 RNs at a cost of $65 million, an additional 600 LPNs at a cost of $11 million, and convert 3600 LPN positions to RN positions at a cost of $23 million. Thus, we estimate that these changes would cost just under $100 million.

As discussed in the preamble, some ICFs may be able to qualify for waiver of the 24 hour nursing requirement under § 405.1911(a). Our estimates of costs cited above do not take this into account. The availability of such waivers should reduce the impact on rural ICFs, but we do not have data that would enable us to estimate the numbers of waivers or the costs or savings that would result for them. Further, we do not have data that would allow us to assess the extent to which reported "nursing shortages" could prevent ICFs from having the required additional nurses.

It should be noted that the cost we estimated would not be borne solely by the Federal government. To the extent that these costs are incurred by the Medicaid program, States would bear up to half the expense under the Medicaid payment formula. To the extent that these facilities serve privately paying patients, they would bear the costs of the improvements. Since we know that the Medicaid program accounts for approximately half of nursing home revenues and that the Federal share of the Medicaid program's costs is approximately half, the Federal share of the estimated cost to the industry of implementing this proposal would be a maximum of 25 percent if all States responded by raising their nursing home reimbursement rates to reflect the additional costs.

The overall effect of this proposal on ICFs will vary from State to State. In many States, ICFs will be required to expend minimal effort in order to meet these standards. However, in a few States, facilities would find it necessary to increase their nursing staff expenditures significantly. These costs, viewed in the context of annual nursing home revenues of approximately $35 billion, represent about three-tenths of a percent of those costs.

Industry costs may also be overstated because nursing salary costs may be somewhat lower in the States where the preponderance of new hires would be necessary.

Benefits to nursing home residents from this proposal are difficult to estimate or quantify. Since the costs, however, represent such a small proportion of nursing home industry revenues, even a small increase in the average level of the quality of patient care in intermediate care facilities would justify an increase of approximately 30 cents a day in the average costs of ICF care under Medicaid, which average approximately $40 per day.

Alternative 2. The second alternative maintains the above requirements for SNFs. However, several changes are proposed for ICFs that could potentially reduce the economic impact for ICFs compared to Alternative 1. Under this alternative, an ICF could qualify to maintain fewer numbers of licensed nurses and other nurse personnel by maintaining a high level of quality of patient care, as shown by their assessments and plans of care. Currently, it would be difficult, if not impossible, to determine how many facilities could qualify for a reduction in staff under this proposal. We welcome comments and data that would enable us to assess further the extent to which this approach might ameliorate effects on facilities compared to the first alternative. If a facility were to qualify for a reduced level of licensed nurses and nurse personnel on staff, potential savings to the facility would be somewhat limited by the requirement that facilities that do not have an RN on duty full time, on the day shift, 7 days a week, will have to employ an RN for consultation no less than four hours a week.

In light of the fact that many experts in the nursing home business are predicting a nursing shortage in future years, this alternative could serve as a strong incentive for ICFs to maximize patient quality of care so that they may qualify for reduced staffing.

Alternative 3. The third alternative would adopt the current SNF staffing requirements as in the first alternative for both SNFs and ICFs, but provide a waiver for ICFs that provide appropriate nursing care to residents. This waiver would also result in a lower level of staffing based on surveys and would be granted for 6 month periods. We are also unable to determine the number of facilities that would qualify under these conditions and therefore, cannot quantify the net economic impact on affected facilities.

ICFs with patients who require more intensive care are already being evaluated against patient outcomes to assure an adequate level of nursing care under the newly implemented Long-Term Care Survey Process. Further, under section 1902(a)(13) of the Act, States already are required to recognize differentials in care in their payments. We believe that levels of care, staffing, and payment will vary appropriately, and that those ICFs that care for patients in need of more intensive services will be paid at a level sufficient to ensure their capability to recruit and maintain required staffing.

The IoM recommended that nurse's aides receive significantly greater training than currently required before employment. We considered this recommendation, and concluded that this would result in insupportable costs and create a significant barrier to employment for many otherwise suitable job candidates. We are proposing instead that aides receive more pre-service (but post employment) training. This may increase costs initially for some facilities. However, we expect it could, over the long run, result in improvements in productivity and efficiency, potentially also in decreased turnover that would offset the costs.

Like SNFs, ICFs would be able to realize savings from the elimination of certain written reports and committees. However, ICFs would be required to make available a dentist, which heretofore was not required. Increased costs for ICFs also may result from requirements of the resident assessment plan, need for a medical director, and provisions for laboratory services, which heretofore were not required for ICFs. Minor costs could result from other new requirements such as those for infection and temperature controls, ventilation, and more sophisticated call systems. However, we expect that the majority of ICFs already meet these standards as a general rule.

E. Effect on States

To the extent that these proposals result in higher costs in providing long-term care services, they would tend to increase State Medicaid expenditures for those services. However, we believe there would be little or no increased cost for State certification activities. Rather, these proposals should benefit State certification agencies in that their reviews of SNFs and ICFs would be simplified. Combining two reviews into one should result in a more cost-effective review system. The recently implemented Long-Term Care Survey Process has already intensified the focus on outcomes. The incremental additional changes flowing from this proposal would have minimal effects on States.

F. Interaction With Other Activities

These proposals, in combination with the proposed new survey and certification proposal, should reduce the

number of procedures currently used to review SNFs and ICFs. These two proposals, as well as the review conducted for the inspection of care (IOC) that some State Medicaid programs already have integrated, should result in decreased procedural costs for both States and long term care facilities once this integration is fully implemented.

G. Impact on Residents

These proposals should result in improved quality of life and care at both the mental and physical levels, and in an increase in the rights and the decision-making capacity for residents. Resident participation may initially increase facility costs because of innovative programming, but should be offset by long term health care improvements. These proposals also should aid the reallocation of revenues from burdensome procedural requirements to improved care.

H. Paperwork Burden

Sections 483.20 (a), (b), (d) and (e), 483.25(n), 483.35(f), 483.40 (b) and (c), 483.55(b), 483.60(b), 483.65(a), 483.70(d), 483.75 (c), (d), (e), (g), (h), (i), (j), (l), (n), (o), (p), (q), (r), (s), and (u) of the proposed rule contain information collection requirements that are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the address section of the preamble.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and we will respond to the comments in the preamble of that rule.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 442

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

TITLE 42—PUBLIC HEALTH

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Chapter IV would be amended as follows:

A. The table of contents to Chapter IV is amended by adding a new Part 483 to Subchapter E to read as follows:

* * * * *

SUBCHAPTER E—STANDARDS AND CERTIFICATION

PART 483—CONDITIONS OF PARTICIPATION FOR LONG TERM CARE FACILITIES

* * * * *

SUBCHAPTER B—MEDICARE PROGRAMS

B. Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The table of contents is amended by removing and reserving Subpart K to read as follows:

Subpart K—[Reserved]

* * * * *

2. The content of Subpart K (§§ 405.1101 through 405.1137) is removed, revised, and redesignated as a new Part 483. Subpart K is reserved.

Subpart K—[Reserved]

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAMS

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

C. Part 442 is amended as follows:

1. The authority citation for Part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. The table of contents is amended by removing and reserving Subparts D, E, and F to read as follows:

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

Sec.

* * * * *

Subpart D—[Reserved]

Subpart E—[Reserved]

Subpart F—[Reserved]

* * * * *

3. In Subpart A. § 442.1 is amended by revising paragraph (a) as follows:

Subpart A—General Provisions

§ 442.1 Basis and purpose.

(a) This part sets forth requirements for provider agreements, and facility certification relating to the provision of skilled nursing facility and intermediate care facility services to Medicaid recipients. This part also sets forth standards for payment for ICFs/MR. The requirements apply to State Medicaid agencies and survey agencies and to the facilities. This part is based on the following sections of the Act:

Section 1902(a)(4), administrative methods for proper and efficient operation of the State plan;

Section 1902(a)(27), provider agreements;

Section 1902(a)(33)(B), State survey agency functions;

Section 1902(i), circumstances and procedures for denial of payment and termination of provider agreements in certain cases;

Section 1905 (c) and (d), definition of intermediate care facility services;

* * * * *

4. In Subpart B, § 442.30 is amended by revising paragraph (a)(1) to replace the references to Subparts D, E, and F with a reference to Part 483 as follows:

Subpart B—Provider Agreements

§ 442.30 Agreement as evidence of certification.

(a) * * *

(1) The survey agency failed to apply the applicable certification standards required under Subpart G of this part, or Part 483 of this chapter.

* * * * *

5. In Subpart C, § 442.100 is revised to add a reference to Part 483 as follows:

Subpart C—Certification of SNF's and ICF's

§ 442.100 State plan requirements.

A State plan must provide that the requirements of this subpart and Part 483 are met.

6. Section 442.101 is amended by revising paragraph (d)(1) to replace the references to Subparts D, E and F with a reference to Part 483 as follows:

§ 442.101 Obtaining certification.

* * * * *

(d) The notice must state that the facility—

(1) Meets the applicable requirements under Subpart G of this part and Part 483, except for waivers or variations granted by the Secretary or the survey agency under those subparts; or

* * * * *

7. Section 422.105 is amended by revising the introductory statement to replace the references to Subpart D, E and F with a reference to Part 483 as follows:

§ 442.105 Certification with deficiencies: General provisions.

If a survey agency finds a facility deficient in meeting the standards specified under Subpart G of this part or Part 483 of this chapter, the agency may certify the facility for Medicaid purposes under the following conditions:

8. The content of Subpart D (§§ 442.200 through 422.202) is removed, revised, and redesignated as a new Part 483. Subpart D is reserved.

Subpart D—[Reserved 483]

9. The content of Subpart E (§§ 442.250 through 422.254 is removed, revised, and redesignated as a new Part 483. Subpart E is reserved.

Subpart E—[Reserved]

10. The content of Subpart F (§§ 442.300 through 442.346) is removed, revised, and redesignated as a new Part 483. Subpart F is reserved.

Subpart F—[Reserved]

SUBCHAPTER E—STANDARDS AND CERTIFICATION

D. A new Part 483 is added to Subchapter E to read as follows:

PART 483—CONDITIONS OF PARTICIPATION FOR LONG TERM CARE FACILITIES

Sec.

Authority: Sec. 1102, 1861 (j) and (1), 1863, 1871, 1902(a)(28), and 1905 (a) and (c) of the Social Security Act (42 U.S.C. 1302, 1395x (j) and (1), 1395hh, 1396a(a)(28), and 1396d(c)), unless otherwise noted.

§ 483.1 Basis and scope.

(a) *Basis in legislation.* (1) Section 1861(j) of the Act provides that—

(i) Skilled nursing facilities participating in Medicare must meet certain specified requirements; and

(ii) The Secretary may impose additional requirements if they are necessary for the health and safety of individuals to whom services are furnished in the facilities.

(2) Section 1902(a)(28) of the Act provides that skilled nursing facilities participating in Medicaid must meet the requirements contained in section 1861(j) of the Act, except for the exclusion of institutions which are primarily for the care and treatment of mental diseases.

(3) Section 1905(c) of the Act provides that—

(i) Intermediate care facilities participating in Medicaid must meet certain specified requirements; and

(ii) The Secretary may impose additional standards necessary for the proper provision of care.

(b) *Scope.* The provisions of this part contain the requirements that an institution must meet in order to qualify to participate as a SNF in the Medicare and Medicaid programs, or as an ICF in the Medicaid program. They serve as the basis for survey activities for the purpose of determining whether a facility meets the requirements for participation in Medicare and Medicaid.

§ 483.5 Definitions.

For purposes of this subpart—

"Facility" means a skilled nursing facility (SNF), or an intermediate care facility (ICF). "Facility" may include a distinct part of a facility as specified in § 440.40 or § 440.150 of this chapter, but does not include an institution for the mentally retarded or persons with related conditions described in § 440.150(c). For Medicare, a SNF may not include any institution that is for the care and treatment of mental diseases (see § 1861(j) following (15) of the Act). This restriction does not apply to Medicaid (see § 1902(a)(28) of the Act).

§ 483.10 Condition of participation: Resident rights.

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. The facility must assert, protect, and facilitate the exercise of these rights.

(a) *Standard: Exercise of rights.* (1) The resident has the right to exercise his or her rights as a resident of the facility, and as a citizen or resident of the United States, including the right to file complaints.

(2) The resident has the right to be free of coercion or reprisal from the facility in exercising his or her rights.

(3) A residents next of kin or guardian may exercise a resident's rights when a resident has been adjudicated to be incompetent.

(b) *Standard: Right to be informed.* The resident has a right—

(1) To be informed of his or her rights, and the rules of the facility upon admission, in the language that he or she understands;

(2) To inspect his or her records on request;

(3) To be informed of his or her medical condition, and an opportunity to participate in planning his or her medical treatment;

(4) To refuse treatment, and to refuse to participate in experimental research;

(5) To information on Federal, State and local agencies concerned with enforcement of skilled and intermediate care rules, and agencies acting as client advocates, and is afforded the opportunity to contact these agencies;

(6) To be informed of his or her responsibility for charges, services available, changes in rates, and changes in itemized forms.

(c) *Standard: Resident finances.* The resident has the right to manage his or her financial affairs.

(d) *Standard: Restraints.* The resident has the right to be free from unnecessary drugs and physical restraints, and is provided treatment to reduce dependency on drugs and physical restraint.

(e) *Standard: Abuse.* The resident has the right to be free of physical, psychological, or sexual abuse or punishment.

(f) *Standard: Privacy and confidentiality.* —The resident has the right to—

(1) Personal privacy;

(2) Confidentiality of his or her records.

(g) *Standard: Work.* The resident has the right not to perform services for the facility, and to be compensated for services voluntarily performed, unless informed prior to preforming services that services are of a voluntary nature and will not be compensated.

(h) *Standard: Mail.* The resident has the right to send and receive mail that is not opened.

(i) *Standard: Access to facility.* The resident has the right to receive visitors at any reasonable hour, and by arrangements at other times.

(j) *Standard: Telephone.* The resident has the right to have access to the private use of a telephone.

(k) *Standard: Self-determination and participation.* The resident has the right to—

(1) Participate in normal social, religious and community group activities; and

(2) Makes choices about significant aspects of his or her life in the facility.

(l) *Standard: Personal property.* The resident has the right to retain and use personal possessions and appropriate clothing, within space allocated by the facility, unless to do so would infringe upon the rights or security of other residents.

(m) *Standard: Married couples.* The resident has the right to—

(1) Privacy during visits by his or her spouse; and

(2) Share a room with his or her spouse, when married residents live in the same facility.

§ 483.15 Condition of participation: Quality of life.

The facility must ensure that residents receive care in a manner and in an environment that maintains or enhances their quality of life without abridging the safety and rights of other residents.

(a) *Standard: Dignity.* The facility must—

(1) Treat each resident with dignity and respect; and

(2) Maintain each resident's privacy.

(b) *Standard: Environment.* The facility must provide—

(1) A safe, clean, comfortable and homelike environment;

(2) Housekeeping and maintenance services necessary to maintain a sanitary, orderly and comfortable interior;

(3) Clean bed linens;

(4) Secure and private closet space in each resident room;

(5) For a pest control program to ensure that the facility is free of pests and rodents.

(c) *Standard: Choice.* The facility must—

(1) Permit residents to choose activities, schedules and health care consistent with their interests, assessments and plans of care;

(2) Permit residents to interact with members of the community both inside and outside the facility.

(d) *Standard: Food.* The facility must:

(1) Prepare food by methods that conserve nutritive value, flavor and appearance;

(2) Serve food that is attractive, and that is at the proper temperature;

(3) Provide food to meet individual needs;

(4) Offer substitutes of similar nutritive value to residents who refuse food served.

(e) *Standard: Activities.* The facility must provide for an ongoing program of activities appropriate to residents needs and interests, designed to promote opportunities for engaging in normal pursuits, including religious activities of their choice.

§ 483.20 Condition of participation: Resident assessment.

The facility must conduct initially and periodically thereafter a comprehensive, accurate assessment of each resident's medical, functional and psychosocial needs.

(a) *Standard: Preliminary assessment.*

(1) Within 48 hours of admission, the facility must—

(i) Make an initial assessment of each resident based on a medical evaluation completed at the time of admission by a physician, that includes current medical findings, diagnoses, rehabilitation potential, summary of prior treatment, and orders for immediate care of the resident.

(ii) Develop and implement a preliminary care plan in accordance with the initial assessment of the resident.

(b) *Standard: Comprehensive assessments.*

(1) Within 14 days of admission, the facility must make a comprehensive assessment of a resident's needs, which includes at least the following information:

(i) Medically defined conditions;

(ii) Medical status measurement;

(iii) Functional status;

(iv) Sensory and physical impairments;

(v) Nutritional status and requirements;

(vi) Special treatments or procedures;

(vii) Psychosocial status;

(viii) Discharge potential.

(2) The assessment must be reevaluated and, if necessary updated, at least—

(i) Every 3 months after the first comprehensive assessment; and

(ii) When a significant change in the resident's status occurs.

(c) *Standard: Accuracy of assessments.* Assessments must be an accurate representation of a resident's status.

(d) *Standard: Comprehensive care plans.*

(1) The facility must develop a comprehensive care plan for each resident that includes short term and long term objectives and timetables to meet a resident's needs that are identified in the comprehensive assessment.

(2) A comprehensive care plan must be—

(i) Developed within 7 days after completion of the comprehensive assessment; and

(ii) Reviewed and modified as necessary when the resident's comprehensive assessment in updated.

(3) A comprehensive care plan must include a discharge plan when the attending physician documents that a resident has the potential to be discharged from the facility.

(e) *Standard: Discharge summary.* Each resident must have a discharge summary that includes—

(1) A recapitulation of the resident's stay;

(2) A final summary of the resident's status; as defined by paragraph (b)(1) of this section, at the time of the discharge that is available for release to authorized persons and agencies, with the consent of the resident or legal guardian; and

(3) A post-discharge plan of care that will assist the resident to adjust to his or her new living environment.

§ 483.25 Condition of participation: Quality of Care.

Each resident must receive the necessary nursing, medical and psychosocial services to attain and maintain the highest possible mental and physical functional status, as defined by the comprehensive assessment and plan of care.

(a) *Standard: Activities of Daily Living.* Based on the comprehensive assessment of a resident, the facility must ensure that—

(1) A resident's ability to ambulate, dress, feed, groom, bathe, toilet, transfer (from bed to chair, etc.) and communicate does not diminish unless reasonable justification is documented;

(2) A resident is given the appropriate treatment and services to maintain or improve his or her ability to ambulate, dress, feed, groom, bathe, toilet, transfer and communicate; and

(3) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(b) *Standard: Vision and Hearing.* To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility must, if necessary, assist the resident—

(1) In making appointments; and

(2) By arranging for transportation to and from the office of a medical practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices.

(c) *Standard: Decubitus Ulcers.* Based on the comprehensive assessment of a resident, the facility must ensure that—

(1) A resident who enters the facility without decubitus ulcers does not develop decubitus ulcers unless the attending physician certifies that the ulcers were not reasonably avoidable; and

(2) A resident having decubitus ulcers receives necessary treatment and services to promote healing, prevent infection and prevent new ulcers from developing.

(d) *Standard: Antipsychotic Drugs.* Based on comprehensive assessment of a resident, the facility must ensure that—

(1) Residents who have not used antipsychotic drugs are not given these drugs unless a physician certifies that antipsychotic drug therapy is necessary to treat a specific condition; and

(2) Residents who use antipsychotic drugs receive gradual dose reductions, drug holidays and behavioral programming in an effort to discontinue these drugs;

(e) *Standard: Urinary Catheters.* The facility must ensure that—

(1) A resident who is incontinent of bladder receives the appropriate treatment and services to restore normal bladder functioning;

(2) A resient is not catheterized unless the attending physician certifies that catheterization is medically necessary; and

(3) A resident who uses a urinary catheter receives appropriate treatment and services to prevent urinary tract infections and to restore normal bladder function.

(f) *Standard: Contractures.* Based on the comprehensive assessment of a resident, the facility must ensure that—

(1) A resident who enters the facility without contractures, does not experience an unpredictable reduction in range of motion unless reasonable justification is documented; and

(2) A resident who has contractures receives appropriate treatment and services to increase range of motion and to prevent further decrease in range of motion.

(g) *Standard: Psychosocial Functioning.* Based on the comprehensive assessment of a resident, the facility must ensure that—

(1) A resident who displays psychosocial adjustment difficulty, receives appropriate treatment and services to achieve remotivation and reorientation; and

(2) A resident whose assessment did not reveal a psychosocial adjustment difficulty does not display an unpredictable pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless reasonable justification is documented.

(h) *Standard: Naso-Gastric Tubes.* Based on the comprehensive assessment of a resident, the facility must ensure that—

(1) A resident who has been able to feed or partially feed himself or herself is not fed by naso-gastric tube unless reasonable justification is documented; and

(2) A resident who is fed by a naso-gastric tube receives the appropriate treatment and services to prevent pneumonia and nasal-pharyngeal ulcers and to restore normal feeding function.

(i) *Standard: Drug Therapy.* The facility must ensure that each resident's drug regimen is free of—

(1) Unnecessary drugs;

(2) Unnecessary dose levels;

(3) Undue adverse consequences; and

(4) Significant medication errors or significant medication error rates.

(j) *Standard: Accidents.* The facility must ensure that—

(1) The resident environment remains free of accident hazards; and

(2) Each resident receives adequate supervision and assistive devices to prevent accidents.

(k) *Standard: Nutrition.* The facility must ensure that a resident—

(1) Does not lose weight after entering the facility without medical justification; and

(2) Receives a special therapeutic diet when there is a nutritional problem.

(l) *Standard: Dehydration.* The facility must ensure that each resident is provided with sufficient fluid intake and electrolytes to maintain proper hydration and health.

(m) *Standard: Special Needs.* The facility must ensure that residents receive proper treatment and care for the following special needs:

(1) Injections;

(2) Parenteral fluids;

(3) Colostomy or ileostomy care;

(4) Tracheostomy care;

(5) Tracheal suctioning; and

(6) Respiratory therapy.

(n) *Staff Treatment of Residents.* The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents.

(1) The facility must ensure that—

(i) The staff does not use corporal punishment, or verbal, physical or sexual abuse;

(ii) The staff does not punish residents by withholding food or liquids that contribute to a nutritionally adequate diet; and

(iii) Individuals who are convicted of abusing, neglecting or mistreating individuals are not employed by the facility.

(2) The facility must ensure that all alleged violations involving mistreatment, neglect or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility through established procedures.

(3) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

(4) The results of the investigation are reported to the administrator or his designated representative or to other officials within 5 working days of the incident, and if the alleged violation is verified, appropriate corrective action is taken.

Alternative I

§ 483.30 Condition of participation: Nursing services.

The facility must have sufficient nursing staff to provide nursing services to meet the needs of all residents in the facility as determined by resident assessments and individual plans of care.

(a) *Standard: Director of nursing services.* (1) In a skilled nursing facility, the director of nursing must be a qualified registered nurse, employed by the facility on a full time basis.

(2) In an intermediate care facility, the director of nursing must be employed full time, and be—

(i) A registered nurse; or

(ii) A licensed practical (vocational) nurse who must consult with a registered nurse when necessary.

(b) *Standard: Charge nurse.* (1) The director of nursing must designate a charge nurse for each tour of duty, who is responsible for supervising all nursing activities.

(2) The charge nurse must be either a—

(i) Registered nurse; or

(ii) Qualified licensed practical (vocational) nurse.

(3) A director of nursing may serve as charge nurse only when a facility has an average daily occupancy of 60 or fewer residents.

(c) *Standard: Sufficient Staff.* (1) The facility must provide services by a sufficient number of licensed nurses and other personnel on a 24 hour basis to provide nursing care to all residents, in accordance with resident care plans.

(2) At a minimum, the facility must employ at least one registered nurse on the day tour of duty, 7 days a week, except when waived as specified in § 405.1911(a) of this chapter.

(d) *Standard: Self-Administration of drugs.* (1) Unless prohibited in writing by the attending physician, the facility may permit each resident to retain his or her drugs at the bedside, and administer his or her own drugs.

(2) A resident who self-administers drugs is responsible for storing them securely and maintaining a record of drugs taken.

Alternative II

§ 483.30 Condition of participation: Nursing services.

The facility must have sufficient nursing staff to provide nursing services to meet the needs of all residents in the facility as determined by resident assessments and individual plans of care.

(a) *Standard: Director of nursing services.* (1) In a skilled nursing facility, the director of nursing must be a qualified registered nurse, employed by the facility on a full time basis.

(2) In an intermediate care facility, the director of nursing must be employed full time, and be—

(i) A registered nurse; or

(ii) A licensed practical (vocational) nurse who must consult with a registered nurse when necessary.

(b) *Standard: Charge nurse.* (1) In a skilled nursing facility, the director of nursing must designate a charge nurse for each tour of duty, who is responsible for supervising all nursing activities.

(2) In an SNF, a director of nursing may serve as charge nurse only when a facility has an average daily occupancy of 60 or fewer residents.

(3) In an intermediate care facility, on each tour of duty for which more than one licensed nurse is required, the director of nursing must designate a charge nurse who is responsible for supervising all nursing activities on that tour.

(4) The charge nurse must be either a—

(i) Registered nurse; or

(ii) Qualified licensed practical (vocational) nurse.

(c) *Standard: Sufficient Staff.* (1) A skilled nursing facility must:

(i) Provide services by a sufficient number of licensed nurses and other personnel on a 24 hour basis to provide nursing care to all residents, in accordance with resident care plans.

(ii) At a minimum, the skilled nursing facility must employ at least one registered nurse on the day tour of duty, 7 days a week, except when waived as specified in § 405.1911(a) of this chapter.

(2) An intermediate care facility must—

(i) Provide services by a sufficient number of licensed nurses (or other nursing personnel) on a 24 hour basis 7 days a week to provide all necessary nursing care to residents in accordance with resident care needs assessments and plans of care.

(ii) At a mininum, the intermediate care facility must have a registered nurse or licensed practical or vocational nurse to supervise the ICF's health care services full time, 7 days a week, on the day shift.

(iii) If the licensed nurse in (ii) is not a registered nurse, the ICF must have a formal contract with a registered nurse to consult with the licensed practical or vocational nurse at regular intervals but no less than 4 hours each week.

(d) *Standard: Self-Administration of drugs.*

(1) Unless prohibited in writing by the attending physician, the facility may permit each resident to retain his or her drugs at bedside, and administer his or her own drugs.

(2) A resident who self-administers drugs is responsible for storing them securely and maintaining a record of drugs taken.

Alternative III

§ 483.30 Condition of participation: Nursing services.

The facility must have sufficient nursing staff to provide nursing services to meet the needs of all residents in the facility as determined by resident assessments and individual plans of care.

(a) *Standard: Director of nursing services.* (1) In a skilled nursing facility, the director of nursing must be a qualified registered nurse, employed by the facility on a full time basis.

(2) In an intermediate care facility, the director of nursing must be employed full time, and be—

(i) A registered nurse; or

(ii) A licensed practical (vocational) nurse who must consult with a registered nurse when necessary.

(b) *Standard: Charge nurse.* (1) The director of nursing must designate a charge nurse for each tour of duty, who is responsible for supervising all nursing activities.

(2) The charge nurse must be either a—

(i) Registered nurse; or

(ii) Qualified licensed practical (vocational) nurse.

(3) A director of nursing may serve as charge nurse only when a facility has an average daily occupancy of 60 or fewer residents.

(c) *Standard: Sufficient Staff.* (1) The facility must provide services by a sufficient number of licensed nurses and other personnel on a 24 hour basis to provide nursing care to all residents, in accordance with resident care plans.

(2) At a minimum, the facility must employ at least one registered nurse on the day tour of duty, 7 days a week, except when waived as specified in § 405.1911(a) of this chapter.

(3) An intermediate care facility that does not meet the requirements of paragraphs (1) and (2) above may be granted a waiver of these requirements, as specified in § 488.112 of this subchapter.

(d) *Standard: Self-Administration of drugs.* (1) Unless prohibited in writing by the attending physician, the facility may permit each resident to retain his or her drugs at the bedside, and administer his or her own drugs.

(2) A resident who self-administers drugs is responsible for storing them securely and maintaining a record of drugs taken.

§ 483.35 Condition of participation: Dietary services.

The facility must provide each resident with a nourishing, palatable, well-balanced diet including modified and specially prescribed diets.

(a) *Standard: Staffing.* The facility must employ a staff member who is trained or experienced in food management or nutrition.

(b) *Standard: Menus and Nutritional adequacy.* Menus must—

(1) Meet the nutritional needs of residents;

(2) Be prepared in advance; and

(3) Be followed.

(c) *Standard: Therapeutic diets.* Therapeutic diets must be prescribed by the attending physician.

(d) *Standard: Frequency of meals.* (1) The facility must serve each resident at least three meals daily, at regular times comparable to normal mealtimes in the community.

(2) There must be not more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (4) below.

(3) The facility must serve snacks at bedtime daily, to the extent permitted by the physician.

(4) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day.

(e) *Standard: Assistive Devices.* The facility must provide special eating equipment and utensils for residents who need them.

(f) *Standard: Sanitary Conditions.* The facility must—

(1) Procure food from sources approved or considered satisfactory by Federal, State, or local authorities;

(2) Store, prepare, distribute, and serve food under sanitary conditions;

(3) Dispose of waste properly; and

(4) Maintain a file at the facility containing written reports of inspections by State and local health authorities, with notation of action taken by the facility to comply with any recommendations.

§ 483.40 Condition of participation: Physician services.

A physician must personally approve a recommendation that an individual be admitted to a facility. Each resident must remain under the care of a physician, and if possible, designate a personal physician. The standards set forth in paragraphs (a)(1) and (d) are statutory requirements, each of which must be satisfied for a facility to participate as an SNF in the Medicare or Medicaid program.

(a) *Standard: Physician supervision.* The facility must ensure that—

(1) The medical care of each resident is supervised by a physician; and

(2) Another physician supervises the medical care of residents when their attending physician is unavailable.

(b) *Standard: Physician visits.* The physician must personally—

(1) Review the resident's total program of care, including medications and treatments, at each visit.

(2) Write progress notes, and sign them, at each visit.

(3) Sign all orders.

(c) *Standard: Frequency of physician visits.* The facility must record in the resident's comprehensive care plan how often a physician must personally visit the resident.

(1) For skilled nursing facilities, the resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter.

(2) For intermediate care facilities, the resident must be seen by a physician at least at the following intervals:

(i) 60 days after the date of admission;

(ii) 180 days after the date of admission;

(iii) 12 months after the date of admission;

(iv) 18 months after the date of admission;

(v) 24 months after the date of admission; and

(vi) Every 12 months thereafter.

(d) *Standard: Availability of physicians for emergency care.* The facility must provide or arrange for the provision of physician services 24 hours a day, in case of an emergency.

(e) *Standard: Physician delegation of tasks.* (1) Except as specified in paragraph (e)(2) of this section, a physician may delegate tasks to a physician assistant or nurse practitioner who—

(i) Meets the applicable definition in § 491.2 of this chapter;

(ii) Is acting within the scope of practice as defined by State law; and

(iii) Is under the supervision of the physician.

(2) A physician may not delegate responsibility for tasks when the condition or standard specifies that the physician must personally perform a task, or when the delegation is prohibited under State law or by the facility's own policies.

§ 483.45 Condition of participation: Specialized rehabilitative services.

The facility must provide or obtain rehabilitative services to meet the needs of the individuals that it admits as residents.

(a) *Standard: Provision of services.* (1) The facility must provide rehabilitative services as required in each resident's comprehensive plan of care, or obtain the service from a provider of rehabilitative services under an arrangement described in section 483.75(1) of this part, if the facility does not furnish that service.

(2) The facility must not admit residents who require rehabilitative services if the facility does not provide or obtain these services.

(b) *Standard: Qualifications.* If a facility provides outpatient physical therapy or speech pathology services, the facility must meet the requirements in Part 405, Subpart Q.

§483.50 Condition of Participation: Social services.

(a) The facility must provide or obtain under an agreement or arrangement described in § 483.75(1) of this part, services to meet the psychosocial needs of its residents, as identified in the resident's comprehensive assessment and defined in the resident's comprehensive care plan.

(b) In meeting the resident's psychosocial needs, the facility must establish liaison with community resources which can assist in meeting those needs.

§ 483.55 Condition of participation: Dental services.

The facility must assist residents in obtaining routine and emergency dental care.

(a) *Standard: Advisory dentist.* The facility must ensure that a dentist is available in an advisory role to the nursing staff.

(b) *Standard: Outside services.* The facility must—

(1) Have a cooperative agreement, which meets the requirements of § 483.75(l)(2) of this part, with a dentist to provide dental services;

(2) Maintain a list of dentists for residents who do not have a private dentist; and

(3) If necessary, assist the resident—

(i) In making appointments; and

(ii) By arranging for transportation to and from the dentist's office.

§ 483.60 Condition of participation: Pharmacy services.

The facility must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in § 483.75(l) of this part. The standard set forth in paragraph (a)(1) is statutory, and must be satisfied for a facility to participate as an SNF in the Medicare or Medicaid program.

(a) *Standard: Methods and procedures.* (1) The facility must establish methods and procedures for dispensing and administering drugs and biologicals.

(2) The facility may permit unlicensed personnel to administer drugs if State law permits.

(b) *Standard: Supervision of services.* The facility must employ or obtain the services of a licensed pharmacist who will—

(1) Supervise the provision of pharmacy services by the facility;

(2) Establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation; and

(3) Determine that drug records are in order and that an account of all controlled drugs is maintained and reconciled.

(c) *Standard: Drug regimen review.* The drug regimen of each resident must be reviewed at least once a month and any irregularities reported to the attending physician. The drug regimen review must be conducted by a licensed pharmacist.

§ 483.65 Condition of participation: Infection control.

The facility must provide a sanitary environment to avoid sources and transmission of infections.

(a) *Standard: General Requirements.* The facility must—

(1) Conduct an active program for the prevention, control, and investigation of infection and communicable diseases;

(2) Implement successful corrective action in affected problem areas;

(3) Maintain a record of incidents and corrective actions related to infections;

(4) Isolate residents with infectious disease—

(i) In single rooms that are vented to the outside;

(ii) In rooms with a private toilet and handwashing facilities; and

(iii) In rooms identified by precautionary signs.

(5) Ensure that all personnel follow aseptic and isolation techniques in accordance with acceptable professional practice.

(b) *Standard: Linens.* Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

§ 483.70 Condition of participation: Physical environment.

The facility must be constructed, equipped and maintained to protect the health and ensure the safety of residents, personnel and the public. The standard set forth in paragraph (a) is statutory, and must be satisfied for a facility to participate in the Medicare program.

(a) *Standard: Life safety from fire.*[1] Except as provided in paragraph (a)(1) or (a)(3), the facility must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [2]).

(1) A facility is considered to be in compliance with this standard so long as the facility—

(i) On November 26, 1982, complied, with or without waivers, with the requirements of the 1967 or 1973 editions of the Life Safety Code and continues to remain in compliance with those editions of the Code; or

(ii) On (30 days after publication of final rule) complied, with or without waivers, with the 1981 edition of the Life Safety Code and continues to remain in compliance with that edition of the Code.

(2) After consideration of State survey agency findings, HCFA, or in the case of intermediate care facilities, the State survey agency may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of residents.

(3) The provisions of the Life Safety Code do not apply in a State where HCFA finds, in accordance with applicable provisions of section 1861(j)(13) of the Act, that a fire and safety code imposed by State law adequately protects patients in long term care facilities.

(b) *Standard: Emergency power.* When life support systems are used, the facility must provide emergency electrical power with an emergency generator (as defined in NFPA 99, Health Care Facilities) that is located on the premises.

(c) *Standard: Space and equipment.* The facility must—

(1) Provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these standards and as identified in each resident's plan of care; and

(2) Maintain all essential mechanical, electrical, and patient care equipment in safe operating condition.

(d) *Standard: Resident rooms.* Resident rooms must be designed and equipped for adequate nursing care, comfort and privacy of residents.

(1) Bedrooms must—

(i) Accommodate no more than four residents;

(ii) Measure at least 80 square feet per resident in multiple resident bedrooms, and at least 100 square feet in single resident rooms;

(iii) Have direct access to a corridor;

(iv) Be designed or equipped to assure full visual privacy for each resident; and

(v) Have outside exposure in existing facilities, and have at least one window to the outside in new facilities; and

(vi) Have a floor at or above grade level.

(2) The facility must provide each resident with—

(i) A separate bed of proper size and height for the convenience of the resident;

(ii) A clean, comfortable mattress;

(iii) Bedding appropriate to the weather and climate; and

(iv) Functional furniture appropriate to the resident's needs, and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.

(3) HCFA, or in the case of a facility participating as a skilled nursing facilty under Medicaid only or as an intermediate care facility, the survey agency (under 42 CFR 442.101(c)) may permit variations in requirements relating to rooms in individual cases when the facility demonstrates in writing that the variations—

(A) Are required by the special needs of the residents; and

(B) Will not adversely affect residents health and safety.

(e) *Standard: Toilet facilities.* Each resident room must be equipped with or located near toilet and bathing facilities.

(f) *Standard: Resident call system.* The nurse's station must be equipped to receive resident calls through a communication system from—

(1) Resident rooms;

(2) Toilet and bathing facilities; and

(3) Common resident areas.

(g) *Standard: Dining and resident activities.* The facility must provide one or more rooms designated for resident dining and activities. These rooms must—

(1) Be well lighted;

(2) Be well ventilated;

(3) Be adequately furnished;

(4) Have sufficient space to accommodate all activities.

(h) *Standard: Other environmental conditions.* The facility must provide a functional, sanitary and comfortable environment for residents, staff and the public. The facility must—

(1) Maintain adequate and comfortable lighting levels in all areas;

(2) Maintain comfortable and safe temperature levels;

(3) Maintain comfortable sound levels;

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[1] Note to Reviewer: The fire safety requirements are repeated here as they appear in a proposed regulation, Fire Safety Standards for Hospitals, Skilled Nursing Facilities, Hospices, Intermediate Care Facilities and Ambulatory Surgical Centers, published Jan. 22, 1987, 52 FR 2430.

[2] Incorporation of the 1985 edition of the National Fire Protection Association's Life Safety Code (published February 7, 1985; ANSI/NFPA) was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 that govern the use of incorporations by reference. The Code is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1110 L Street NW., Washington, DC. Copies may be obtained from the National Fire Protection Association, Batterymarch Park, Quincey, Mass. 02269. If any changes in this code are also to be incorporated by reference, a notice to that effect will be published in the Federal Register.

(4) Establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply;

(5) Have adequate outside ventilation by means of windows, or mechanical ventilation or a combination of the two; and

(6) Equip corridors with firmly secured handrails on each side.

§ 483.75 Condition of participation: Administration.

The standards set forth in paragraphs (a), (d), (i), (j), (p), (r), (s), (t), and (v) of this section are statutory requirements, each of which must be satisfied for a facility to participate in the Medicare program.

(a) *Standard: Licensure.* (1) A skilled nursing facility must be—

(i) Licensed in accordance with State or local law if that law requires it; or

(ii) Approved by the State or local agency responsible for licensing such institutions, as meeting the applicable licensing standards.

(2) An intermediate care facility must be licensed under State law to provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities.

(b) *Standard: Compliance with Federal, State and local laws.* The facility must be in compliance with all applicable provisions of Federal, State and local laws, regulations and codes pertaining to health, safety, sanitation, and research.*

(c) *Standard: Governing body.* (1) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsbile for establishing and implementing policies regarding the management and operation of the facility;

(2) The governing body appoints the administrator who is—

(i) Licensed by the State;

(ii) Responsible for management of the facility;

(3) The governing body must make available to residents and the public written policies regarding rights and responsibilities of residents, as specified in § 483.10;

(4) The facility must permit access in accordance with State law, within normal visiting hours, to a designated ombudsman (whether volunteer or paid). If the resident or legal guardian agrees, the ombudsman must be allowed to examine a resident's records;

(5) In accordance with State law, and consistent with the residents' right to privacy, the governing body must permit access within normal visiting hours to authorized employees or agents of public agencies.

(6) The governing body must post in a location accessible to residents—

(i) Information concerning Federal, State, and local agencies responsible for enforcement of nursing home rules, and advocacy for residents;

(ii) Notification of the results of Federal and State surveys, and plans of correction;

(iii) The name, address, and phone number of—

(A) The State survey office;

(B) The State or local ombudsman office; and

(C) The State or local legal service office.

(7) With regard to resident advisory and family councils, the governing body must assure that the facility provides:

(i) Space;

(ii) Privacy—staff or visitors may attend only upon the council's invitation;

(iii) A designated staff person responsible for providing assistance and responding to written requests that result from council meetings.

(d) *Standard: Institutional plan and budget.* Skilled nursing facilities must develop an overall plan and budget that meets the following requirements:

(1) Provides for an annual operating budget which includes all anticipated income and expenses, but need not include an item-by-item identification of the components of each type of anticipated expenditure or income;

(2) Provides for a capital expenditures plan for at least a 3-year period, including the year to which the operating budget described in paragraph (1) of this section is applicable. This plan must identify in detail the anticipated sources of financing for, and the objectives of, each anticipated expenditure in excess of $600,000, or such lesser amount as may be established by the State in which the SNF is located, related to the acquisition of land, the improvement of land, buildings, and equipment, and the replacement, modernization, and expansion of the buildings and equipment which would, under generally accepted accounting principles, be considered capital items;

(3) Provides that the plan is submitted to the State agency designated under section 1122(b) of the Act, or if no such agency is designated, to the appropriate health planning agency in the State, except when a facility is exempt from section 1122 review under section 1122(j) of the Act (see 42 CFR Part 100);

(4) Is reviewed and updated by the facility at least annually; and

(5) Is prepared, under the direction of the governing body of the institution by a committee consisting of representatives of the governing body, the administrative staff, and the medical staff of the institution.

(e) *Standard: Personnel policies and procedures.* The facility must—

(1) Maintain current records for each employee that contain sufficient information to support placement in the assigned position;

(2) Ensure that a safe and sanitary environment exists for residents and employees. Accidents to residents and employees are reviewed to identify health and safety hazards;

(3) Provide or refer employees for periodic health examinations to ensure that employees do not have communicable diseases; and

(4) Prohibit employees with symptoms or signs of a communicable disease or infected skin lesions from direct contact with residents and their food.

(f) *Standard: Nurse's Aide Training.* (1) The facility must provide 80 hours of training for untrained aides before they are allowed to care for patients without direct supervision.

(2) The facility must provide continuing training on the care of ambulatory and bedridden patients to each individual employed as a nurse's aide.

(3) This training must, at a minimum, include the skills necessary to assist residents to attain the objectives, and prevent the adverse consequences described in § 483.25.

(g) *Standard: Proficiency of Nurse's Aides.* The facility must ensure that nurse's aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(h) *Standard: Notification of Changes.* (1) A facility must notify promptly a resident's physician and other responsible persons when there is—

(i) An accident involving the resident; or

(ii) A significant change in a resident's physical, mental or emotional status.

(2) Except in a medical emergency, before a resident is transferred or

* Further requirements pertaining to civil rights and to the protection of human research subjects are specified under 45 CFR Parts 80, 84, and 90 and 45 CFR Part 46, respectively.

discharged, or treatment is altered significantly the facility must—

(i) Consult with the resident; or

(ii) Notify the resident's next of kin or guardian.

(3) The facility must record and periodically update the address and phone number of the resident's guardian, conservator or other representative.

(4) The guardian, conservator or other representative must be notified timely when there is—

(i) A significant change in the resident's physical, mental or emotional state;

(ii) An accident involving the resident;

(iii) A change in the billing;

(iv) A change in room assignment;

(v) A decision to discharge the resident from the facility;

(vi) A change in residents' rights under Federal or State law or regulations.

(i) *Standard: Resident care policies.* (1) The facility must have written resident care policies that govern the continuing nursing care, and medical or other services furnished by the facility.

(2) For skilled nursing facilities, resident care policies must—

(i) Be developed with the advice of a group of professional personnel consisting of at least one physician and at least one registered nurse; and

(ii) Be reviewed periodically by the professional personnel group.

(j) *Standard: Resident finances.* The facility must establish and maintain a system that assures a full and complete accounting of the resident's personal funds entrusted to the facility on the resident's behalf.

(1) The system must preclude any commingling of resident funds with the funds of any person other than another resident.

(2) The individual financial record must be available on request to the resident or his or her legal representative.

(k) *Standard: Staff qualifications.* (1) The facility must employ on a full time, part time, or consultant basis those professionals necessary to carry out the provisions of these conditions of participation.

(2) Professional staff must meet the following qualifications:

(i) Physicians, nurses, pharmacists, and physical therapists furnishing services in the facility must have a current license to practice in the State.

(ii) Physician assistants, nurse practitioners, and dental hygienists furnishing services to residents of the facility must have a current license or certification to practice in the State.

(iii) Occupational therapists must be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body.

(iv) Occupational therapy assistants must be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or another comparable body.

(v) Physical therapy assistants must be a graduate of a two year college-level program approval by the American Physical Therapy Association or another comparable body.

(vi) Social workers must be licensed, if applicable, by the State in which he or she is practicing, and must—

(A) Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

(B) Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body.

(vii) Speech and language pathologists or audiologists must—

(A) Be licensed, if applicable, by the State in which he or she is practicing; and

(B) Be eligible for a certificate of clinical competence in speech and language pathology or audiology granted by the American Speech-Language-Hearing Association or another comparable body under its requirements in effect on the date of publication of these provisions; or

(C) Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification.

(viii) Medical records directors must—

(A) Be eligible to be certified as a Registered Record Administrator or an Accredited Record Technician; or

(B) Have demonstrated competency appropriate to the scope and complexity of services performed, and receive direction from a medical records consultant who meets the requirements of paragraph (k)(2)(viii)(A) of this section.

(ix) Human services professionals must have at least a bachelor's degree in a human services field other than those mentioned in this section (such as gerontology, rehabilitation counseling, human development, psychology).

(l) *Use of Outside Resources.* (1) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Act or an agreement described in (2) below.

(2) Arrangements or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for the quality and timeliness of the services.

(m) *Standard: Medical director.* (1) The facility must designate a physician, registered nurse or other medical staff member to serve as medical director.

(2) The medical director is responsible for—

(i) Implementation of resident care policies;

(ii) Development and coordination of the resident treatment plan; and

(iii) Care delivered to each resident.

(n) *Standard: Laboratory Services.* (1) The skilled nursing facility must provide or obtain clinical laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own laboratory services, the services must meet the applicable conditions for coverage of the services furnished by independent laboratories specified in Subpart M of Part 405 of this chapter;

(ii) If the facility provides blood bank and transfusion services, it must meet the applicable conditions for—

(A) Independent laboratories specified in Subpart M of Part 405 of this chapter; and

(B) Hospitals specified in § 482.27(d) of this subchapter;

(iii) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be approved for participation in the Medicare program either as a hospital or an independent laboratory;

(iv) If the facility does not provide laboratory services, it must have an agreement to obtain these services from a physician's office, a participating hospital or skilled nursing facility, or independent laboratory which is approved to provide these services under the Medicare program.

(2) The facility must—

(i) Provide or obtain laboratory services only when ordered by the attending physician;

(ii) Promptly notify the attending physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance.

(iv) File in the resident's medical record signed and dated reports of clinical laboratory services.

(o) *Standard: Radiology and Other Diagnostic Services.* (1) The skilled nursing facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation for hospitals contained in § 482.26 of this subchapter.

(ii) If the facility does not provide diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.

(2) The facility must—

(i) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;

(ii) Promptly notify the attending physician of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(iv) File in the resident's medical record signed and dated reports of x-ray and other diagnostic services.

(p) *Standard: Medical records.* (1) The facility must maintain medical records on each resident in accordance with accepted professional standards and practices that are—

(i) Complete;

(ii) Accurately documented;

(iii) Readily accessible; and

(iv) Systematically organized.

(2) Medical records must be retained for—

(i) The period of time required by State law; or

(ii) Five years from the date of discharge when there is no requirement in State law; or,

(iii) For a minor, three years after a resident reaches legal age under State law.

(3) The facility must safeguard medical record information against loss, destruction, or unauthorized use;

(4) The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by—

(i) Transfer to another health care institution;

(ii) Law;

(iii) Third party payment contract; or

(iv) The resident.

(5) The facility must—

(i) Permit each resident to inspect his or her records on request; and

(ii) Provide copies of the records to each resident, on request, at a photocopying cost not to exceed the amount customarily charged in the community.

(6) The medical record must contain sufficient information to identify the resident, and record his or her assessments, plan of care and treatment services.

(q) *Standard: Disaster Preparedness.* (1) The facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(2) The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out staff drills using those procedures.

(r) *Standard: Transfer agreement.* (1) In accordance with section 1861(1) of the Act, the facility must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that—

(i) Residents will be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician;

(ii) Medical and other information needed for care and treatment of residents, and for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions; and

(2) The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(3) *Transfer and discharge.* The facility must ensure that the resident is not involuntarily discharged or transferred to another facility unless—

(i) A physician has certified that it is medically necessary;

(ii) The facility determines that it is necessary for the resident's welfare or the welfare of the other residents;

(iii) The facility is going out of business; or

(iv) Except as prohibited by titles XVIII or XIX of the Act, the resident's bill has been unpaid.

(4) The facility must notify the resident, the resident's representative, and attending physician in writing—

(i) At least 3 days before the end of a period when a bed is held; and

(ii) Except in documented emergencies, at least 4 days before discharge or transfer from the facility.

(5) The written notice must specify—

(i) The reason for the transfer;

(ii) The effective date of the transfer;

(iii) The location to which the resident is being transferred;

(iv) That the resident may appeal the action;

(v) The address and telephone number of the State and local long term care facility ombudsman.

(s) *Standard: Utilization Review.* A skilled nursing facility must have in effect a utilization review plan that applies to services furnished by the facility to individuals entitled to Medicare benefits.

(1) The plan must provide for the review, on a sample or other basis, of the medical necessity of the services, to promote the most efficient use of available health facilities and services. The facility must include reviews of—

(i) Admissions to the institutions;

(ii) Duration of stays for a continuous period of extended duration not to exceed thirty days; and

(iii) Professional services, including drugs and biologicals furnished.

(2) The review committee must be composed of—

(i) A staff committee of the institution composed of two or more physicians, of which at least two must be physicians as defined in § 410.20(b) of this chapter, with or without participation of other professional personnel; or

(ii) A group outside the facility, which is similarly composed and which is—

(A) Established by the local medical society and some or all of the SNFs in the locality; or

(B) If no such group exists, a group that is approved by HCFA.

(3) If it is impracticable for a facility to have a properly functioning utilization review committee because of the small size of the institution or because of lack of an organized medical staff, then the review committee must be composed as described in paragraph (2)(ii) of this section rather than paragraph (2)(i).

(4) HCFA will require that the facility use Medicaid utilization review procedures instead of the procedures specified in this section if HCFA determines that the Medicaid utilization review procedures are superior in effectiveness to the Medicare procedures.

(5) The review must be made as promptly as possible, after each day so specified, and in no event later than one week following such day;

(6) Before a finding that any further stay in the facility is not medically necessary, the review committee must consult with the individual's attending physician.

(7) When the review committee finds that any further stay in the facility is not

medically necessary, the committee must notify promptly—

(i) The institution;

(ii) The individual; and

(iii) the individual's attending physician.

(t) *Standard: Disclosure of ownership.* The facility must comply with the disclosure requirements of § 420.206 of this chapter.

(u) *Standard: Resident participation.* The facility must ensure resident participation in the facility's policy and operational decision-making.

(v) *Standard: Independent Medical Evaluation and Audit.* A SNF must cooperate in an effective program which provides for a regular program of independent medical evaluation and audit of the residents in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each resident's need for SNF care).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance, No. 13.774, Medical Assistance Program.)

Dated: September 14, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 16, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-23913 Filed 10-13-87; 8:45 am]

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Federal Register

Friday
October 16, 1987

Part III

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 226

Leasing of Osage Reservation Lands for Oil and Gas Mining; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

Leasing of Osage Reservation Lands for Oil and Gas Mining

April 10, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is publishing a proposed rule to amend the regulations relative to the leasing of the mineral estate of the Osage Tribe of Indians for oil and gas mining. The management of the Osage mineral estate needs to be strengthened to take account of current market conditions and the Osage oil lessees need relief from basing the payment of royalty to the Osage Tribe on the offered or posted price of a major purchaser in the Kansas-Oklahoma area. The promulgation of these amendments to the regulations will improve the management of the Osage mineral estate and will alleviate the economic hardship placed on the oil lessees.

DATES: Comments must be received on or before (November 16, 1987.

ADDRESSES: Send wirtten comments to Joseph C. Johnston, Chief, Divison of Energy and Mineral Resources, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue NW., MS–340SIB, Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: George E. Tallchief, Osage Tribal Council, Grandview Avenue, Pawhuska, OK 74056, (918) 287–4622 or 4623; Jack Shoemate, Superintendent, Osage Agency, Grandview Avenue, Pawhuska, OK 74056, (918) 287–2481; Cecil O. Wook, Jr., Field Solicitor, Pawhuska, Osage Agency, Grandview Avenue, Pawhuska, OK 74056, (918) 287–2495; Newell Barker, Chief, Branch of Minerals, Osage Agency, Grandview Avenue, Pawhuska, OK 74056, (918) 287–2471.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to amend 25 CFR 226—Leasing of Osage Reservation Lands for Oil and Gas Mining, to strengthen the management of the Osage Mineral Estate by the Bureau of Indian Affairs and the Osage Tribal Council and to provide economic relief to oil lessees imposed by 25 CFR 226.11(a)(2). These facts are apparent from the management of said Estate and the price of the Osage Tribe is receiving for its royalty oil.

It is the consensus of the BIA and the Osage Tribal Council that the proposed rule which amends 25 CFR 226 will best strengthen the management of the Osage Mineral Estate and will alleviate the necessity for many of the oil lessees to pay the Osage Tribe more for its royalty oil than paid by crude oil purchasers. This may reduce the tribal income; however, such action may curtail the plugging of marginal wells. The proposed rule would be cost effective to the Tribe.

Currently 25 CFR 226.42 and 226.43 provide for penalties for non-compliance. The proposed rule increases such penalties and can be monitored and enforced.

The Osage Tribal Council has conferred with the President, Oklahoma Independent Petroleum Association, concerning 25 CFR 26.11(a)(2). Osage oil and gas lessees were not consulted concerning the strengthening of the management of the Osage Mineral Estate.

Statutory Authority

The Secretary of the Interior is authorized by the Act of June 28, 1906, section 3, 34 Stat. 539, as amended, to promulgate 25 CFR 226, to implement Section 3 of the 1906 Act, as amended.

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 businesses under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1982).

The primary author of this document is the Osage Tribal Council, telephone number (918) 287–4622 or 4623.

Since this document does not constitute a major Federal action under the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.* (1982), no environmental impact statements or environmental assessments were made.

The Office of Management and Budget has determined that the information collection requirement contained in this Part need not be submitted for clearance pursuant to 44 U.S.C. 3516 and 5 CFR 1320.20.

This proposed rule is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

List of Subjects in 25 CFR Part 226

Indians—lands, Minerals resources, Mines, Oil and gas exploration.

Accordingly, it is proposed to amend 25 CFR Part 226 as set forth below.

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

1. The authority citation for Part 226 is revised to read as follows:

Authority: Sec. 3, 34 Stat. 543. Sec. 1, 2, 45 Stat. 1478, 1479. Sec. 3, 52 Stat. 1034, 1035. Sec. 2(a), 92 Stat. 1660

2. Section 226.1 is amended by revising paragraph (h) to read as follows:

§ 226.1 Definitions.

* * * * *

(h) "Major purchaser" means any one of the minimum number of purchasers taking 95 percent of the oil in Osage County, Oklahoma. Any oil purchased by a purchaser from itself, its subsidiaries, partnerships, associations, or other corporations in which it has a financial or management interest shall be excluded from the determination of a major purchaser.

* * * * *

§ 226.3–§ 226.45 [Redesignated as § 226.4–§ 226.46]

3. Sections 226.3 through 226.45 are redesignated as §§ 226.4 through 226.46, and a new § 226.3 is added to read as follows:

§ 226.3 Information collection.

The Office of Management and Budget has determined that the information collection requirements contained in this Part need not be submitted for clearance pursuant to 44 U.S.C. 3516 and 5 CFR 1320.20

4. Section 226.7 is amended by revising paragraphs (a) and (c) to read as follows:

§ 226.7 Bonds.

* * * * *

(a) A bond on Form D shall be filed with each lease submitted for approval. Such bond shall be in an amount of not less than $5,000 for each quarter section or fractional quarter section covered by said lease: *Provided,* however, that one bond in the sum of not less than $50,000 may be filed on Form G covering all leases on the Osage Mineral Estate not in excess of 10,240 acres to which lessee is or may become a party.

* * * * *

(c) A bond on Form H shall be filed in an amount of not less than $5,000 covering a lease acquired through assignment where the assignee does not have a collective bond on Form G or nationwide bond, or the corporate surety does not execute its consent to remain bound under the original bond

given to secure the faithful performance of the terms and conditions of the lease.

* * * * *

5. Section 226.12 is amended by revising paragraphs (a)(2) and (b)(1) to read as follows:

§ 226.12 Royalty payments.

(a) * * *

(2) Unless the Osage Tribal Council, with approval of the Secretary, shall elect to take the royalty in kind, payment is owing at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the highest of the bona fide selling price, posted or offered price by a major purchaser (as defined in § 226.1(h)) in Osage County, Oklahoma, who purchases production from Osage oil leases.

* * * * *

(b) * * *

(1) *Oil lease.* All casinghead gas shall belong to the oil lessee subject to any rights under existing gas leases. All casinghead gas removed from the lease from which it is produced shall be metered unless otherwise approved by the Superintendent and be subject to a royalty of not less than 16⅔ percent of the market value of the gas and all products extracted therefrom, less a reasonable allowance for manufacture or processing. If an oil lessee supplies casinghead gas produced from one lease for operation and/or development of other leases, either his/hers or others, a royalty of not less than 16⅔ percent shall be paid on the market value of all casinghead gas so used. All casinghead gas not utilized or sold by the oil lessee may, with the approval of the Superintendent, be utilized or sold by the gas lessee, subject to the prescribed royalty of not less than 16⅔ percent of the market value.

* * * * *

6. Section 226.14 is amended by revising paragraph (a) to read as follows:

§ 226.14 Time of royalty payments and reports.

(a) Royalty payments due may be paid by either purchaser or lessee. Unless otherwise provided by the Osage Tribal Council and approved by the Superintendent, all payments shall be due by the 25th day of each month and shall cover the sales of the preceding month. Failure to make such payments shall subject lessee or purchaser, whoever is responsible for royalty payment, to a late charge at the rate of not less than 1½ percent for each month or fraction thereof until paid. The Osage Tribal Council, subject to the approval of the Superintendent, may waive the late charge.

* * * * *

7. Section 226.15 is amended by revising paragraph (b) to read as follows:

§ 226.15 Contracts and division orders.

* * * * *

(b) The lessee shall require the purchaser of oil and/or gas from his/her lease or leases to furnish to the Superintendent, no later than the 25th day of each month, a statement reporting the gross barrels of oil and/or gross Mcf of gas sold during the preceeding month. The Superintendent may authorize an extension of time, not to exceed 10 days, for furnishing this statement.

8. Section 226.16 is amended by adding a new paragraph (e) to read as follows:

§ 226.16 Unit leases, assignments and related instruments.

* * * * *

(e) *Combining leases.* The lessee owning both an oil lease and gas lease covering the same acreage is authorized to convert such leases to a combination oil and gas lease.

9. Section 226.19 is amended by removing paragraph (e) and revising the introductory paragraph and paragraph (d) to read as follows:

§ 226.19 Information to be given surface owners prior to commencement of drilling operations.

Except for the surveying and staking of a well, no operations of any kind shall commence until the lessee or his/her authorized representative shall meet with the surface owner or his/her representative, if a resident of and present in Osage County, Oklahoma. Unless waived by the Superintendent, such meeting shall be held at least 10 days prior to commencement of any operations, except for the surveying and staking of the well. At such meeting lessee or his/her authorized representative shall comply with the following requirements:

* * * * *

(d) When the surface owner or his/her representative is not a resident of, or is not physically present in, Osage County, Oklahoma, or cannot be contracted at the last known address, the Superintendent may authorize lessee to proceed with operations.

10. Section 226.20 is amended by revising paragraphs (a), (b) and (d) to read as follows:

§ 226.20 Use of surface of land.

(a) Lessee or his/her authorized representative shall have the right to use so much of the surface of the land within the Osage Mineral Estate as may be reasonable for operations and marketing. This includes but is not limited to the right to lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing, and the right-of-way for ingress and egress to any point of operations. If lessee and surface owner are unable to agree as to the route of pipelines, electric lines, etc., said route shall be set by the Superintendent. The right to use water for lease operations is established by § 226.24. Lessee shall conduct his/her operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any avoidable nuisance to be maintained on the premises under his/her control.

(b) Before commencing a drilling operation, lessee shall pay or tender to the surface owner commencement money in the amount of $25 per seismic shot hole and commencement money in the amount of $300 for each well, after which lessee shall be entitled to immediate possession of the drilling site. Commencement money will not be required for the redrilling of a well which was originally drilled under the current lease. A drilling site shall be held to the minimum area essential for operations and shall not exceed one and one-half acres in area unless authorized by the Superintendent. Commencement money shall be a credit toward the settlement of the total damages. Acceptance of commencement money by the surface owner does not affect his/her right to compensation for damages as described in § 226.20, occasioned by the drilling and completion of the well for which it was paid. Since actual damage to the surface from operations cannot necessarily be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

* * * * *

(d) Lessee shall also pay fees for tank sites not exceeding 50 feet square at the rate of $100 per tank site or other vessel: *Provided,* that no payment shall be due for a tank temporarily set on a well location site for drilling, completing, or testing. The sum to be paid for a tank occupying more than 50 feet square shall be agreed upon between the surface owner and lessee or, on failure to agree,

the same be determined by arbitration as provided by § 226.21.

11. Section 226.22 is amended by revising paragraph (f) to read as follows:

§ 226.22 Procedure for settlement of damages claimed.

* * * * *

(f) Any two of the arbitrators may make a decision as to the amount of damage due. The decision shall be in writing and shall be served forthwith upon the parties in interests. Each party shall have 90 days from the date the decision is served in which to file an action in a court of competent jurisdiction. If no such action is filed within said time and the award is against lessee or his/her authorized representative, he/she shall pay the same, together with an interest at an annual rate established for the Internal Revenue Service from date of award, within 10 days after the expiration of said period for filing an action.

* * * * *

12. Section 226.23 is amended by revising paragraph (b) and (e) to read as follows:

§ 226.23 Prohibition of pollution.

* * * * *

(b) Pits for drilling mud or deleterious substance used in the drilling, completion, recompletion, or workover of any well shall be constructed and maintained to prevent pollution of surface and subsurface fresh water. These pits shall be enclosed with a fence of at least four strands of barbed wire, or an approved substitute, stretched taut to adequately braced corner posts, unless the surface owner, user, or the Superintendent gives consent to the contrary. Immediately after completion of operations, pits shall be emptied and leveled unless otherwise requested by surface owner or user.

* * * * *

(e) Deleterious fluids other than fresh water drilling fluids used in drilling or workover operations, which are displaced or produced in well completion or stimulation procedures including but not limited to fracturing, acidizing, swabbing, and drill stem tests, shall be collected into a pit lined with plastic of at least 30 mil or a metal tank and maintained separately from above-mentioned drilling fluids to allow for separate disposal.

13. Section 226.24 is revised to read as follows:

§ 226.24 Easements for wells off leased premises.

The Superintendent, with the consent of the Osage Tribal Council, may grant commercial and non-commercial easements for wells off the leased premises to be used for purposes associated with oil and gas production. Rental payable to the Osage Tribe for such easements shall be an amount agreed to by Grantee and the Osage Tribal Council subject to the approval of the Superintendent. Grantee shall be responsible for all damages resulting from the use of such wells and settlement therefor shall be made as provided in § 226.21.

14. Section 226.26 is revised to read as follows:

§ 226.26 Gas well drilled by oil lessees and vice versa.

Prior to drilling, the oil or gas leasee shall notify the other lessee of his/her intent to drill. When an oil lessee in drilling a well encounters a formation or zone having indications of possible gas production, or the gas lessee in drilling a well encounters a formation or zone having indication of possible oil production, he/she shall immediately notify the other lessee and the Superintendent. Lessee drilling the well shall obtain all information which a prudent operator utilizes to evaluate the productive capability of such formation or zone.

(a) Gas well to be turned over to gas lessee. If the oil lessee drills a gas well, he/she shall, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the Superintendent. If the gas lessee does not, within 45 days after receiving notice and cost of drilling, elect to take over such well and reimburse the oil lessee for the cost of drilling, including all damages paid and the cost in-place of casing, tubing, and other equipment, the oil lessee shall immediately confine the gas to the original stratum. The disposition of such well and the production therefrom shall then be subject to the approval of the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil or gas lessee who drilled the well.

(b) Oil well to be turned over to oil lessee. If the gas lessee drills an oil well, he/she shall immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the Superintendent. If the oil lessee does not, within 45 days after the receipt of such notice and notice of the cost of drilling, elect to take over the well, he/she shall immediately notify the gas lessee, and the disposition of such well and the production therefrom shall be subject to the approval of the Superintendent. Should the oil lessee elect to take over the well, he/she shall pay the gas lessee for the cost of drilling, including all damages paid and cost in-place of casing, tubing, and other equipment. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil or gas lessee who drilled the well.

(c) *Lands not leased.* If the gas lessee shall drill an oil well upon lands not leased for oil purposes or vice versa, the Superintendent may, until such time as said lands are leased, permit the lessee who drilled the well to operate and market the production therefrom. When said lands are leased, the lessee who drilled and completed the well shall be reimbursed by the oil or gas lessee for the cost of drilling said well, including all damages paid and the cost in-place of casing, tubing, and other equipment. If the lessee does not elect to take over said well as provided above, the disposition of such well and the production therefrom shall be determined by the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent. If such apportionment is not accepted, the well shall be plugged by the oil or gas lessee who drilled the well.

15. Section 226.29 is amended by revising the introductory paragraph and paragraph (a) and adding a new paragraph (c) to read as follows:

§ 226.29 Shutdown, abandonment, and plugging of wells.

No productive well shall be abandoned until its lack of further profitable production of oil and/or gas has been demonstrated to the satisfaction of the Superintendent. Lessee shall not shut down, abandon, or otherwise discontinue the operation or use of any well for any purpose without the written approval of the Superintendent. All applications for such approval shall be submitted to the Superintendent on forms furnished by him/her.

(a) Application for authority to permanently shut down or discontinue use or operation of a well shall set forth justification, probable duration, the means by which the well bore is to be protected, and the contemplated eventual disposition of the well. The method of conditioning such well shall

be subject to the approval of the Superintendent.

* * * * *

(c) The Superintendent is authorized to shut in a lease when the lessee fails to comply with the terms of the lease, the regulations, and/or orders of the Superintendent.

16. Section 226.30 is amended by revising paragraph (a) to read as follows:

§ 226.30 Disposition of casings and other improvements.

(a) Upon termination of lease, permanent improvements, unless otherwise provided by written agreement with the surface owner and filed with the Superintendent, shall remain a part of said land and become the property of the surface owner upon termination of the lease, other than by cancellation. Exceptions include personal property not limited to tools, tanks, pipelines, pumping and drilling equipment, derricks, engines, machinery, tubing and the casings of all wells: *Provided,* that when any lease terminates, all such personal property shall be removed within 90 days or such reasonable extension of time as may be granted by the Superintendent. Otherwise, the ownership of all casings shall revert to lessor and all other personal property and permanent improvements to the surface owner. Nothing herein shall be construed to relieve lessee of responsibility for removing any such personal property or permanent improvements from the premises if required by the Superintendent and restoring the premises as nearly as practicable to its original state.

* * * * *

17. Section 226.34 is revised to read as follows:

§ 226.34 Line drilling.

Lessee shall not drill within 300 feet of boundary line of leased lands, nor locate any well or tank within 200 feet of any public highway, any established watering place, or any building used as a dwelling, granary, or barn, except with the written permission of the Superintendent. Failure to obtain advance written permission from the Superintendent shall subject lessee to cancellation of his/her lease and/or plugging of the well.

18. Section 226.35 is revised to read as follows:

§ 226.35 Wells and tank batteries to be marked.

Lessee shall clearly and permanently mark all wells and tank batteries in a conspicuous place with number, legal description, operator, and telephone number, and shall take all necessary precautions to preserve these markings.

19. Section 226.37 is revised to read as follows:

§ 226.37 Control devices.

In drilling operations in fields where high pressures, lost circulation, or other conditions exist which could result in blowouts, lessee shall install an approved gate valve or other controlling device which is in proper working condition for use until the well is completed. At all times preventative measures must be taken in all well operations to maintain proper control of subsurface strata.

20. Section 226.43 is revised to read as follows:

§ 226.43 Penalty for violation of lease terms.

Violation of any of the terms or conditions of any lease or of the regulations in this part shall subject the lease to cancellation by the Superintendent, or lessee to a fine of not more than $500 per day for each day of such violation or non-compliance with the orders of the Superintendent, or to both such fine and cancellation. Payment of penalties not received within 10 days after notice of the decision shall be subject to late charges at the rate of not less than 1½ percent per month for each month or fraction thereof until paid. The Osage Tribal Council, subject to the approval of the Superintendent, may waive the late charge.

21. Section 226.44 is amended by adding a new paragraph (j) and revising paragraphs (a), (b), (d), (e), (g) and (h) to read as follows:

§ 226.44 Penalties for violation of certain operating regulations.

* * * * *

(a) For failure to obtain permission to start operations required by § 226.16(b), $50 per day until permission is obtained.

(b) For failure to file records required by § 226.32, $50 per day until compliance is met.

* * * * *

(d) For failure to construct and maintain pits as required by § 226.22, $50 for each day after operations are commenced on any well until compliance is met.

(e) For failure to comply with § 226.36 regarding valve or other approved controlling device, $500.

* * * * *

(g) For failure to properly care for and dispose of deleterious fluids as provided in § 226.22, $500 per day until compliance is met.

(h) For failure to file plugging reports as required by § 226.29 and for failure to file reports as required by § 226.13, $50 per day for each violation until compliance is met.

* * * * *

(j) Lessee or his/her authorized representative is hereby notified that criminal penalties are provided by 18 U.S.C. 1001 for knowingly filing fraudulent reports and information.

22. Section 226.45 is revised to read as follows:

§ 226.45 Hearings and appeals.

Any person, firm or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, pursuant to the regulations in this part, may appeal pursuant to 25 CFR Part 2.

23. Section 226.46 is revised to read as follows:

§ 226.46 Notices.

Notices and orders issued by the Superintendent to the representative and/or operator shall be binding on the lessee. The Superintendent may in his/her discretion increase the time allowed in his/her orders and notices.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

October 9, 1987.

[FR Doc. 87-23844 Filed 10-15-87; 8:45 am]

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Friday
October 16, 1987

Part IV

Department of Transportation

Coast Guard

46 CFR Part 1 et al.

Licensing of Maritime Personnel, Pilots, Officers, and Operators for Mobile Offshore Drilling Units; Interim Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 10, 15, 26, 35, 157, 175, 185, 186, and 187

[CGD81-059]

Licensing of Maritime Personnel

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is amending the regulations concerning the licensing of maritime personnel and the manning of vessels. This rule modifies all of the regulations contained in Parts 10, 15, 26, 157, 186 and 187 concerning the licensing of individuals, the registration of staff officers, and the manning of vessels. This rule simplifies the license structure for ocean and inland service, deletes many trade restricted licenses and examinations, simplifies the license procedure, adds tables, charts, and flow diagrams, and redesigns the format of the regulations. It also establishes new licenses by replacing many other trade restricted licenses; furthermore, this rule revises manning regulations contained in Part 157 to reflect technological developments, the recodification of Title 46, United States Code (USC), and changes in terminology associated with merchant vessel manning. Part 157 is also relocated to Part 15 for convenience. In addition to the amendments to licensing and manning regulations, many other changes have been made in Parts 175 and 185 to conform with proper terminology, e.g., master and mate versus operator of small passenger vessels.

DATES: This regulation is effective on December 1, 1987, except sections 10.205(g) and 10.207(f) which will be effective December 1, 1988. Comments must be received by January 14, 1988.

ADDRESSES: Comments should be submitted to: The Executive Secretary, Marine Safety Council (G-CMC/21) [CGD 81-059] U.S. Coast Guard, Washington, DC 20593-0001. Between 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Gerald D. Jenkins, Project Manager, Office of Merchant Marine Safety, Security, and Environmental Protection, (G-MVP), phone (202) 267-0224.

SUPPLEMENTARY INFORMATION: Although this is an interim final rule, additional changes will be made, where warranted. Therefore, interested persons are invited to participate in evaluating this rule by submitting written data, views, or arguments. Written comments should include the name and address of the person making them, identify this interim final rule (CGD 81-059), the specific section of the interim final rule to which the comment applies, and the reason for the comment. Persons desiring an acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received before expiration of the comment period will be considered before a decision is made to modify or confirm the interim rule.

The Coast Guard published an Advance Notice of Proposed Rulemaking (ANPRM) in October of 1981 (46 FR 53624) which outlined the basic philosophy and concepts for this project. The Coast Guard received approximately 75 written comments to the docket on that ANPRM. A Notice of Proposed Rulemaking (NPRM) was published on August 8, 1983, (48 FR 35920). Over 10,000 copies of this notice were mailed out to the public and 19 public meetings were held around the country. This notice elicited over 700 written comments and thousands of telephone inquiries. A Supplemental Notice of Proposed Rulemaking (SNPRM) was published on October 24, 1985 (50 FR 43316), after which the Coast Guard held public hearings in Seattle, Washington; San Francisco, California; Houston, Texas; New Orleans, Louisiana; New York, New York; and Washington, DC. A cumulative total of over 1300 comments have been received and docketed on this project.

When the Supplemental Notice of Proposed Rulemaking was published, the licensing and manning proposals applicable to mobile offshore drilling units were separated and published under docket number CGD-81-059a (50 FR 43366). The Coast Guard has continued to separate the licensing and manning rules dealing with mobile offshore drilling units publishing a separate interim final rule in this issue.

The provisions of Part 10 dealing with pilot licenses were published as a final rule on June 24, 1985 (50 FR 26106) and modified on December 23, 1985 (50 FR 52329). These rules have been reformatted to match the format and organization of these rules and eliminate duplicate provisions. All the reformatted provisions (except for the exam topics which have been included in Subpart I of this interim final rule) are published as another interim final rule under docket number CGD 81-059b appearing elsewhere in this issue.

The preamble section of the supplemental notice discussed many individual areas of concern; similarly, the interim final rule discusses areas of concern in the same format. The changes that have been incorporated into the interim final rule are explained under the "specific comment areas." Because of the adjustments made since the supplemental notice this rulemaking is being published as an interim final rule subject to comments.

Drafting Information

The principal drafters of this interim final rule are: CDR George N. Naccara, Office of Merchant Marine Safety, and CDR Ronald C. Zabel, Office of Chief Counsel.

Background

This interim final rule implements the provisions of Public Law 96-378 and the Port and Tanker Safety Act of 1978. Public Law 96-378 discussed the establishment of career patterns, service and qualifying requirements, substitution of training time and courses of instruction for sea service on deck or in the engine department. The Port and Tanker Safety Act of 1978 required improved pilotage standards, qualification for licenses by the use of simulators, minimum health and physical fitness criteria, and periodic retraining and special training for upgrading positions.

The structure and basic qualifications for licenses have been designed to conform to the provisions of the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978. While the United States has not yet ratified this Convention, the United States delegation was an active participant in the drafting of the Convention and has participated in ensuing interpretations of the Convention. The Convention entered into force internationally in April, 1984. Having the structure and basic qualifications of licenses issued by the Coast Guard in general conformance to the STCW will facilitate their acceptance by the countries that have ratified the STCW.

Under the STCW Convention, a certification stamp is required on each license. This stamp, which must be placed on the face of the license, reads, in effect, "this license complies with the provisions of (the specific regulation) of the International Convention for the Standards of Training, Certification and

Watchkeeping for Seafarers, 1978, with limitations as noted." This certification is discussed in the Convention and will be contained on all licenses issued by signatory nations.

Public Law 98–89 of August 20, 1983, revised and consolidated certain laws relating to vessels and merchant seamen contained in Title 46, United States Code. These changes also necessitated some amendments to the licensing and manning regulations.

For some time the Coast Guard had planned to revise the licensing and manning regulations purely from an administrative point of view. This rule greatly simplifies the existing regulations and provides examples, reference tables, and license structure diagrams which will assist the mariner and the Coast Guard administrators. Much of the basics of the existing licensing system, which has served the United States well for many years have been utilized. The text has been simplified and we have added or deleted licenses as necessary to reflect the changing marine industry, the statutory mandates, and also guidance from the international community.

Much of the discussions at the public hearings and many of the comments in the docket expressed the concern that the United States had lowered the standards of its licensing system and had included the provisions of an international convention which was not yet domestic law. The Coast Guard's position is that this interim final rule maintains the high standards and recognition which the U.S. system has developed over many years and that conformity to internationally accepted standards promotes continued recognition of the quality of U.S. licenses.

Discussion of Comments

It was very encouraging to note the quality and constructive criticism contained in the comments received. The final rule was prepared not only with the written comments in mind, but also the discussions held at the public hearings and the comments on the previous notices of proposed rulemaking. The format of the supplemental notice with specific comment areas in the preamble was well received and that format is used in discussing the modifications in the interim final rule. Revised versions of the license structure charts and the quick reference table are included in the interim final rule. Specific topic listings for every license examination are included in the interim final rule. A table similar to that previously proposed for engineers has been designed for the deck officers as there was much support in the comments for a simplified table with references for all licenses and exam topics.

Specific Comment Areas

1. *Public hearings:* After publication of the supplemental notice, six hearings were held in Seattle, Washington; San Francisco, California; Houston, Texas; New Orleans, Louisiana; New York, New York; and Washington, D.C. Prior to the public hearings, the Coast Guard sent 2500 copies of the proposal to persons and organizations on a mailing list and to large associations for reprinting and dissemination to their membership. At the public hearings, the Coast Guard, in a departure from standard public hearing format, introduced the supplemental notice, discussed the highlights of the notice, and then responded immediately to most of the comments presented at the hearing. The hearings were very constructive to the rulemaking process. Public hearings are not scheduled on this interim final rule; however, if any substantive new proposals are received, which have not already been considered through this lengthy rulemaking project, a hearing may be scheduled.

2. *The STCW provisions:* As in the notices of proposed rulemaking, the provisions of the STCW Convention are included in the interim final rule. The Coast Guard has supported the intent of the Convention since its completion in 1978. Inclusion of the provisions of the Convention has been accomplished in a manner considered to be acceptable to all segments of the marine industry. The effects of the Convention have been mitigated by equating the present system, in many cases, to that required by the Convention. Some licensing standards have been raised by including specialized training in certain categories of licenses. The previously proposed designated duty engineer has been retained, although the license structure for those engineers has been changed and license crossovers have also been modified to reflect the comments received.

3. *High standards of U.S. licenses:* Many comments stated the opinion that the U.S. licensing standards were being lowered by the proposals. The strong message contained in the comments was that some proposed changes to the examination and qualification process were not warranted. As a result of these comments, the interim final rule has been modified to:

a. Require that an examination be taken for second mate and second assistant engineer as in the current system;

b. Provide license progression opportunities from the limited license categories at the third mate or third assistant engineer level;

c. Require all license holders to obtain CPR training for license renewals;

d. Extend firefighting training requirements to service on vessels in inland waters;

e. Tighten the license reexamination procedures; and,

f. Require a statement attesting to the physical condition of the applicant for a license renewal and raise of grade.

4. *Present authority under current licenses:* Many commenters were concerned that they would lose authority granted to them under their present licenses. For ease of understanding the transition to the proposed licenses, a cross-over chart is included in this interim rule. Furthermore, the Coast Guard has attempted to address every possible situation in which a person could convert to a license in the new system with a different route or tonnage limitation. In general, the authority granted under most limited licenses has been expanded; however, there are some situations where existing license routes (such as lakes, bays, and sounds) authorized people to serve on waters which are presently outside of the demarcation lines and require the application of the International Regulations for Preventing Collisions at Sea (COLREGS). Most of these situations have been resolved in this interim final rule and, where they do not fully meet the situation of the license holder, the matter will be resolved on an individual basis at a Regional Examination Center. It is not the Coast Guard's intention to remove any authority which a person presently holds under an existing license when converting to any license in the new system.

5. *Tonnage Convention:* Some comments requested a discussion of the impact of the 1969 Tonnage Convention on the licensing regulations. In the notices of August 1983 and October 1985, it was noted that the probable effect of the Tonnage Convention would be higher vessel gross tonnages. It is assumed that the proposed license tonnage categories will resolve most problems in that the primary vessels affected by the Tonnage Convention will remain in 200–1600 gross tons category. When the implementing legislation and regulations come into effect for the Tonnage Convention, the Coast Guard will make every attempt to allow merchant mariners to continue service on those vessels on which they are

presently employed. That may require specific tonnage endorsements on individual licenses or it may require conversion to licenses with higher tonnage limits in the new system. In either case, the individual will not be penalized by the effects of differing tonnage as calculated under the international Tonnage Convention system, or the standard register tonnage system.

6. *Transition to new licensing system:* Comments were received asking the Coast Guard to simplify transition to the new system. The Coast Guard will implement the policy which was proposed initially, that is, permit a person to convert to the new system upon renewal of their license. In addition, if a job opportunity requires the new type of license, the applicant may obtain a new license at any time after the effective date of the regulations.

7. *Dividing line for inland and ocean licenses:* As in the original notice of proposed rulemaking and the supplemental notice, there was much debate on the line separating inland from ocean licenses. The original proposals utilized the territorial sea baseline. The supplemental notice proposed the COLREGS demarcation line. This interim final rule adopts the Boundary Lines. The Boundary Lines, as discussed in 46 CFR Part 7, are used for many other marine safety purposes. The line is generally well-known and supports the concept of inland and ocean license distinctions, despite the fact that the Boundary Lines frequently extend beyond the COLREGS lines. As a result, those license holders with inland licenses who have not been tested on the COLREGS must have an exclusion added to their license. This exclusion will not permit service on COLREGS waters until the license holder completes an examination on the COLREGS.

8. *Great Lakes and inland licenses:* In the interim final rule, the Coast Guard has retained the Great Lakes and inland licensing schemes which were proposed in the supplemental notice. No comments were received on this issue. The deck license categories for 200 gross tons, 1600 gross tons, and the unlimited category are retained as before. The engineer licenses are consistent, as in the past, with the unlimited horsepower category. The interim final rule continues the career progression from the Great Lakes and inland licenses to near coastal licenses and eventually to an unlimited license for ocean service with appropriate examinations.

9. *License transition for certain inland licenses:* Many comments were received concerning the transition from inland licenses, such as master of vessels upon lakes, bays, and sounds, to the licenses in the new system, such as master of vessels upon Great Lakes and inland waters. In general, the new inland licenses authorize service out to the Boundary Line. This should be consistent with current license limitations for the lakes, bays, and sounds licenses; however, as stated before, applicants who are not tested on the COLREGS must have a route exclusion placed upon their licenses.

10. *Partial exams required for license crossovers:* A number of comments questioned whether partial exams will be required for license crossovers or raises in grade. Raises of grade will require the complete examination for the license desired. Crossovers will require limited examinations only if specified in regulation.

11. *Service requirements for certain crossovers of licenses and sail/auxiliary sail endorsements:* There were a substantial number of comments regarding the proposed experience requirements for deck and engineer license progressions and also for the sail or auxiliary sail endorsement. Generally, the comments expressed the concern that the Coast Guard had reduced the necessary experience requirements thus lowering safety levels for many licenses. The Coast Guard agrees, and for certain licenses and endorsements, has increased the required service in amounts varying between three to nine months over that proposed in the supplemental notice.

12. *Visual acuity requirements for license:* Upon reconsideration of the proposed visual acuity standards, with support from a comment to the docket and with the advice of medical doctors in the Coast Guard, a minor change is made in the interim final rule. The comment and the doctors were concerned about the loss of depth perception that would result with uncorrected vision. The interim final rule continues the existing standard of requiring uncorrected vision of at least 20/200 in each eye (emphasis added) rather than, as proposed, in the better eye.

13. *Use of physician assistant for physical examinations:* Some comments suggested that physician assistants (PA) be allowed to conduct the required physicial examination for license applicants. The Coast Guard agrees with this concept since the emphasis of a PA's training is the performance of physical exams and they must always practice under the supervision of a licensed physician. Therefore, in the interim final rule, as required for original, raise of grade, or renewal of license, the physical exam may be conducted by either a licensed physician or a licensed physician assistant.

14. *Firefighting training:* Most comments supported the firefighting training requirements for licenses. Once again, many comments supported firefighting training for inland licenses as well as offshore licenses. In the interim final rule, firefighting training is required for licenses of all vessels of over 200 gross tons, regardless of route (inland or ocean/near coastal). In addition, this training is required for masters of vessels of not more than 200 gross tons engaged in ocean service and for operators of uninspected towing vessels on ocean (domestic trade) waters. Firefighting training is also required for all engineer licenses. Firefighting training is presently available at 14 schools which have received interim approval for their training courses. The firefighting training for licensed personnel will consist of a combined course that includes the basic and the advanced curriculum as proposed by the International Maritime Organization (IMO). The Coast Guard is not requiring refresher firefighting training; rather, it is expected that mariners will maintain their firefighting proficiency through shipboard firefighting drills and instructions.

15. *License examination topics:* As a result of the many favorable comments received concerning the engineer license examination table and complaints about the manner of the presentation of the topics for deck licenses, the interim rule includes a table for all deck license topics. Although this is a multi-page table, it presents the list of exam topics in a much clearer and concise manner. The applicant can simply compare the different examination topics for every level of license in any progression.

16. *Signaling (flashing light) requirements for licenses:* Many comments again requested that the signaling requirements for limited licenses be discontinued. Previous proposals had suggested testing at a reduced rate on flashing light for licenses which authorize service on vessels of over 150 gross tons. Due to the comments received the Coast Guard has decided that the flashing light portion of the deck license exams will not be required except for licenses which authorize service on vessels above 1,600 gross tons in ocean or near coastal waters.

17. *Oral or orally assisted examination:* Many comments were received which opposed the permitting of oral or orally assisted examinations

for any type of license. These comments suggested that the ability of a licensed individual to read instructions or navigation publications was essential to the safe operation of a vessel.

The Coast Guard is of the opinion that justification exists for the continued use of oral examinations, without adversely affecting safety. Some individuals with extensive maritime experience have educational achievement levels which prevent the reading of written examinations. On shipboard, these individuals routinely have assistance from shipmates when reading or writing skills are required. As in the supplemental notice, the Coast Guard will continue to allow orally assisted examinations for deck or engineering licenses permitting service on vessels of up to 500 gross tons. When issued, these licenses will be restricted to the limited route upon which the qualifying experience was obtained.

18. *License reexamination scheduling:* Many comments were received recommending a major modification to the present reexamination schedule for all licenses. The proposed rules suggested an examination scheme which has been tested in Regional Examination Centers during the past two years. In addition to the opposition to the proposed rules expressed in the comments, the Coast Guard's field experience indicates the proposed system is unsatisfactory. Therefore, the Coast Guard has decided to adopt to an examination schedule more closely aligned to that which exists in current regulations. The guidelines for reexamination scheduling in the interim final rule are similar to the current system; however, some minor changes have been made to assist the license applicant and to allow the Officer in Charge, Marine Inspection (OCMI) some flexibility in scheduling examinations.

19. *Familiarity with the characteristics of each vessel:* As discussed in comments and at the public hearings, section 10.101(b) has been strengthened to require that each licensee become familiar with the relevant characteristics of each vessel prior to assuming their duties. The Coast Guard recognizes the uniqueness of many vessels and particularly the installed equipment on the vessels. Further, with the removal of most license trade restrictions, it becomes even more important that the persons in all responsible positions in the crew be familiar (even to the point of formal or informal training) with the equipment listed.

20. *First Aid and CPR requirements:* Due to support in the written comments and at the public hearings for increased emphasis on first aid and cardiopulmonary resuscitation (CPR) training, the interim final rule requires all applicants for original licenses to have first aid and CPR training. Furthermore, for all license renewals, applicants must present evidence of completing a CPR course within the past 12 months. The American Heart Association requires annual refresher training to keep the CPR qualification current. The Coast Guard recognizes that sea service demands make adoption of an annual refresher requirement impractical. Requiring CPR recertification incident to license renewal should maintain the availability of CPR capable persons on most vessels. While this requirement will add minimal cost to license applications and renewals, the complete dependence on the skills of other crew members in case of an emergency justifies this additional training.

21. *Requirements for pilot license renewal:* The comments to the supplemental notice continued to strongly oppose one specific requirement for the renewal of a pilot license; i.e., the affidavit attesting to involvement in marine casualties. The comments were concerned with the self-incrimination aspect of this requirement and asserted that the Coast Guard already has the information available from casualty records. This requirement has been removed from the interim rule and the Coast Guard will rely on its existing casualty records system to identify those persons whose qualifications may be suspect.

22. *Continuing education and training:* The Coast Guard's policy is to encourage additional formal training. This is in accord with international developments and was supported by many comments addressing the issue. The initiatives for training in the interim rule will result in a more qualified and well-rounded mariner, and allow substitution of training time in an approved course for a portion of the required sea service for many licenses. New technological advances are partially responsible for these provisions because vessels' equipment and operating methods have become increasingly sophisticated. A mariner must keep abreast of new maritime practices in order to remain competent and perform at the high levels demanded of him or her. Another important consideration is the introduction of reduced manning on new vessels, which limits opportunities for mariners to pursue training while underway. The Coast Guard's position is that shore based training can provide skills equal to or greater than that gained by experience during normal sea service. This approach is supported by international agreements and conventions which specifically recommend various training courses and allow the substitution of training for underway service. In order for these training courses to be accepted by the Coast Guard, they must be "approved" which means that the course, the curriculum, physical plant, the instructors and all pertinent details of an educational program must be evaluated by the local Coast Guard OCMI and approved by Coast Guard Headquarters. The approved course may be substituted for a part of an examination, for required training, or for sea service time required for licenses and certificates, as appropriate. The Coast Guard recognizes that a certain amount of sea service is essential to ensure that mariners get the practical experience needed by competent professionals; however, the importance of formal training must also be recognized. By providing an incentive for mariners and ensuring that the schools are quality training institutions, the Coast Guard hopes to encourage mariners to attend these approved courses.

23. *Requirements for third mate or third assistant engineer licenses:* Comments suggested that military personnel (Navy and Coast Guard) may not have sufficient experience to qualify for third mate or third assistant engineer license upon graduation from an academy. The Coast Guard partially agrees. In order to qualify for these licenses, these graduates must now also complete either an underway officer of the deck training qualification program, or complete an on-board engineer officer qualification program, as appropriate for the deck or engineer license.

24. *Recency requirements for military personnel obtaining a merchant marine license:* Comments on this topic were mixed in support of and in opposition to the waiver of a requirement for military personnel to have recent sea experience. As proposed initially, the recency of service requirement in the interim rule is established for all licenses as three months of experience within the last 36 months. This requirement also applies to military personnel. The nature of military service does not justify a waiver of this requirement and the necessity to show recent service is an integral requirement of license qualifications.

25. *Engineer licenses:* Many comments were received concerning the title and nature of experience required for the various engineer licenses that were

proposed. The small vessel industry (mineral and oil industry) supported the expanded designated duty engineer concept, while the deep sea industry was concerned about permitting crossovers into unlimited licenses. In response to the comments, the Coast Guard has retained a designated duty engineer (DDE) title which is now limited to vessels of 500 gross tons. Horsepower limitations are still dependent upon the total amount of service on vessels, however, the interim rule adds two intermediate steps in that license scheme. The primary purpose of these steps is to allow seamen to enter the engineering field and obtain licenses at levels comparable to deck personnel. The first intermediate step license issued will be a designated duty engineer with one year of service, restricted to vessels of not more than 1,000 horsepower, with a route restriction to near coastal waters. The designated duty engineer limited to not more than 1,000 horsepower must complete a minimal examination. The second step will be the 4,000 horsepower designated duty engineer, which is also limited to near coastal routes. The designated duty engineer limited to not more than 4,000 horsepower would not take an examination if one was taken for the 1,000 horsepower license. The third step will be the designated duty engineer serving on any horsepower vessels limited to 500 gross tons upon ocean waters. The complete designated duty engineer of any horsepower examination would be required even if a limited horsepower license had previously been held. Comments requested that the Coast Guard make it possible to obtain the designated duty engineer of any horsepower directly with three years of total service. The Coast Guard agrees and has incorporated this concept into the interim rule.

We are also re-instituting the chief engineer (limited) and assistant engineer (limited) licenses in the interim final rule. These limited licenses were proposed in the original notice of August 1983 and have been included in this interim final rule to satisfy particular engineering needs. These licenses will assist certain types of inland and ocean-going vessels in complying with the STCW Convention, primarily those vessels of over 500 gross tons in ocean service. The chief engineer (limited) and assistant engineer (limited) licenses allow service on inland waters (other than the Great Lakes) on vessels of any gross tons, e.g., ferry vessels and large inland passenger vessels. They also allow service on vessels in ocean service of not more than 1600 gross tons. Horsepower limitations will be set commensurate with the experience of the applicant. The license as chief engineer (limited) upon oceans requires five years of total experience and complies with the STCW.

Many comments were concerned about the high level of crossover for DDE and expressed the belief that more experience was necessary to become a second assistant engineer. In response to these comments, a crossover has been established from the designated duty engineer to assistant engineer (limited) and further to the third assistant engineer (unlimited) license.

26. *Chief and assistant engineer (limited) and designated duty engineers:* The Coast Guard has discussed in this rulemaking's preamble the applicability of the three levels of designated duty engineer and the three levels of engineer (limited) licenses established by the interim final rule. While the general qualifications for these licenses are specified in Part 10, their authority to satisfy manning requirements are specified in detail in Part 15.

27. *Concerns expressed by members of the Sportfishing Association of California:* Many comments were received from this Association regarding the master/mate concept for vessels of under 200 gross tons. Particular issues noted in their correspondence were:

(a) The conversion of the ocean operator license to a master or mate license—Many perceived that there are examination requirements and/or additional service and training requirements necessary to convert their licenses to those in the new system. This notion is incorrect, as ocean operators will convert their license to master (with appropriate tonnage limitations) upon near coastal waters, in fact extending the route from the current 100 mile limit to a 200 mile limit offshore without meeting additional requirements. In order to increase the license tonnage limit, or to extend the route to any ocean waters, additional examination, training or service may be required.

(b) Implementation of a master/mate concept in lieu of ocean operator/operator on waters other than ocean or coastwise—Opposition was expressed to changing the license titles, and there was concern about any loss of present authority under the operator license. As discussed in other areas of the preamble, there will not be any loss of authority for current license holders in converting to the new system. There would not be any aggregate change in the number of personnel required to man any vessel. In fact, some presently required ocean operators may be replaced by mates in the new system, for vessels which have lengthy routes of operation. This structure will allow more personnel flexibility and will provide a training and developmental step for crew members.

(c) Requirement for examination on celestial navigation—Individuals have perceived that masters and mates with the near coastal route restriction must be examined in celestial navigation topic areas. This is also incorrect. As in existing regulations, the celestial navigation exam questions are only required for licenses with ocean routes.

28. *Master and mate licenses for service on vessels of 200 gross tons or less:* Except as noted below, master and mate licenses in the 0 to 200 gross ton range will be issued in 50 ton increments. The tonnage of the vessel upon which at least twenty-five percent of the qualifying service is obtained will be rounded up to the next larger increment. When all the qualifying service is obtained on vessels of not more than 5 gross tons, the license will be limited to not more than 25 gross tons. Licenses as master of not more than 100 gross tons may be obtained with an examination not covering questions on regulatory subchapters appropriate for vessels greater than 100 gross tons, which would be required for a master of not more than 200 gross tons. A limited examination is provided for those individuals wishing to increase the tonnage limitation of their license into the 100 to 200 gross ton range. The new offshore master and mate licenses will be endorsed for "near coastal" routes, defined as 200 miles offshore. There are additional requirements for a license endorsed with an ocean route: as in the supplemental notice, an applicant for the master, oceans license must also obtain qualification as an able seaman, must complete a radar observer course and must complete firefighting training in addition to the supplemental examination topics. In response to comments, the interim final rule contains provisions recognizing able seaman-offshore supply vessels as meeting the able seaman requirement for ocean licenses of 500 gross tons or less.

29. *Service time requirements for operator of uninspected passenger vessels:* Comments regarding the service time requirements for this license (ex-motorboat operator) suggested the higher level of experience as exists in current regulations should be retained. Previous drafts of the rulemaking had suggested six months of service for the

inland license. The Coast Guard agrees with the comments. The interim final rule requires 12 months of experience to qualify for the license as operator of uninspected passenger vessels on either inland or near coastal waters.

30. *Route restrictions for operator of uninspected passenger vessels (OUPV):* The interim final rule limits the near coastal route for the OUPV license to not more than 100 miles offshore. This is consistent with current policy and is justifiable as this license only requires one year of service. This route should not contain any additional geographic restrictions unless the acquired experience was very limited in scope. Applicants will continue to have the opportunity to cross over to the master/mate 200 gross ton category to expand their tonnage and route limitations.

31. *Routes for uninspected towing vessel licenses:* Many comments to the docket requested that the Coast Guard add another route for operator and second class operator of uninspected towing vessels that would allow such license holders to serve on vessels operating between the continental United States, Hawaii, Alaska and U.S. territories. While an ocean (unlimited) route for towboat operators could not be issued because of STCW conflict, an oceans (domestic trade) route has been added. This route will allow ocean service beyond 200 miles in domestic trade. This route endorsement will require additional examination topics and qualifications for the operator including radar observer certification, firefighting training, and qualification as able seaman (unlimited, limited, or special). The examination requirement for an oceans (domestic trade) endorsement will also include the typical celestial navigation topics found on the current operator license exam.

32. *Two watch system for uninspected towing vessels:* Many comments expressed a concern about the requirement for a three watch system if masters or mates are substituted for the licensed operator on uninspected towing vessels of less than 200 gross tons. In many cases, the master or mate license would be needed for ocean service to comply with STCW requirements in the foreign trade; however, a master or mate license may also be substituted for the uninspected towing vessel operator within the route restrictions of the license. The Coast Guard agrees that it is inappropriate to require a three watch system simply because masters and mates are substituted for licensed operators. For this reason, the Coast Guard considers that, for masters or mates substituted for uninspected towing vessel operators, the provisions of 46 U.S.C. 8104(h) allowing a two watch system on uninspected towing vessels is still applicable.

33. *Watchstanding requirements:* The watchstanding requirements of 46 U.S.C. 8104 have been further clarified in the manning regulations, 46 CFR 15.705. That clarification includes the applicability of the two watch and three watch systems on vessels engaged on voyages of less than 600 miles and the general impact of a 12 hour workday during a consecutive 24 hour period.

34. *Offshore supply vessel and mineral and oil industry license holders:* Many comments stated that those who obtained the offshore supply vessel (OSV) and the mineral and oil industry licenses by virtue of the open-book exercise through the temporary licensing program should retain that distinction and not be automatically given a non-trade restricted license. The Coast Guard agrees with those comments. Those personnel who initially obtained the OSV licenses, then met the full service requirement, and took the full examinations to obtain the mineral and oil industry license with the 300 or 500 ton limitation may convert to the 500 ton license in the new system. Those who did not take the full exam, and/or did not meet the full service requirements through the temporary licensing program will retain the OSV limitation on their license.

35. *Service credit obtained aboard Integrated Tug-Barges (ITB):* The Coast Guard, in response to many comments, is granting service credit for original or raise of grade of unlimited deck licenses for service obtained on dual-mode ITBs. It has been Coast Guard policy to accept service on push-mode ITBs in the past; however, we are expanding the creditable service concept because, in this rulemaking, the Coast Guard is accepting service on vessels of less than 1600 gross tons toward unlimited licenses. The regulations provide that service on a dual-mode ITB with an aggregate tonnage of over 1600 gross tons is creditable on a two-for-one basis for up to 50 percent of the service required on vessels over 1600 gross tons for an original or raise of grade of an unlimited license.

36. *Conversion of master/mate licenses for uninspected vessels of any gross tons:* Comments received on this item expressed a broad range of solutions, from support of the 1600 gross ton limit, to endorsement for any gross tons. Upon consideration of the comments, it continues to be the Coast Guard position that the master of uninspected vessels license, which is obtained with four years of total service, closely aligns with the master, 1600 gross ton, ocean license in the new system. Therefore, unless the applicant can present evidence of a higher tonnage necessity and evidence of such service, the master or mate uninspected vessel license will convert to an equivalent grade 1600 gross tons, oceans license. In any case, progression to the unlimited category will require advancement through the conventional scheme.

37. *Coast Guard manning authority on uninspected vessels:* Many comments to the docket expressed the concern that the OCMI was being given authority to set manning levels on uninspected vessels. The Coast Guard agrees that there is no authority to enforce manning levels on these vessels that exceed statutory requirements. The regulations have been reworded to clarify this issue.

38. *License authority:* In the changes to the manning regulations, a section has been added (Part 15, Subpart C) which clarifies the limitations and authorized service of licenses and documents, and the fact that personnel may serve only within those limitations. It has further been emphasized that licensed personnel must acquaint themselves with the characteristics of the vessel prior to assuming any duties.

Another section (46 CFR 15.610) has been added to the manning regulations discussing the exclusion from licensing requirements for personnel serving on towing vessels engaged in the offshore mineral and oil industry. "Offshore" in this context is intended to mean beyond the coastline. The exclusion is provided if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.

39. *Minimum age to act as pilot:* To serve as pilot the licensed individual must be 21, whether that individual be a master, mate, or operator or second-class operator of uninspected towing vessels.

40. *Manning requirements for pilots:* The manning provisions concerning pilots in 46 CFR 157.20–40 had not originally been included in this rulemaking because it was already the subject of a separate rulemaking (CGD 77–084) which was published as a final rule on June 24, 1985 (50 FR 26106) and subsequently modified on December 23, 1985 (50 FR 52329) and March 31, 1986 (51 FR 10837). As this interim final rule contains a general revision and reorganization of the manning Subchapter, that section is republished in this rulemaking as 46 CFR 15.812 so that all the provisions will appear in this

one document. Also, it was necessary to correct cross references to the former provisions of 46 CFR Part 10 to refer to their counterparts in this interim final rule. The radar observer provisions appear in 46 CFR 15.815(b). One substantive change has been made. The existing 46 CFR 157.20–40(d) provides that certain license holders may serve as pilot of certain vessels "of not more than 1000 gross tons." The tonnage limit has been changed to "not over 1600 gross tons." This change, among others, was the subject of a notice of proposed rulemaking (CGD 84–060) published on June 24, 1985 (50 FR 26117). All comments received concerning the proposed increase to 1600 gross tons were favorable. The change has been included in this rule because it is needed for consistency with the new licensing structure. Additionally, two matters which were contained in the Notice of Proposed Rulemaking (CGD 84–060) of June 24, 1985 (50 FR 26117), have been included in this interim final rule.

The practice of requiring pilots on certain vessels operating on the Great Lakes has also been recodified in the interim final rule. The Coast Guard originally required a pilot on vessels operating on the Great Lakes under the authority of the old 46 U.S.C. 404 which was amended by Public Law 96–378 to replace the word "pilot" with "deck officer". The Coast Guard is authorized under 46 U.S.C. 8101 to determine the complement of licensed individuals, including pilots, considered necessary for a vessel's safe operation. The Coast Guard has continued requiring pilots on inspected mechanically propelled vessels and tank barges inspected under 46 U.S.C. Chapter 37 operating on the Great Lakes under this authority. Recodification of the practice under this authority was proposed in the Notice of Proposed Rulemaking CGD 84–060 of June 24, 1985 (50 FR 26117). Since there were no adverse comments on this issue it has been included in this rulemaking rather than being held with the remaining unresolved issues in that notice of proposed rulemaking. All the comments received regarding this issue supported this practice.

41. *Maintenanceperson:* The vast majority of comments received on this issue recommended that the Coast Guard delete the rating of maintenanceperson until establishment of the qualification requirements in 46 CFR Part 12. It is expected that, when the revision to 46 CFR Part 12, Certification of Seamen, is completed, that Part will contain the maintenanceperson designation and will establish the qualification requirements.

42. *Conversion of operator uninspected towing vessels (oceans) licenses:* Coast Guard licensing statistics indicate there are 1047 individuals currently holding licenses as operator of uninspected towing vessels with oceans routes. These licenses authorize service world wide, ex., service in the North Sea. However, the operator's license currently being issued does not comply with the STCW. To resolve this disparity and avoid the rescinding of any license authority presently granted, a restricted master's license will be issued to these individuals. At the time of license renewal, or sooner where a need is demonstrated, the operator of uninspected towing vessels with an ocean route will be converted to a master of steam or motor vessels of not more than 200 gross tons (restricted to uninspected towing vessels). The restriction can only be removed by acquiring the qualifying experience and successfully completing an examination for a master's license, ex., master of not more than 200 or master of not more than 500 gross tons.

43. *Physical examinations:* The Coast Guard is giving consideration to varying the required frequency of physical examinations. with the frequency being determined by the age of the mariner. Older mariners would likely be required to have a physical more often than their younger counterparts. Comments on the appropriateness of such a practice and suggestions on implementation methods are solicited.

COMPLETE LIST OF NEW AND RETAINED LICENSES AND THOSE CORRESPONDING LICENSES

Licenses in new structure	Eliminated corresponding licenses
I. Deck Licenses	
A. Ocean or Near Coastal Service:	
1. Master ocean steam or motor vessels of any gross tons (retained)	
2. Master near coastal steam or motor vessels of any gross tons (new)	a. Master coastwise any gross tons. b. Master ocean freight or towing steam or motor vessels of not more than 3,000 gross tons—new license would have tonnage limit.
3. Chief mate ocean steam or motor vessels of any gross tons (retained)	
4. Chief mate near coastal steam or motor vessels of tons any gross (new)	a. Chief mate coastwise any gross tons. b. Chief mate ocean freight and towing vessels of not more than 3,000 gross tons—new license would have tonnage limit.
5. Second mate ocean steam or motor vessels of any gross tons (retained)	
6. Second mate near coastal steam or motor vessels of any gross tons (new).	a. Second mate coastwise any gross tons.
7. Third mate ocean steam or motor vessels of any gross tons (retained)	
8. Third mate near coastal steam or motor vessels of any gross tons (new)	a. Third mate coastwise any gross tons.
9. Master ocean or near coastal steam or motor vessels of not more than 1,600 gross tons (new).	a. Master coastwise (if limited tonnage). b. Master uninspected vessels. c. Master freight and towing vessels (other than inland) of not more than 1,000 gross tons. d. Master coastwise towing vessels of not more than 750 gross tons. e. Master steam or motor towing vessels upon oceans.
10. Mate ocean or near coastal steam or motor vessels of not more than 1,600 gross tons (new).	a. Mate uninspected vessels. b. Mate freight and towing vessels (other than inland) of not more than 1,000 gross tons. c. Chief mate ocean or coastwise towing vessels of not more than 750 gross tons
11. Master ocean or near coastal steam or motor vessels of not more than 500 gross tons (new).	a. Master freight and towing vessels of not more than 500 gross tons. b. Master mineral and oil industry vessels of not more than 500 gross tons. c. Master passenger vessels of not more than 300 gross tons. d. Master yachts. e. Master pilot boats of not more than 300 gross tons.
12. Mate ocean or near coastal steam or motor vessels of not more than 500 gross tons (new).	a. Mate mineral and oil industry vessels of not more than 500 gross tons. b. Mate pilot boats of not more than 300 gross tons.
13. Master ocean or near coastal steam or motor vessels of not more than 200 gross tons (new).	a. Ocean operator-convertible with additional examination and required experience.
14. Mate near Coastal steam or motor vessels of not more than 200 gross tons (new).	
15. Master near coastal steam or motor vessels of not more than 100 gross tons (new).	a. Ocean operator-convertable without additional examination.
16. Offshore installation manager (new) [reserved]	
17. Barge supervisor (new) [reserved]	
18. Ballast control operator (new) [reserved]	

COMPLETE LIST OF NEW AND RETAINED LICENSES AND THOSE CORRESPONDING LICENSES—Continued

Licenses in new structure	Eliminated corresponding licenses
19. Master uninspected fishing industry vessels (retained)	
20. Mate uninspected fishing industry vessels (retained)	
21. Operator of uninspected towing vessels, oceans (domestic trade) (retained).	
22. Operator of uninspected towing vessels, near coastal (retained)	
23. Second-class operator of uninspected towing vessels, oceans (domestic trade) (retained).	
24. Second-class operator of uninspected towing vessels, near coastal (retained).	
25. Operator of uninspected passenger vessels upon near coastal routes (new-ex-MBO).	
B. Great Lakes and Inland Service:	
1. Master Great Lakes and inland steam or motor vessels of any gross tons (new).	a. Master Great Lakes.
2. Master inland steam or motor vessels of any gross tons (new)	a. Master, lakes, bays and sounds steam or motor vessels. b. Master ferry vessels. c. Master rivers. d. Master or pilot of steam. yachts (if unlimited tonnage). e. Master passenger barges (if unlimited tonnage).
3. Mate Great Lakes and inland steam or motor vessels of any gross tons (new).	a. Mate Great Lakes. b. Mate ferry vessels. c. Inland mate (non-navigating) —service will count as boatswain toward a deck license.
4. Master Great Lakes and inland steam or motor vessels of not more than 1,600 gross tons (new).	a. Master freight and towing vessels of not more than 1,000 gross tons on inland routes. b. Master or pilot of steam pilot boats on inland routes c. Master steam yachts on inland routes. d. Master passenger barges upon inland routes—converted license limited to non-self propelled vessels.
5. Mate Great Lakes and inland steam or motor vessels of not more than 1,600 gross tons (new).	a. Mate freight and towing vessels of not more than 1,000 gross tons on inland routes. b. Mate or pilot of steam pilot boats on inland routes.
6. Master Great Lakes and inland steam or motor vessels of not more than 200 gross tons (new).	a. Operator, waters other than ocean or coastwise (same propulsion modes) —convertible with additional examination.
7. Mate Great Lakes and inland steam or motor vessels of not more than 200 gross tons (new).	
8. Master inland steam or motor vessels of not more than 100 gross tons (new).	a. Operator, waters other than ocean or coastwise (same propulsion modes)—convertible without additional examination.
9. Limited master of Great Lakes and inland steam or motor vessels of not more than 100 gross tons (new).	
10. First Class Pilot (retained)	
11. Operator uninspected towing vessels Great Lakes and inland (new)	a. Operator uninspected towing vessels inland.
12. Second class operator uninspected towing vessels Great Lakes and inland (new).	a. Second class operator uninspected towing vessels inland.
13. Operator uninspected towing vessels upon western rivers (retained)	
14. Second class operator uninspected towing vessels upon western rivers (retained).	
15. Operator uninspected passenger vessels upon inland waters (retained—ex MBO).	
II. Engineer Licenses	
1. Chief engineer steam and/or motor vessels unlimited (retained)	
2. First assistant engineer steam and/or motor vessels unlimited (retained)	
3. Second assistant engineer steam and/or motor vessels unlimited (retained)	
4. Third assistant engineer steam and/or motor vessels unlimited (retained)	
5. Chief engineer (limited-oceans) (new)	a. Chief engineer uninspected motor vessels. b. Chief engineer motor towing vessels. c. Chief engineer mineral and oil industry vessels (with five years engineroom service).
6. Chief engineer (limited-near coastal) (new)	a. Chief engineer motor ferry vessels. b. Chief engineer mineral and oil industry vessels (with four years engineroom service).
7. Assistant engineer (limited) (new)	a. Assistant engineer uninspected motor vessels. b. Assistant engineer motor ferry vessels. c. Assistant engineer motor towing vessels.
8. Designated duty engineer (new) Horsepower will be limited by years of experience when converting assistant engineer licenses.	a. Chief engineer mineral and oil industry vessels. b. Assistant engineer mineral and oil industry vessels. c. First assistant engineer motor towing or ferry vessels.
9. Chief engineer uninspected fishing industry vessels (retained)	
10. Assistant engineer uninspected fishing industry vessels (retained)	
III. Other Licenses/Certificates	
A. Radio officer (retained)	
B. Certificates of registry as staff officer (retained):	
1. Chief purser	
2. Purser	
3. Senior assistant purser	
4. Junior assistant purser	
5. Medical doctor	
6. Professional nurse	
7. Endorsements on certificates of registry:	
a. Marine physician assistant	
b. Hospital corpsman	

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected or copied at the Marine Safety Council (G–CMC/21) [CGD 81–059] Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593–0001 from 8 a.m. to 3 p.m. Copies may also be obtained by referring to the "For Further Information Contact" paragraph.

The regulations serve to implement legislative changes and simplify nearly all aspects of the merchant marine personnel licensing and manning systems. Implementation would not increase manning requirements upon the vessels concerned nor place any significant additional burden upon the

private or public sectors. There would be an increase in training requirements regarding firefighting for certain deck and engineer officers and for periodic recertification of cardiopulmonary resuscitation (CPR) training. For this analysis, required training costs are expressed in 1986 dollars. Damage costs have been averaged without any adjustments being made to each year's dollar value.

Training in first aid and CPR is made a basic qualification requirement for all licenses. This is not a new or additional requirement for the original issuance of most licenses and will have been met by all current holders of masters, mates, pilots or engineer licenses. In addition, most companies already require first aid/CPR training of their personnel, thus tending to minimize the economic impact of the proposal. Cardiopulmonary resuscitation recertification courses will be required prior to license renewal. First aid recertification is not required for renewal.

The requirement for training in first aid and CPR may be satisfied in a variety of ways with varying costs. Acceptable first aid courses administered by the American Red Cross range from one to three days and cost between $5 and $50. Original CPR qualification and recertification by the American Red Cross or American Heart Association takes no more than one day at a cost of $5. In addition, many license preparatory schools have incorporated first aid and CPR training by certified instructors into their course curricula. The additional annual cost will be equal to the cost of the training multiplied by the number of individuals not presently required to obtain that training. The licenses effected are those of uninspected towing vessels and small passenger vessels. The number of individuals used is a five year average.

a. Cost of first aid training for original license issuance is 6,898×$50=$344,900. The $50 figure used is considered the maximum likely charge.

b. Cost of CPR training for original license issuance is 6,898×$5=$34,490.

c. Cost of CPR training for license renewal is 6,580×$5=$32,900.

d. Total additional annual cost for first aid and CPR training is $412,290.

The firefighting training requirements will provide an assured minimum level of knowledge to those most likely to provide initial response to shipboard fires. Increased awareness of fire hazards and techniques for combating fires will work to reduce the number of fires and their severity. In recognition of the increased safety benefits, many portions of the marine industry already require similar forms of firefighting training.

The financial benefits of firefighting training are significant but not easily quantifiable. There are no known authoritative estimates as to potential dollar savings likely to result from mariners receiving this training. For this analysis a conservative ten percent reduction in fire damage is assumed. For the five year period, 1981 to 1985, there was a reported $274 million damage to vessels which would carry firefighting trained officers. A ten percent reduction would amount to a $5.5 million annual savings. This figure does not include a reduction of deaths (22 in 1984), injuries (38 in 1984), or related pollution to the environment.

The approximate cost of the firefighting training requirement is obtained in the following manner:

(a) Estimate the number of all active licensed mariners who will be affected by the training requirement;

(b) Subtract the number of officers who have completed the firefighting training (after discounting a percentage who may not be actually sailing on their licenses). We must also subtract a percentage who may have been trained as unlicensed personnel;

(c) Multiply this total by the sum of the average cost per course (basic and advanced) and the travel/per diem costs;

(d) Further, we must estimate the number of new licensed personnel each year (total new licenses issued) who must comply with the training requirement and have not been trained already as part of their usual training in order to calculate the recurring costs; and,

(e) Multiply this total by course costs and travel/per diem charges.

Summarizing the facts in the analysis, the totals are:

(a) The total number of all active licensed mariners affected is 25,989;

(b) The approximate total of previously trained officers is 9,656;

(c) The cost per course ranges between $100 and $400, with an average of $150. Travel costs average $250 per person; per diem is $85 per day for a 4–6 day course. Therefore, the start up cost for firefighting training is $13,474,725.

(d) For the recurring costs, the number of new licensed personnel each year (from CG license statistics) who would be affected by the firefighting training requirement is 2,920. From this total, we subtract those persons at state and federal maritime academies who already obtain the training as part of their basic training (998 per year), those engineer students from union schools which require the training (100 per year), and those progressing from unlicensed ratings (approx. 102). Therefore, the total number of new officers each year requiring the training is estimated to be 1720 and recurring costs are estimated to be $1,419,000 per year.

The other significant benefits of this interim final rule are to simplify the licensing regulations, simplify the procedures involved in obtaining a license, and to enhance opportunities for careers in the merchant marine by providing a license progression for all mariners. The number of types of licenses issued will be decreased in the regulations from approximately 100 to 45. This decrease will result in substantial time and associated cost savings to the public as, in the interim final rule, one license may replace two or more trade restricted or specialized licenses. Additional savings to the public will result by decreasing the number of license examinations from approximately 78 to 29. These exams required between four hours and four days to complete.

The agency certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. These final rules apply to licenses for individuals only. The residual effect on training schools may be a minor modification in some course structures to reflect exam topics for licenses; course title changes to reflect new license titles; and, possibly some course combining to account for the deletion of some trade restricted licenses.

This interim final rule contains no new information collection requirements. The information collection requirements that it does contain have been submitted to the Office of Management and Budget for review under, the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been approved by OMB. The section numbers and the corresponding OMB approval numbers are listed in section 10.107.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (government agencies).

46 CFR Part 10

Seamen, Marine Safety, Navigation (water), Passenger vessels.

46 CFR Part 15

Seamen, Vessels.

46 CFR Part 35

Barges, Tank vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 157

Seamen, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels.

46 CFR Part 185

Marine safety, Navigation (water), Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 186

Marine safety, Passenger vessels, Seamen.

46 CFR Part 187

Marine safety, Passenger vessels, Seamen.

Interim Final Rules

In consideration of the foregoing, the Coast Guard is amending Parts 1, 10, 35, 157, 175, 185, 186, and 187 of Title 46, Code of Federal Regulations as set forth below:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS [AMENDED]

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 49 CFR 1.45, 1.46; § 1.30 also issued under the authority of 44 U.S.C. 3507.

2. Section 1.05 is amended by revising the list in the note following paragraph (b) to read as follows:

§ 1.05 Organization; districts

* * * * *

(b) * * *

Note: * * *

Boston, MA	Toledo, OH
New York, NY	Long Beach, CA
Baltimore, MD	San Francisco, CA
Charleston, SC	Portland, OR
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI
St. Louis, MO	

* * * * *

3. Part 10 is revised to read as follows:

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 10—LICENSING OF MARITIME PERSONNEL

Subpart A—General

Sec.

Subpart B—General Requirements for all Licenses and Certificates of Registry

Sec.

Subpart C—Training Schools With Approved Courses

Sec.

Subpart D—Professional Requirements for Deck Officers' Licenses

Sec.

Authority: 46 U.S.C. 2103, 7101; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (z).

Subpart A—General

§ 10.101 Purpose of regulations.

(a) The purpose of the regulations in this Part is to provide a comprehensive means of determining the qualifications an applicant must possess in order to be eligible for a license as deck, engineer, pilot, or radio officer on merchant vessels, or a license to operate uninspected towing vessels or uninspected passenger vessels, or for a certificate of registry as staff officer.

(b) With few exceptions, these regulations do not specify or restrict licenses to particular types of service such as tankships, freight vessels or passenger vessels. However, all licensed personnel shall become familiar with the relevant characteristics of each vessel prior to assuming their duties. As appropriate, these characteristics include but are not limited to: general arrangement of the vessel; maneuvering characteristics; proper operation of the installed navigation equipment; firefighting and lifesaving equipment; stability and loading characteristics; emergency duties; and main propulsion and auxiliary machinery, including steering gear systems and controls.

(c) The regulations in Subpart C of this Part prescribe the requirements applicable to all approved training courses if the training course is to be acceptable as a partial substitute for service, for an examination requirement, or as training required for a particular license or license endorsement.

§ 10.103 Definitions of terms used in this part.

"Assistant engineer" means a qualified officer in the engine department.

"Boatswain" means the leading seaman and immediate supervisor of unlicensed deck personnel who supervises the maintenance of deck gear.

"Chief engineer" means any person responsible for the mechanical propulsion of a vessel and who is the holder of a valid license as chief engineer.

"Chief mate" means the deck officer next in seniority to the master and upon whom the command of the vessel will fall in the event of the incapacity of the master.

"Day" means, for the purpose of complying with the service requirements of this Part, eight hours of watchstanding or day-working not to include overtime. On vessels where a 12 hour working day is authorized and practiced, such as on a six-on, six-off watch schedule, each work day may be creditable as one and one half days of service. On vessels of less than 100 gross tons, a day is considered as eight hours unless the Officer in Charge, Marine Inspection determines that the vessel's operating schedule makes this criteria inappropriate, in no case will this period be less than four hours.

"Designated duty engineer" means a qualified engineer, who may be the sole engineer on vessels with a periodically unattended engine room.

"Endorsement" means a provision added to a license which alters its scope or application. An example of an endorsement is a tonnage limitation increase within a general tonnage category, a pilot license route addition, or a radar observer qualification.

"First assistant engineer" means the engineer officer next in seniority to the chief engineer and upon whom the responsibility for the mechanical propulsion of the vessel will fall in the event of the incapacity of the chief engineer.

"Great Lakes" means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock.

"Horsepower" means, for the purpose of this Part, the total maximum continuous shaft horsepower of all the vessel's main propulsion machinery.

"Inland waters" means the navigable waters of the United States shoreward of the Boundary Lines as described in 46 CFR Part 7, excluding the Great Lakes.

"Master" means the officer having command of a vessel.

"Mate" means a qualified officer in the deck department other than the master.

"Month" means 30 days, for the purpose of complying with the service requirements of this Part.

"Near coastal" means ocean waters not more than 200 miles offshore.

"Oceans" means the waters seaward of the Boundary Lines as described in 46 CFR Part 7.

"Officer in Charge, Marine Inspection (OCMI) for the purposes of Part 10 means the officer or individual so designated at one of the locations of the regional examination centers listed in § 10.105.

"Operator" means an individual licensed to operate certain uninspected vessels.

"Orally assisted examination" means a license examination as described in Subpart I of this Part verbally

administered and documented by an examiner.

"Original license" means the first deck, engineer or radio officer license issued to any person by the Coast Guard.

"Raise of grade" means an increase in the level of authority and responsibility associated with a license.

"Undocumented vessel" means a vessel not required to have a document issued under the laws of the United States.

"Western Rivers" means the Mississippi River, its tributaries. South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River, and those waters specified in 33 CFR 89.25.

"Year" means 360 days, for the purpose of complying with the service requirements of this part.

§ 10.105 Regional examination centers.

Licensing and certification functions are performed only by the Officer in Charge, Marine Inspection, at the following locations:

Boston, MA	Toledo, OH
New York, NY	Long Beach, CA
Baltimore, MD	San Francisco, CA
Charleston, SC	Portland, OR
Miami, FL	Seattle, WA
New Orleans, LA	Anchorage, AK
Houston, TX	Juneau, AK
Memphis, TN	Honolulu, HI
St. Louis, MO	

§ 10.107 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511) for the reporting and record keeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 2115 0006—46 CFR 10.201, 10.202, 10.205, 10.207, 10.209.

(2) OMB 2115–0501—46 CFR 10.205.

(3) OMB 2115–0502—46 CFR 10.205.

(4) OMB 2115–0514—46 CFR 10.201, 10.202, 10.205, 10.207, 10.209.

(5) OMB 2115–0111—46 CFR 10.302, 10.303, 10.304, 10.480.

Subpart B—General Requirements for All Licenses and Certificates of Registry

§ 10.201 Eligibility for licenses, general.

(a) The applicant must establish to the satisfaction of the Officer in Charge, Marine Inspection, that he or she possesses all of the qualifications necesary, e.g., age, experience, character references and recommendations, physical examination, citizenship, and training, and pass a professional examination, as appropriate, before a license is issued.

(b) No person is eligible for a license who has been convicted by a court of record of a violation of the dangerous drug laws of the United States, the District of Columbia, or any state or territory of the United States, within three years prior to the date of filing the application (this period may be extended up to ten years after conviction, if the gravity of the facts or circumstances of the case warrant) or who, unless he or she furnishes satisfactory evidence of cure, has ever been the user of or addicted to the use of a dangerous drug.

(c) An applicant for a license must demonstrate an ability to speak and understand English as found in the navigation rules, aids to navigation publications, emergency equipment instructions, machinery instructions, and radiotelephone communications instructions.

(d) An applicant for a license must meet the requirements for recent service specified in § 10.202(e).

(e) No license or certificate of registry may be issued to any person who is not a citizen of the United States with the exception of operator of uninspected passenger vessels limited to vessels not documented under the laws of the United States.

(f) Except as specified in this paragraph, no license or certificate of registry may be issued to a person who has not attained the age of 21 years.

(1) A license as master of vessels of 25–200 gross tons on near coastal, Great Lakes, or inland waters, third mate, third assistant engineer, mate of vessels of 200–1600 gross tons, assistant engineer of fishing industry vessels, second-class operator of uninspected towing vessels, radio officer, assistant engineer (limited-oceans), or designated duty engineer on vessels of not more than 4000 horsepower may be granted an applicant who has reached the age of 19 years, but no such license may be raised in grade before the holder has reached the age of 21 years.

(2) A license as mate of vessels of 0–200 gross tons upon Great Lakes and inland waters, mate of vessels of 0–200 gross tons upon near coastal waters, operator of uninspected passenger vessels, or designated duty engineer on vessels of not more than 1000 horsepower may be granted an applicant who has reached the age of 18 years.

(g) Persons serving or intending to serve in the merchant marine service are recommended to take the earliest opportunity of ascertaining, through examination, whether their visual acuity, and color vision where required, are such as to qualify them for service in that profession. Any physical impairment or medical condition which would render an applicant incompetent to perform the ordinary duties of an officer at sea is cause for denial of a license.

§ 10.202 Issuance of licenses.

(a) Applications for original licenses, raises of grade, extensions of route, or endorsements must be current and up-to-date with respect to service and the physical examination, as appropriate. Physical examinations and approved applications are valid for 12 months.

(b) Any person who is found qualified under the requirements set forth in this Part is issued an appropriate license valid for a term of five years, except that a certificate of registry does not expire.

(c) The license is not valid until signed by the applicant and the OCMI (or the OCMI's designated representative).

(d) Every person who receives an original license or certificate of registry shall take an oath before a designated Coast Guard official that he or she will faithfully and honestly, according to their best skill and judgment, without concealment or reservation, perform all the duties required by law and obey all lawful orders of superior officers. Such an oath remains binding for all subsequent licenses issued to that person unless specifically renounced in writing.

(e) The applicant for any original license, endorsement, or raise of grade of license must have at least three months' qualifying service on vessels of appropriate tonnage or horsepower within the three years immediately preceding the date of application. Prior to December 1, 1988, this section is not applicable when all the qualifying service was military sea service.

(f) Any applicant whose uncorrected vision exceeds 20/40 in either eye for deck licenses or 20/50 in either eye for engineer, radio officer, offshore installation manager, barge supervisor, or ballast control operator licenses may not serve under the authority of the license unless corrective lenses are worn and spare lenses are carried on board a vessel while serving. (Not applicable to staff officers).

(g) If an Officer in Charge, Marine Inspection, refuses to grant an applicant

the license for which applied, the OCMI will furnish the applicant, if requested, a written statement setting forth the cause of denial.

(h) If an Officer in Charge, Marine Inspection, modifies the service or examination requirements in this Part to satisfy the unique qualification requirements of an applicant, the license is limited on its face to reflect this modification. Such limitations shall not be removed without the approval of the OCMI who assigned that limit.

§ 10.203 Quick reference table for License Requirements.

Table 10.203 provides a guide to the requirements for the various licenses. Provisions in the reference sections are controlling.

License category	Minimum age	Citizenship requirement	Physical required	Experiment requirements	Recommendations and character check	Firefighting certificate	Professional exam requirements	Recency of service	First aid and CPR requirements
Masters/mates and operators of uninspected passenger vessels (original license).	21; 10.201(f); Note: exceptions.	Yes, 10.201(e); Note: exception.	Yes, 10.205(d); Note: (d)(2).	Yes, 10.205(e); Subpart D.	Yes, 10.205(f)	Yes, 10.205(g); Note: exceptions.	Yes, 10.205(i), 10.910; Note: 10.903(b).	Yes, 3 months past 36 months, 10.202(e).	Yes, in 10.205(h).
Engineers (original license)	21; 10.201(f); Note: exceptions.	Yes	Yes, 10.205(d); Note: (d)(3).	10.205(e); Subpat E.	Yes, 10.205(f)	Yes, 10205(g)	Yes, 10.205(i), 10.950.	Yes, 3 months in past 36 months, 10.202(e).	Yes, 10.205(h)
All raises of grade	21; 10.201(f); Note: exceptions.	Yes	10.207(e); Note: (e)(1).	10.207(c); Subparts D & E.	N/A	Yes, Note: 10.207(f).	10.207(d), 10.910, 10.920, 10.950.	Yes, 3 months in past 36 months 10.202(e).	N/A
All renewals	21	Yes	10.209(d)	10.209(c)	N/A	N/A	10.209(c)	10.209(c)	Yes, CPR: 10.209(c).
Pilot	21	Yes	Yes, 10.709	10.703, 10.706(a), 10.715.	Yes, 10.205(f)	N/A	10.707, 10.910	Yes, 10.703, 10.705(e), 10.713.	Yes, 10.205(h).
Uninspected fishing industry vessels.	21 10.201(f) Note: exceptions.	Yes	Yes, 10.205(d); Note: (d)(2) or (d)(3).	Deck: 10.462, Eng: 10.530, 10.205(f).	Yes, 10.205(f)	Yes, 10.205(g)	Yes, 10.205(i), 10.910, 10.950 (oral).	Yes, 3 months in past 36 months, 10.202(e).	Yes, 10.205(h)
Uninspected towing vessels	Operator: 21; 2/c operator:19.	Yes	Yes, 10.205(d); Note: (d)(2).	10.464	Yes, 10.205(f)	Yes, 10.205(g), oceans.	Yes, 10.205(i), 10.910.	Yes, 3 months in past 36 months, 10.202(e).	Yes, 10.205(h)
Radio officer	19	Yes	Yes, 10.205(d); Note: (d)(3).	10.603	Yes, 10.205(f)	N/A	N/A	N/A	Yes, 10.205(h)
Staff officer	21	N/A	No	10.807	Yes, 10.205(f)	N/A	N/A	N/A	N/A.
Offshore installation manager, barge supervisor, ballast control operator.	21; 10.201(f); Note: exceptions.	Yes	Yes, 10.205(d); Note: (d)(3).	Deck: 10.468, Eng: 10.540.	Yes 10.205(f)	Yes, 10.205(g)	Yes, 10.205(i), 10.920.	Yes, 3 months in past 36 months, 10.202(e).	Yes, 10.205(h)

§ 10.204 Appeals.

(a) Any person affected by a decision or action of the Officer in Charge, Marine Inspection, may:

(1) Appeal to the District Commander in whose jurisdiction the decision or action was made; and,

(2) Appeal the decision of the District Commander to the Commandant.

(b) Each appeal must be in writing, filed within 30 days after the date of receipt of the decision or action that is being appealed, and contain:

(1) A description of the decision or action that is being appealed; and,

(2) The appellant's reason why the decision or action should be set aside or revised.

(c) Any decision being appealed remains in effect until set aside or revised.

§ 10.205 Requirements for original licenses and certificates of registry.

(a) *General.* The applicant for an original license or certificate of registry shall present satisfactory documentary evidence of eligibility in respect to the requirements of this section. All applicants shall make written application on a Coast Guard furnished form.

(b) *Minimum age.* The applicant shall present satisfactory proof of age as prescribed in § 10.201(f). This evidence may be any of the items submitted to establish citizenship.

(c) *Citizenship.* (1) The OCMI may reject any evidence of citizenship that is not believed to be authentic. Acceptable evidence of citizenship may be an original or certified copy of the following:

(i) Birth certificate or birth registration.

(ii) Certificate of naturalization.

(iii) Baptismal certificate or parish record recorded within one year after birth.

(iv) Statement of a practicing physician certifying attendance at the birth and who possesses a record showing the date and location at which it occurred.

(v) State Department passport.

(vi) A merchant mariner's document issued by the Coast Guard which shows the holder as a United States citizen.

(vii) Delayed certificate of birth issued under a state seal in the absence of any collateral facts indicating fraud in its procurement.

(viii) Certificate of Citizenship issued by the United States Immigration and Naturalization Service.

(2) If none of the requirements set forth in paragraphs (c)(1)(i) through (c)(1)(viii) of this section can be met by the applicant, the individual shall make a statement to that effect, and may submit data of the following character for consideration:

(i) Report of the Census Bureau showing the earliest available record of age or birth. Request for such information should be addressed to the Personal Census Service Branch, Bureau of the Census, Pittsburgh, Kansas 66762. In making such request, the use of Form BC–600, Application for Search of Census Records, furnished by the Bureau is required.

(ii) Affidavits of parents, relative, or two or more responsible citizens of the United States stating citizenship.

(iii) School records, immigration records, or insurance policies.

(d) *Physical examination.* (1) All applicants for an original license must pass an examination given by a licensed physician or a licensed physician

assistant and present to the OCMI a completed Coast Guard physical examination form, or the equivalent, executed by the physician. This form must provide information on the applicant's acuity of vision, color sense, and general physical condition. This examination must have been completed prior to submission of the application and not more than 12 months prior to issuance of the license. (Physical examinations are not required for staff officers.)

(2) For an original license as master, mate, pilot, or operator, the applicant must have correctable vision to at least 20/40 in each eye and uncorrected vision of at least 20/200 in each eye. The color sense must be determined to be satisfactory when tested by any of the following methods:

(i) Pseudoisochromatic Plates (Dvorine, 2nd Edition; AOC; revised edition or AOC–HRR; Ishihara 16-, 24-, or 38-plate editions).

(ii) Eldridge—Green Color Perception Lantern.

(iii) Farnsworth Lantern.

(iv) Keystone Orthoscope.

(v) Keystone Telebinocular.

(vi) SAMCTT (School of Aviation Medicine Color Threshold Tester).

(vii) Titmus Optical Vision Tester.

(viii) Williams Lantern.

(3) For an original license as engineer, radio officer, offshore installation manager, barge supervisor or ballast control operator, the applicant must have correctable vision of at least 20/50 in each eye and uncorrected vision of at least 20/200 in each eye. Applicants need only to have the ability to distinguish the colors red, green, blue and yellow.

(4) Where an applicant does not possess the vision, hearing, or general physical condition necessary, the OCMI, after consultation with the examining physician or physician assistant, may recommend a waiver to the Commandant if extenuating circumstances warrant special consideration. Applicants may submit to the Officer in Charge, Marine Inspection, additional correspondence, records and reports in support of this request. In this regard, recommendations from agencies of the Federal Government operating government vessels, as well as owners and operators of private vessels, made in behalf of their employees, will be given full consideration. Waivers are not normally granted to an applicant whose corrected vision in the better eye is not at least 20/40 for deck licenses or 20/50 for engineer licenses or whose uncorrected vision is worse than 20/400 in either eye.

(e) *Experience or training.* (1) All applicants for original licenses and certificates of registry shall present to the OCMI, letters, discharges, or other documents certifying the amount and character of their experience and the names, tonnage and horsepower of the vessels on which acquired. The OCMI must be satisfied as to the authenticity and acceptability of all evidence of experience or training presented. Certificates of discharge are returned to the applicant. The OCMI shall note on the application that service represented by these documents has been verified. All other documentary evidence of service, or authentic copies thereof, are filed with the application. A license is not considered as satisfactory evidence of any qualifying experience.

(2) No original license or certificate of registry may be issued to any naturalized citizen on less experience in any grade or capacity than would have been required of a citizen of the United States by birth.

(3) Experience and service acquired on foreign vessels is creditable for establishing eligibility for an original license, subject to evaluation by the OCMI to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters, and operating conditions. An applicant who has obtained qualifying experience on foreign vessels shall submit satisfactory documentary evidence of such service (including any necessary translation into English) in the forms prescribed by paragraph (e)(1) of this section.

(4) No applicant for an original license who is a naturalized citizen, and who has obtained experience on foreign vessels, will be given an original license in a grade higher than that upon which he or she has actually served while acting under the authority of a foreign license.

(f) *Character check and references.* (1) Each applicant for an original license shall submit written recommendations concerning the applicant's suitability for duty from a master and two other licensed officers of vessels on which the applicant has served. For a license as engineer or as pilot, at least one of the recommendations must be from the chief engineer or licensed pilot, respectively, of a vessel on which the applicant has served. For a license as operator of uninspected towing vessels, the recommendations may be from recent marine employers with at least one recommendation from a master, operator, or person in charge of a vessel upon which the applicant has served. Where an applicant qualifies for a license through an approved training school, one of the character references must be an official of that school. For a license for which no commercial experience may be required, such as: Master or mate 0–200 gross tons, operator of uninspected passenger vessels, radio officer or certificate of registry, the applicant may have the written recommendations of three persons who have knowledge of the applicant's suitability for duty.

(2) Each applicant's fingerprints are taken during the application process. The fingerprints are checked against the records of law enforcement and other government agencies. The application of any person may be rejected when information has been brought to the attention of the OCMI which indicates that the applicant's habits of life and character are such as to warrant the belief that the applicant cannot be entrusted with the duties and responsibilities of the license for which application is made. In the event an application is rejected, the applicant is notified in writing of the reason(s) for rejection and advised that the appeal procedures in § 10.204 apply. No examination is given in this type of case pending the Commandant's decision on appeal.

(3) A person may apply for an original license, or license of a different type, while on probation as a result of administrative action under Part 5 of this Chapter. The offense for which the applicant was placed on probation will be considered in determining his or her fitness to hold the license applied for. A license issued to an applicant on probation will be subject to the same probationary conditions as were imposed against the applicant's other license or mariner's document. An applicant may not take an examination for a license during any period when a suspension without probation or a revocation is effective against the applicant's currently held license or mariner's document, or while an appeal from these actions is pending.

(g) *Firefighting certificate.* Applicants for the licenses in the following categories must present a certificate of completion from a firefighting course of instruction which has been approved by the Commandant. The course must meet both the basic and advanced sections of the International Maritime Organization's (IMO) Resolution A.437 (XI) "Training of Crews in Firefighting". The course must have been completed within five years before the date of application for the license requested.

(1) Master's license for service on vessels of 200 gross tons or less in ocean service.

(2) All master or mate's licenses for over 200 gross tons.

(3) All operators of uninspected towing vessels, oceans (domestic trade).

(4) All licenses on mobile offshore drilling units.

(5) All engineer's licenses.

(h) *First aid and cardiopulmonary resuscitation (CPR) course certificates.* All applicants for an original license must present to the OCMI:

(1) A certificate indicating completion of a first aid course within the past 12 months from:

(i) the American National Red Cross "Standard First Aid and Emergency Care" or "Multi-media Standard First Aid" course;

(ii) a Coast Guard approved first aid training course; or,

(iii) a course the OCMI determines exceeds the standards of the Red Cross courses; and,

(2) A currently valid certificate of completion of a CPR course from:

(i) the American National Red Cross;

(ii) the American Heart Association; or,

(iii) a Coast Guard approved CPR training course.

(i) *Professional examination.* (1) When an applicant's experience and training are found to be satisfactory and the applicant is eligible in all other respects, the OCMI examines the applicant, in writing; except that, if the license is to be limited to uninspected fishing industry vessels, the applicant may request an oral-assisted examination, a record indicating the subjects covered is placed in the applicant's license file. The alternative of an oral-assisted examination is also available to applicants for deck or engineer licenses limited to 500 gross tons. If there is demonstrated difficulty in reading and understanding the questions, the oral-assisted examination shall be offered. Any license based on an oral-assisted examination is limited to the specific route and type of vessel upon which the majority of experience was obtained. The instructions for administration of examinations and the lists of subjects for all licenses are contained in Subpart I of this Part.

(2) When the license application of any person has been approved, the applicant should take the required examination as soon as practicable. If the applicant cannot be examined without delay at the office where the application is made, the applicant may request that the examination be given at another office.

(3) The qualification requirements for "radar observer" are contained in § 10.480.

(4) An examination is not required for a license as radio officer or a certificate of registry.

§ 10.207 Requirements for raise of grade of license.

(a) *General.* Before any person is issued a raise of grade of license, the applicant shall present satisfactory documentary evidence of eligibility. Applications must be on a Coast Guard furnished form.

(b) *Surrendering old license.* Upon the issuance of a new license for raise of grade, the applicant shall surrender the old license to the OCMI. If requested, the old license is returned to the applicant after cancellation.

(c) *Age, experience, and training.* (1) Applicants for raise of grade of licenses shall establish that they possess the age, experience, and training qualifications necessary before they are entitled to a raise of grade of license.

(2) Applicants for raise of grade of license shall present to the OCMI at a Regional Examination Center, letters, discharges, or other official documents certifying to the amount and character of their experience and the names of the vessels on which acquired. Certificates of discharge are returned to the applicant after review by the OCMI. All other documentary evidence of service, or copies thereof, are filed with the application.

(3) Sea service acquired prior to the issuance of the license held is generally not accepted as any part of the service required for raise of grade of that license. However, service acquired prior to issuance of a license will be accepted for certain crossovers, endorsements or increases in scope of a license, as appropriate. In the limited tonnage categories for deck licenses, total accumulated service is a necessary criterion for most raises in grade; service acquired prior to the issuance of such licenses will, therefore, be accepted.

(4) No raise of grade of license may be issued to any naturalized citizen on less experience in any grade than would have been required of a citizen of the United States by birth.

(5) Experience and service acquired on foreign vessels while holding a valid U. S. license is creditable for establishing eligibility for a raise of grade, subject to evaluation by the OCMI to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters and operating conditions. An applicant who has obtained the qualifying experience on foreign vessels shall submit satisfactory documentary evidence of such service (including any necessary translations into English) of such service in the forms prescribed by paragraph (c)(2) of this section.

(6) An applicant remains eligible for a raise of grade of license while on probation as a result of action under Part 5 of this chapter.

A raise of grade of license issued to a person on probation will be subject to the same probationary conditions imposed against the applicant's other certificates or licenses. The offense for which he or she was placed on probation will be considered on the merits of the case in determining fitness to hold the license applied for. No applicant will be examined for a raise of grade of license during any period when a suspension without probation or a revocation imposed under Part 5 of this Chapter is effective against the applicant's license or certificate or while an appeal from these actions is pending.

(d) *Professional examination.* (1) When an applicant's experience and training for raise of grade is found to be satisfactory and he or she is eligible in all other respects, the OCMI examines the applicant in writing, unless an oral-assisted examination is authorized under § 10.205(i)(1). A record indicating the subjects covered is placed in the applicant's license file. The general instructions and list of subjects are contained in Subpart I of this Part.

(2) The qualification requirements for "radar observer" are contained in § 10.480.

(e) *Physical requirements.* (1) An applicant for raise of grade of a license who has not had a physical examination for an original license or renewal of license within three years must submit a certification by a licensed physician or physician assistant that he or she is in good health and has no physical impairment or medical condition which would render him or her incompetent to perform the ordinary duties of the license applied for.

(2) If the OCMI has reason to believe that an applicant for raise of grade of license suffers from some physical impairment or medical condition which would render the applicant incompetent to perform the ordinary duties of that license, the applicant may be required to submit the results of an examination by a licensed physician or physician assistant that meets the requirements for an original license.

(3) An applicant who has lost the sight of one eye may obtain a raise of grade

of license, provided that the applicant is qualified in all other respects and that the visual acuity in the one remaining eye passes the test required under § 10.205(d).

(f) *Firefighting certificate.* Applicants for raise of grade of license who have not previously met the requirements in § 10.205(g), must do so.

§ 10.209 Requirements for renewal of license.

(a) *General.* Applicants for renewal of licenses shall establish that they possess all of the qualifications necessary before they are issued a renewal of license. All applications must be on a Coast Guard furnished form. The applicant may appear in person at any Regional Examination Center listed in § 10.107 or may renew the license by mail under paragraph (e)(3) of this section. The applicant must submit the license to be renewed or a photocopy of the license. If requested, the old license is returned to the applicant.

(b) *Fitness.* No license is renewed if it has been suspended without probation or revoked as a result of action under Part 5 of this Chapter, or facts which would render a renewal improper have come to the attention of the Coast Guard.

(c) *Professional requirements.* (1) In order to renew a license as master, mate, engineer, pilot, or operator, the applicant shall:

(i) present evidence of at least one year of sea service during the past five years; or,

(ii) pass a comprehensive, open-book exercise covering the general subject matter contained in appropriate sections of Subpart I of this Part; or,

(iii) complete an approved refresher training course; or,

(iv) present evidence of employment in a position closely related to the operation, construction or repair of vessels (either deck or engineer as appropriate) for at least three years during the past five years. An applicant for a deck license with this type of employment must also demonstrate knowledge on an applicable Rules of the Road exercise.

(2) All applicants for renewal of license must present a valid certificate of completion of a CPR course from those sources listed in § 10.205(h)(2).

(3) The qualification requirements for renewal of "radar observer" endorsement are in § 10.480.

(4) Additional qualification requirements for renewal of a license as pilot are contained in § 10.713.

(5) An applicant for renewal of a radio officer's license shall, in addition to meeting the requirements in this Subpart, present a currently valid license as first- or second-class radiotelegraph operator issued by the Federal Communications Commission. This license is returned to the applicant.

(d) *Physical requirements.* (1) An applicant for renewal of a license shall submit a certification by a licensed physician or physician assistant that he or she is in good health and has no physical impairment or medical condition which would render him or her incompetent to perform the ordinary duties of that license. This certification must address visual acuity and hearing in addition to general physical condition and must have been completed within the previous 12 months.

(2) If the OCMI has reason to believe that an applicant for renewal of license suffers from some physical impairment or medical condition which would render the applicant incompetent to perform the ordinary duties of that license, the applicant may be required to submit the results of an examination by a licensed physician or physician assistant that meets the requirements for original license.

(3) An applicant who has lost the sight of one eye may obtain a renewal of license, provided that the applicant is qualified in all other respects and that the visual acuity in the one remaining eye passes the test required under § 10.205(d).

(e) *Special circumstances*—(1) *Period of grace.* Except as provided herein, a license may not be renewed more than 12 months after it has expired. To obtain a reissuance of the license, an applicant must comply with the requirements of paragraph (f) of this section. When an applicant's license expires during a time of service with the Armed Forces and there was no reasonable opportunity for renewal, including by mail, this period may be extended. The period of military service following the date of license expiration which precluded renewal may be added to the 12 month period of grace. A license is not valid for use after the expiration date.

(2) *Renewal in advance.* A license may not be renewed more than 12 months in advance of the date of expiration unless the OCMI is satisfied that there are extraordinary circumstances that justify a renewal beforehand.

(3) *Renewal by mail.* (i) An applicant may renew a license by mail by making application to the Coast Guard office which issued the present license or holds the applicant's file. The following documents must be submitted:

(A) A properly completed application on a Coast Guard furnished form, with signature notarized;

(B) The license to be renewed, or a photocopy of the license if it is unexpired;

(C) A certification from a licensed physician or physicians assistant in accordance with paragraph (d) of this section;

(D) If the applicant desires to renew a radar observer endorsement, either the radar observer certificate or a certified copy; and,

(E) Evidence of, or acceptable substitute for, sea service.

(ii) The open-book exercise, if required, may be administered through the mail.

(iii) Upon receipt of the renewed license, the applicant must sign it in order to validate the license.

(f) *Reissue of expired license.* Whenever an applicant applies for reissuance of a license more than 12 months after expiration, the applicant must complete an approved course or pass an examination to demonstrate continued professional knowledge. The examination may be oral or orally assisted if the license being renewed was awarded based on such an oral exam. In the case of an expired radio officer's license, the license may be reissued upon presentation of a valid first or second-class radiotelegraph operator license issued by the Federal Communications Commission.

§ 10.211 Creditable service and equivalents for licensing purposes.

(a) Sea service may be documented for licensing purposes in various forms such as certificates of discharge, pilotage service and billing forms, and letters or other official documents from marine companies signed by appropriate officials or licensed masters. For service on vessels of under 200 gross tons, owners of vessels may attest to their own service; however, those who do not own a vessel must obtain letters or other evidence from licensed personnel or the owners of the vessels listed. The documentary evidence produced by the applicant must contain the amount and nature (e.g. chief mate. assistant engineer, etc.) of the applicant's experience. the vessel name, gross tonnage, shaft horsepower and official numbers, the routes upon which the experience was acquired, and approximate dates of service.

(b) Port engineer, shipyard superintendent experience, instructor service, or similar related service may be creditable for a maximum of six months of service for raise of grade of an engineer or deck license, as appropriate, using the following:

(1) Port engineer or shipyard superintendent experience is creditable on a three-for-one basis for a raise of grade. (Twelve months of experience equals four months of creditable service.)

(2) Service as a bona fide instructor at a school of navigation or marine engineering is creditable on a two-for-one basis for a raise of grade. (Twelve months of experience equals six months of creditable service).

(c) Service on mobile offshore drilling units is creditable for raise of grade of license. Evidence of one year's service while holding a license as third mate or third assistant engineer is acceptable for a raise of grade to second mate or second assistant engineer, respectively; however, any subsequent raises of grade of unlimited, non-restricted licenses must include a minimum of six months of service on conventional vessels.

(d) Service on a Dual Mode Integrated Tug Barge (ITB) unit is creditable for original or raise of grade of any deck licenses. Service on a Dual Mode ITB with an aggregate tonnage of over 1600 gross tons is creditable on a two-for-one basis (two days experience equals one day of creditable service) for up to 50 percent of the total service on vessels over 1600 gross tons required for an unlimited license. The remaining required service on vessels of over 1600 gross tons must be obtained on conventional vessels or Push Mode ITBs.

(e) Other experience in a marine related area, other than at sea, or sea service performed on unique vessels, will be evaluated by the OCMI and forwarded to the Commandant for a determination of equivalence to traditional service.

§ 10.213 Sea service as a member of the Armed Forces of the United States and on vessels owned by the United States as qualifying experience.

(a) Sea service as a member of the Armed Forces of the United States will be accepted as qualifying experience for an original, raise of grade, or increase in scope of all licenses. In most cases, military sea service will have been performed upon ocean waters; however, inland service, as may be the case on smaller vessels, will be credited in the same manner as conventional evaluations. The applicant must submit an official transcript of sea service as verification of the service claimed when the application is submitted.

The applicant must also provide the Officer in Charge, Marine Inspection other necessary information as to tonnage, routes, horsepower, percentage of time underway, and assigned duties upon the vessels which he or she served. Such service will be evaluated by the OCMI and forwarded to the Commandant for a determination of its equivalence to sea service acquired on merchant vessels and the appropriate grade, class, and limit of license for which the applicant is eligible. Normally, 60 percent of the total time on board is considered equivalent underway service; however, the periods of operation of each vessel may be evaluated separately. In order to be eligible for a master's or chief engineer's unlimited license, the applicant must have acquired military service in the capacity of commanding officer or engineer officer, respectively.

(b) Service in deck ratings on military vessels such as seaman apprentice, seaman, boatswain's mate, quartermaster, or radarman are considered deck service for licensing purposes. Service in other ratings may be considered if the applicant establishes that his or her duties required a watchstanding presence on or about the bridge of a vessel. Service in engineer ratings on military vessels such as fireman apprentice, fireman, engineman, machinists, mate, machinery technician or boiler tender are considered engineer service for licensing purposes. There are also other ratings such as electrician, hull technician, or damage controlman which may be credited when the applicant establishes that his or her duties required watchstanding duties in an operating engine room.

(c) In addition to underway service, members of the Armed Forces may obtain creditable service for periods of assignment to vessels at times other than underway, such as in port, at anchor, or in training. Normally, a 25% factor is applied to these time periods. This experience can be equated with general shipboard familiarity, training, ship's business, and other related duties.

(d) Sea service obtained on submarines is creditable, as if it were surface vessel service, for deck and engineer licenses under the provision of paragraph (a) of this section. For application to deck licenses, submarine service may be creditable if at least 25 percent of all service submitted for the license was obtained on surface vessels (e.g. If four years' total service were submitted for an original license, at least one year must have been obtained on surface craft in order for the submarine service to be eligible for evaluation).

(e) Service gained in a civilian capacity as commanding officer, master, mate, engineer, or pilot, etc., of any vessel owned and operated by the United States, in any service, in which a license as master, mate, engineer, or pilot was not required at the time of such service, is evaluated by the OCMI and forwarded to the Commandant for a determination of equivalence.

§ 10.215 Modification or removal of limitations.

(a) If an Officer in Charge, Marine Inspection, is satisfied by the documentary evidence submitted that an applicant is entitled by experience, training, and knowledge to an endorsement or increase in the scope of any license held, any limitations which were previously placed upon the license by that OCMI may be changed. Such an increase in scope may include horsepower or tonnage limitations, or geographic route restrictions.

(b) An OCMI may not change a limitation on any license which that office did not place thereon before full information regarding the reason for the limitation is obtained from the OCMI responsible for the limitation.

(c) No limitation on any license may be changed before the applicant has made up any deficiency in the experience prescribed for the license or endorsement desired and passed any necessary examination.

§ 10.217 Examination procedures and denial of licenses.

(a)(1) The examinations for all deck and engineer unlimited licenses are administered at periodic intervals. If the applicant fails three or more sections of the examination, a complete reexamination must be taken, but may be taken during any of the scheduled exam periods. On the subsequent exam, if the applicant again fails three or more sections, at least three months must lapse before another complete examination is attempted. If an applicant fails one or two sections of an examination, he or she may be retested twice on these sections during the next three months. If the applicant does not successfully complete these sections within the three month period, a complete reexamination must be taken, after a lapse of at least three months from the date of the last retest.

(2) The scheduling of all other deck and engineer license examinations will be at the discretion of the OCMI. In the event of a failure, the applicant may be retested twice whenever the examination can be scheduled with the OCMI. The applicant must be examined in all of the unsatisfactory sections of the preceding examination. If the applicant does not successfully complete all parts of the examination during a three month period from the

initial test date, a complete reexamination must be taken, after a lapse of at least two months from the date of the last retest.

(b) If the OCMI refuses to grant an applicant the license for which applied due to failing to pass a required examination, the applicant is furnished a written statement setting forth the portions of the examination which must be retaken and the date by which the examination must be completed.

§ 10.219 Issuance of duplicate license.

Whenever a person to whom a license has been issued loses the license, that person shall report the loss to any OCMI. A duplicate license may be issued after the OCMI receives an application with an affidavit describing the circumstances of the loss from the applicant and verification of the license record from the Regional Examination Center where it was issued or from the Commandant. The duplicate license will be prepared in the same format and wording as the license being replaced. A duplicate license is issued for the unexpired term of the lost license and bears the following statement: "This license replaces License Number ——— issued at ——— on the above date." (See 33 CFR 1.25–40(b) for fees.)

§ 10.221 Parting with license.

The holder of a license shall not voluntarily part with it or place it beyond his or her personal control by pledging or depositing it with any other person for any purpose. If the holder violates this section, he or she may be proceeded against in accordance with the provisions of Part 5 of this Chapter, looking to a suspension or revocation of the license.

§ 10.223 Suspension and revocation of licenses.

(a) When the license of any individual is revoked, it is no longer valid for any purpose and any license of the same type subsequently requested must be applied for as an original license, except as to number of issue.

(b) No person whose license is suspended without probation or has been revoked may be issued another license without approval of the Commandant.

(c) When a license which is about to expire is suspended, the renewal of such license will be withheld until expiration of the period of suspension.

Subpart C—Training Schools with Approved Courses

§ 10.301 Applicability.

This Subpart prescribes the general requirements applicable to all approved courses which may be accepted in lieu of service experience or examination required by the Coast Guard, or which satisfy course completion requirements.

§ 10.302 Course approval.

(a) The Coast Guard only approves courses satisfying regulatory requirements. The owner or operator of a training school desiring to have a course approved by the Coast Guard shall submit a written request through the appropriate Officer in Charge, Marine Inspection to the Commandant (G–MVP) U.S. Coast Guard, Washington, DC 20593–0001, that contains:

(1) A list of the curriculum including a description of and the number of classroom hours required in each subject;

(2) A description of the facility and equipment;

(3) A list of instructors including the experience, background, and the qualifications of each; and

(4) Specify the Coast Guard training requirements the course is intended to satisfy.

(b) The Coast Guard notifies each applicant in writing whether or not an approval is granted. If a request for approval is denied, the Coast Guard informs the applicant the reasons for the denial and describes what corrections are required for an approval.

(c) Unless sooner surrendered, suspended or revoked, an approval for a course at a training school that meets Coast Guard standards expires 24 months after the month in which it is issued, or on the date of any change in the ownership of the school for which it was issued, whichever occurs first.

(d) If the owner or operator of a training school desires to have a course approval renewed, they shall submit a written request to the address listed in paragraph (a) of this section. For the request to be approved, the Coast Guard must be satisfied that the content and quality of instruction remain satisfactory. Unless sooner surrendered, suspended or revoked, a renewal of the approval expires 60 months after the month it is issued, or on the date of any change in ownership of the school for which it is issued, whichever occurs first.

§ 10.303 General standards.

Each school with an approved course must:

(a) Have a well maintained facility that accommodates the students in a safe and comfortable environment conducive to learning.

(b) Have visual aids for realism, including simulators where appropriate, which are modern and well maintained and sufficient for the number of students to be accommodated.

(c) Give appropriate written or practical examinations in the course material to each student of such a degree of difficulty that a student who successfully completes them could reasonably assume that he or she would pass, on the first attempt, an examination prepared by the Coast Guard based upon knowledge requirements of the position or endorsement for which the student is being trained.

(d) Keep for at least one year after the end of each student's enrollment:

(1) Each written examination, or in the case of a practical test, a report of such test; and

(2) A record of each student's classroom attendance.

(e) Not change its approved curriculum unless approved, in writing, after the request for change has been submitted in writing through the appropriate Officer in Charge, Marine Inspection to the Commandant (G–MVP), U.S. Coast Guard.

(f) At any time the Officer in Charge, Marine Inspection shall direct, allow the Coast Guard to:

(1) Inspect its facilities, equipment, and records, including scholastic records;

(2) Conduct interviews and surveys of students to aid in course evaluation and improvement;

(3) Assign personnel to observe or participate in the course of instruction; and

(4) Supervise or administer the required examinations or practical demonstrations.

§ 10.304 Substitution of training for required service.

(a) Satisfactory completion of certain training courses approved by the Commandant may be substituted for a portion of the required service for many deck and engineer licenses and for qualified ratings of unlicensed personnel. The list of all currently approved courses of instruction including the equivalent service and applicable licenses and ratings is maintained by Commandant (G–MVP). Satisfactory completion of an approved training course may be substituted for not more than two-thirds of the required service on deck or in the engine department of deck or engineer licenses, respectively, and for qualified ratings.

(b) Service time gained at an approved training course does not satisfy recent service requirements nor does training on a simulator; however, any underway service at an approved

course may be used for this purpose. An applicant who had met the recent service requirement before entering school will not be penalized by attending the approved training course.

(c) Training obtained prior to receiving a license may not be used for subsequent raises of grade.

(d) Simulator training in combination with a Coast Guard approved training course may be submitted to the Commandant for evaluation and determination of equivalency to required sea service. Simulator training cannot be substituted for recency requirements, but may substitute for a maximum of 25 percent of the required service for any license transaction.

§ 10.305 Radar observer qualifying courses.

(a) A student who takes an approved course of training, including passing both examinations and practical demonstration on a simulator, and who meets the requirements of this section is entitled to an appropriate radar observer certificate:

(1) In a form prescribed by the school that is acceptable to the Coast Guard: and

(2) Signed by the head of the school.

(b) The following radar observer certificates are issued under this section:

(1) Radar Observer (Unlimited).

(2) Radar Observer (Inland Waters)

(3) Radar Observer (Unlimited Renewal).

(4) Radar Observer (Inland Waters Renewal).

(c) A school with an approved radar observer course may not issue a certificate listed in paragraph (b) of this section unless the student has successfully completed the appropriate curriculum as follows:

(1) Radar Observer (Unlimited). Classroom instruction, including demonstrations and practical exercises using simulators, and examination in the following subjects:

(i) Fundamentals of radar

(A) How radar works.

(B) Factors affecting the performance and accuracy of marine radar

(C) Description of the purpose and functions of the main components that comprise a typical marine radar installation.

(ii) Operation and use of radar:

(A) The purpose and adjustment of controls.

(B) The detection of malfunctions, false and indirect echoes, and other radar phenomena.

(C) The effect of sea return and weather.

(D) The limitation of radar resulting from design factors.

(E) Precautions to be observed in performing maintenance of radar equipment.

(F) Range and bearing measurement.

(G) Effect of size, shape, and composition of ship targets on echo.

(iii) Interpretation and analysis of radar information:

(A) Determining the course and speed of another vessel.

(B) Determining the time and distance of closest point of approach of a crossing, meeting, overtaking, or overtaken vessel.

(C) Detecting changes of course and/or speed of another vessel after its initial course and speed have been established.

(D) Factors to consider when determining change in course and/or speed of a vessel to prevent collision, on the basis of radar observation, with other vessels.

(iv) Plotting (any method that is graphically correct may be used):

(A) The principles and method of plotting relative and true motion.

(B) Practical plotting problems.

(2) Radar Observer (Inland Waters). Classroom instruction, including demonstration and practical exercises using simulators and examination in the subjects listed in paragraph (c)(1) of this section with emphasis on unique problems attendant to inland waters, with the exception of paragraph (c)(1)(iv) of this section.

(3) Radar Observer (Unlimited Renewal). Classroom instruction, including demonstration and practical exercises using simulators, and examination, in the subjects listed in paragraphs (c)(1) (iii) and (iv) of this section.

(4) Radar Observer (Inland Waters Renewal). Classroom instruction, including demonstration and practical exercises using simulators, and examinations in the subjects listed in paragraph (c)(1)(iii) of this section.

§ 10.307 Training schools with approved radar observer courses.

The Commandant (G-MVP) U.S. Coast Guard, 2100 Second St., Washington, DC 20593-0001, maintains the list of approved schools and specific courses. This information is available upon request by writing the aforementioned address or calling (202) 267-0224.

Subpart D—Professional Requirements for Deck Officers Licenses

§ 10.401 Ocean and near coastal licenses.

(a) Any license issued for service as master or mate on ocean waters qualifies the licensee to serve in the same grade on any waters, subject to the limitations of the license, without additional endorsement.

(b) A license issued for service as master or mate on near coastal waters qualifies the licensee to serve in the same grade on near coastal, Great Lakes, and inland waters, subject to the limitations of the license, without additional endorsement.

(c) Near coastal licenses of any gross tons require the same number of years of service as the ocean unlimited licenses. The primary differences in these licenses are the nature of the service and the professional examination as explained in Subpart I of this Part.

(d) A licensee having a master or mate near coastal license obtained with ocean service may have the license endorsed for ocean service by completing the appropriate examination deficiencies.

(e) Master or third mate near coastal unlimited licenses may be obtained by completing the prescribed examination in Subpart I of this Part and satisfying the requirements of subparagraph (g) while holding a license as unlimited master or mate, respectively, upon Great Lakes and inland waters. To have a near coastal unlimited license obtained in this manner endorsed for ocean service, the licensee must obtain 12 months of service as a deck watch officer or higher on ocean waters on vessels of 1600 gross tons or over, in addition to completing the examination topics.

(f) Masters and mates licenses for service on vessels of over 200 gross tons may be endorsed for sail or auxiliary sail as appropriate. The applicant must present the equivalent total qualifying service required for conventional licenses including at least one year of deck experience on that specific type of vessel. For example, for a license as master of vessels of not more than 1600 gross tons endorsed for auxiliary sail, the applicant must meet the total experience requirements for the conventional license, including time as mate, and the proper tonnage experience, including at least one year of deck service on appropriately sized auxiliary sail vessels. For license endorsement for service on vessels of 200 gross tons or less see individual license requirements.

(g) In order to obtain a master or mate license with a tonnage limit above 200 gross tons, or a license for 200 gross tons or less with an ocean route, the applicant must successfully complete the following training and examination requirements:

(1) approved firefighting course;
(2) approved radar observer course; and,
(3) qualification as an able seaman unlimited or able seaman limited (able seaman special or able seaman offshore supply vessels satisfy the able seaman requirement for licenses permitting service on vessels of 1600 gross tons and less).

§ 10.402 Tonnage requirements for ocean or near coastal licenses for vessels of over 1600 gross tons.

(a) All required experience for ocean or near coastal licenses for vessels of any gross tons must be obtained on vessels of over 200 gross tons with the exception of the prescribed progression from the 1600 gross ton category. At least one-half of the required experience must be obtained on vessels of over 1600 gross tons.

(b) If the applicant for an original or raise of grade of a license as master or mate does not meet the requirements of paragraph (a) of this section, a tonnage limitation is placed on the license based on the applicant's qualifying experience. The license is limited to the maximum tonnage on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 1000 gross tons, using the next higher figure when an intermediate tonnage is calculated. When the calculated limitation equals or exceeds 10,000 gross tons, the applicant is issued an unlimited tonnage license.

(c) Tonnage limitations imposed under paragraph (b) of this section may be raised or removed in the following manner:

(1) When the applicant has six months of service on vessels of over 1600 gross tons in the highest grade licensed, all tonnage limitations are removed.

(2) When the applicant has a total of six months of service on vessels of over 1600 gross tons in any licensed capacity other than the highest grade for which licensed, all tonnage limitations for the grade in which the service is performed are removed and the next higher grade license is raised to the tonnage of the vessel on which the majority of the service was performed. The total cumulative service before and after issuance of the limited license may be considered in removing all tonnage limitations.

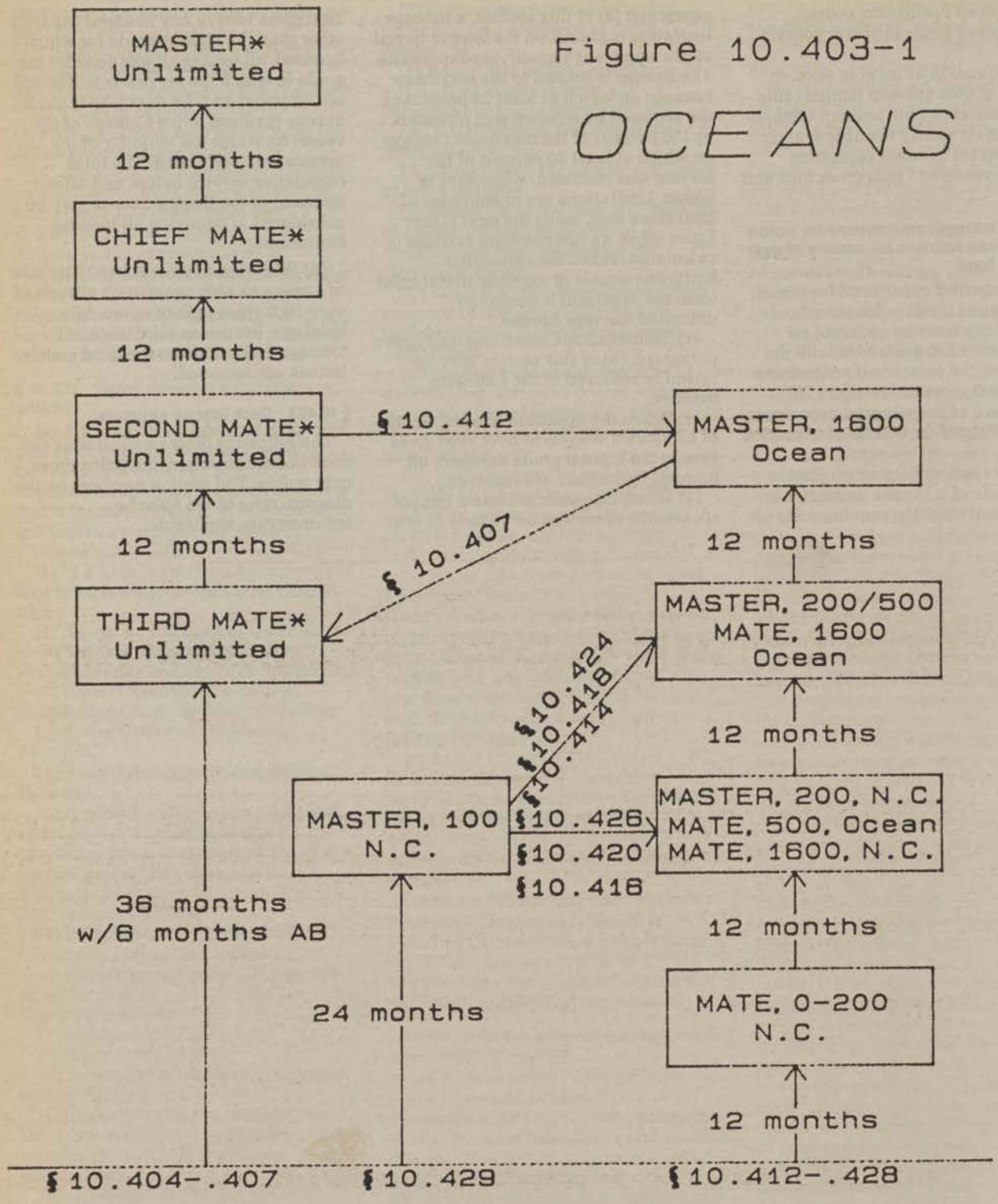
(3) When the applicant has 12 months of service as able seaman on vessels of over 1600 gross tons or over while holding a license as third mate, all tonnage limitations on the third mate's license are removed.

§ 10.403 Deck license structure.

The following diagram illustrates the deck license structure, including cross over points. The section numbers on the diagram refer to the specific requirements applicable.

Figure 10.403-1

OCEANS



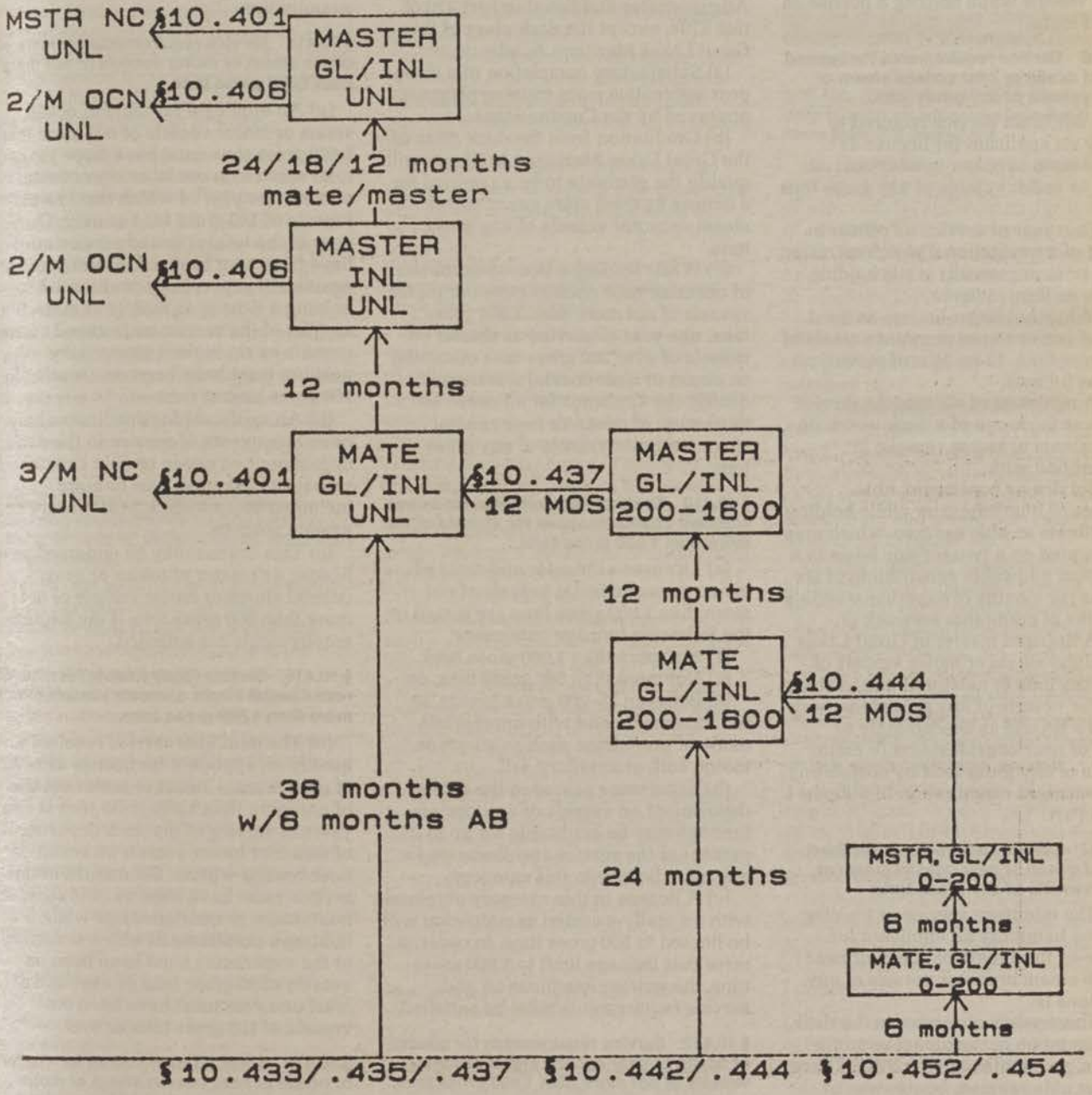
*Licenses for service on vessels of over 1600 gross tons on near coastal routes parallel this structure for service and tonnage requirements. The examinations contain all subjects except those which are appropriate only for ocean licenses, i.e., celestial navigation, ocean sailing problems etc., as indicated in Subpart 10.900.

BILLING CODE 4910-14-C

Deck License Structure

Figure 10.403-2

INLAND



§ 10.404 Service requirements for master of ocean or near coastal steam or motor vessels of any gross tons.

The minimum service required to qualify an applicant for license as master of ocean or near coastal steam or motor vessels of any gross tons is:

(a) One year of service as chief mate on ocean steam or motor vessels; or,

(b) One year of service on ocean steam or motor vessels while holding a license as chief mate of ocean steam or motor vessels as follows:

(1) A minimum of six months of service as chief mate; and,

(2) Service as officer in charge of a navigational watch accepted on a two-for-one basis (12 months as second or third mate equals six months of creditable service).

BILLING CODE 4910-14-M

§ 10.405 Service requirements for chief mate of ocean or near coastal Stream or motor vessels of any gross tons.

The minimum service required to qualify an applicant for license as chief mate of ocean or near coastal steam or motor vessels of any gross tons is one year of service as officer in charge of a navigational watch on ocean steam or motor vessels while holding a license as second mate.

§ 10.406 Service requirements for second mate of ocean or near coastal steam or motor vessels of any gross tons.

The minimum service required to qualify an applicant for license as second mate of ocean or near coastal steam or motor vessels of any gross tons is:

(a) One year of service as officer in charge of a navigational watch on ocean steam or motor vessels while holding a license as third mate; or,

(b) While holding a license as third mate of ocean steam or motor vessels of any gross tons, 12 months of service on deck as follows:

(1) A minimum of six months service as officer in charge of a deck watch on ocean steam or motor vessels; in combination with,

(2) Service as boatswain, able seaman, or quartermaster while holding a certificate as able seaman, which may be accepted on a two-for-one basis to a maximum allowable substitution of six months (12 months of experience equals 6 months of creditable service); or,

(c) A licensed master of Great Lakes and inland steam or motor vessels of any gross tons or master of inland steam or motor vessels of any gross tons, may obtain a license as second mate of ocean or near coastal steam or motor vessels of any gross tons by completing the prescribed examination in Subpart I of this Part.

§ 10.407 Service requirements for third mate of ocean or near coastal steam or motor vessels of any gross tons.

(a) The minimum service or training required to qualify an applicant for license as third mate of ocean or near coastal steam or motor vessels of any gross tons is:

(1) Three years of service in the deck department on ocean steam or motor vessels, six months of which shall have been as able seaman, boatswain, or quartermaster, while holding a certificate as able seaman. Experience gained in the engine department on vessels of appropriate tonnage may be creditable for up to three months of the service requirements for this license; or,

(2) Graduation from:

(i) The U.S. Merchant Marine Academy (deck curriculum);

(ii) The U.S. Coast Guard Academy and qualification as an underway officer in charge of a navigational watch;

(iii) The U.S. Naval Academy and qualification as an underway officer in charge of a navigational watch; or,

(iv) The deck class of a maritime academy approved by and conducted under rules prescribed by the Maritime Administrator and listed in Part 310 of this Title, except the deck class of the Great Lakes Maritime Academy; or,

(3) Satisfactory completion of a three year apprentice mate training program approved by the Commandant.

(b) Graduation from the deck class of the Great Lakes Maritime Academy will qualify the graduate to be examined for a license as third mate near coastal steam or motor vessels of any gross tons.

(c) While holding a license as master of ocean or near coastal steam or motor vessels of not more than 1,600 gross tons, one year of service as master on vessels of over 200 gross tons operating on ocean or near coastal waters will qualify the applicant for a license as third mate of ocean or near coastal steam or motor vessels of any gross tons.

§ 10.410 Tonnage requirements for ocean and near coastal licenses for vessels of not more than 1,600 gross tons.

(a) Licenses as master and mate of ocean or near coastal vessels of not more than 1,600 gross tons are issued in the following tonnage categories:

(1) Not more than 1,600 gross tons;

(2) Not more than 500 gross tons; or,

(3) Between 25–200 gross tons in 50 ton increments and with appropriate mode of propulsion such as steam or motor, sail, or auxiliary sail.

(b) Experience gained in the engine department on vessels of appropriate tonnage may be creditable for up to 25 percent of the service requirements for any mate license in this category.

(c) A license in this category obtained with an orally-assisted examination will be limited to 500 gross tons. In order to raise that tonnage limit to 1,600 gross tons, the written examination and service requirements must be satisfied.

§ 10.412 Service requirements for master of ocean or near coastal steam or motor vessels of not more than 1,600 gross tons.

(a) An applicant for master of ocean or near coastal steam or motor vessels of not more than 1,600 gross tons must have four years of total service on ocean or near coastal waters, two years of which must be on vessels of 100 gross tons or over. Two years of the total required service must have been as a licensed master or mate. One year of the service as licensed master, mate or equivalent supervisory position must have been on vessels of 100 gross tons or over.

(b) An applicant holding a license as second mate of ocean or near coastal steam or motor vessels of over 1,600 gross tons is eligible for this license upon completion of a limited examination.

§ 10.414 Service requirements for mate of ocean steam or motor vessels of not more than 1,600 gross tons.

(a) An applicant for mate of ocean steam or motor vessels of not more than 1,600 gross tons must have three years of total service on ocean or near coastal waters, one year of which must be on vessels of 100 gross tons or over. One year of the total required service must have been as a licensed master, mate or equivalent supervisory position while holding a license as master or mate. Six months of the service as licensed master or mate or equivalent supervisory position must have been on vessels of 100 gross tons or over.

(b) An applicant for this license may have three years of service in the deck department on ocean or near coastal vessels of 200 gross tons or more including at least six months of service as able seaman.

(c) This license may be endorsed on a license as master of ocean or near coastal steam or motor vessels of not more than 500 gross tons if the tonnage requirements are satisfied.

§ 10.416 Service requirements for mate of near coastal steam or motor vessels of not more than 1,600 gross tons.

(a) The minimum service required to qualify an applicant for license as mate of near coastal steam or motor vessels of not more than 1,600 gross tons is two years of service in the deck department of steam or motor vessels on ocean or near coastal waters. Six months of this service must have been as able seaman, boatswain, or quartermaster while holding a certificate as able seaman. All of the experience must have been on vessels of 50 gross tons or over and at least one year must have been on vessels of 100 gross tons or over.

§ 10.418 Service requirements for master of ocean or near coastal steam or motor vessels of not more than 500 gross tons.

(a) An applicant for a license as master of ocean or near coastal steam or motor vessels of not more than 500 gross tons must have three years total service on ocean or near coastal waters. Two years of this service must have been as a licensed master, mate or equivalent supervisory position while holding a

license as master or mate. One year of the service as licensed master or mate or equivalent must have been on vessels of 50 gross tons or over.

(b) An applicant holding a license as operator of uninspected towing vessels upon ocean or near coastal routes is eligible for this license after six months of service as operator on ocean or near coastal waters and completion of a limited examination. This requires three and one-half years of service. Two years of this service must have been served while holding a license as operator, second-class operator or mate.

§ 10.420 Service requirements for mate of ocean or near coastal steam or motor vessels of not more than 500 gross tons.

An applicant for a license as mate of ocean or near coastal steam or motor vessels of not more than 500 gross tons must have one year of service on ocean or near coastal waters as a licensed mate or equivalent supervisory position while holding a license as master, mate, operator of uninspected towing vessels, or operator of uninspected passenger vessels. Six months of this service must have been on vessels of 50 gross tons or more.

§ 10.422 Tonnage limitations and qualifying requirements for licenses as master or mate of vessels of not more than 200 gross tons.

(a) Except as noted in subparagraph (e), all licenses issued for master or mate of vessels of not more than 200 gross tons are issued in 50 gross ton increments based on the applicant's qualifying experience. The license is limited to the maximum tonnage on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 50 gross tons using the next higher figure when an intermediate tonnage is calculated.

(b) The tonnage limitation on these licenses may be raised upon completion of:

(1) At least 45 days of additional service on deck on a vessel of a higher tonnage for a tonnage increase on a mate's license; or,

(2) At least 90 days of additional service on deck on a vessel of a higher tonnage for a tonnage increase on a master's license; or,

(3) Additional service, which, when combined with all previously accumulated service, will qualify the applicant for a higher tonnage license under the basic formula; or,

(4) Six months of service on vessels within the highest tonnage increment on the license. In this case, the tonnage limitation may be raised one increment.

(c) When the service is obtained on vessels upon which licensed personnel are not required, the OCMI must be satisfied that the nature of this qualifying service (i.e., size of vessel, route, equipment, etc.) is a reasonable equivalent to the duties performed on vessels which are required to engage licensed individuals.

(d) Service gained in the engineroom on vessels of not more than 200 gross tons may be creditable for up to 25 percent of the deck service requirements for mate.

(e) When the qualifying service is obtained upon vessels of five gross tons or less, the license will be limited to vessels of not more than 25 gross tons.

§ 10.424 Service requirements for master of ocean steam or motor vessels of not more than 200 gross tons.

(a) An applicant for a license as master of ocean steam or motor vessels of not more than 200 gross tons must have a total of three years of service on ocean or near coastal waters. Service on inland waters may substitute for a maximum of 18 months of the required three years. Two years of this service must have been as a licensed master, mate or equivalent supervisory position while holding a deck license authorizing service on such vessels.

(b) An applicant is eligible for a license as master of ocean steam or motor vessels of not more than 200 gross tons if the applicant has two years of service as licensed operator or second-class operator of uninspected towing vessels upon ocean or near coastal waters. Completion of a limited examination is also required.

(c) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary sail vessels. The required 12 months of service may have been obtained prior to issuance of the master's license.

(d) In addition to any required examination, the applicant must comply with the requirements listed in § 10.401(g).

§ 10.426 Service requirements for master of near coastal steam or motor vessels of not more than 200 gross tons.

(a) An applicant for a license as master of near coastal steam or motor vessels of not more than 200 gross tons must have one year of service on ocean or near coastal waters as a licensed mate or equivalent supervisory position on steam or motor, sail, or auxiliary sail vessels, while holding a license as mate of ocean or near coastal vessels. Service on inland waters may substitute for a maximum of six of the required 12 months.

(b) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary sail vessels. The required 12 months of service may have been obtained prior to issuance of the master's license.

§ 10.428 Service requirements for mate of near coastal steam or motor vessels of not more than 200 gross tons.

(a) The minimum service required to qualify an applicant for license as mate of near coastal steam or motor vessels of not more than 200 gross tons is:

(1) Twelve months of service in the deck department of steam or motor, sail, or auxiliary sail vessels operating on ocean or near coastal waters (service on inland waters may be submitted for a maximum of six of the required 12 months); or,

(2) Three months of service in the deck department of steam or motor vessels operating on ocean, near coastal or inland waters while holding a license as master of inland steam or motor, sail or auxiliary sail propelled vessels of not more than 200 gross tons.

(b) The holder of a license as operator of uninspected passenger vessels with a near coastal route endorsement may obtain this license by completing a limited examination.

(c) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of six months of deck service on sail or auxiliary sail vessels.

(d) A license as master of near coastal steam or motor vessels may be endorsed as mate of sail or auxiliary sail vessels upon presentation of three months of service on sail or auxiliary sail vessels.

(e) In order to obtain a tonnage endorsement of over 100 gross tons, the applicant must complete the additional examination topics indicated in Subpart I of this part.

§ 10.429 Service requirements for master of near coastal steam or motor vessels of not more than 100 gross tons.

(a) An applicant for a license as master of near coastal steam or motor vessel of not more than 100 gross tons must have two years of deck service on ocean or near coastal routes.

(b) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary sail vessels. The required 12

months of service may have been obtained prior to issuance of the license.

§ 10.430 Licenses for the Great Lakes and inland waters.

Any license issued for service on the Great Lakes and inland waters is valid on all of the inland waters of the United States as defined in this Part. Any license issued for service on inland waters is valid for the inland waters of the United States, excluding the Great Lakes. As these licenses authorize service on waters seaward of the International Regulations for Preventing Collisions at Sea (COLREGS) demarcation line as defined in 33 CFR Part 80, the applicant must complete an examination on the COLREGS or the license must be endorsed with an exclusion from such waters.

§ 10.431 Tonnage requirements for Great Lakes and inland licenses for vessels of over 1600 gross tons.

(a) All required experience for Great Lakes and inland unlimited licenses must be obtained on vessels of over 200 gross tons. At least one-half of the required experience must be obtained on vessels of 1600 gross tons or over.

(b) Tonnage limitations may be imposed on these licenses in accordance with § 10.402 (b) and (c).

§ 10.433 Service requirements for master of Great Lakes and inland steam or motor vessels of any gross tons.

The minimum service required to qualify an applicant for license as master of Great Lakes and inland steam or motor vessels of any gross tons is:

(a) One year of service as mate or first class pilot while acting in the capacity of first mate of Great Lakes steam or motor vessels of more than 1600 gross tons; or,

(b) Two years of service as master of inland (excluding the Great Lakes) steam or motor vessels of more than 1600 gross tons; or,

(c) One year of service upon Great Lakes waters while holding a license as mate or first class pilot of Great Lakes and inland steam or motor vessels of more than 1600 gross tons. A minimum of six months of this service must have been in the capacity of first mate. Service as second mate is accepted for the remainder on a two-for-one basis to a maximum of six months (12 months of service equals six months of creditable service).

§ 10.435 Service requirements for master of inland steam or motor vessels of any gross tons.

The minimum service required to qualify an applicant for license as master of inland (excluding the Great Lakes) steam or motor vessels of any gross tons is:

(a) One year of service as first class pilot (of other than canal and small lakes routes) or mate of Great Lakes or inland steam or motor vessels of more than 1,600 gross tons; or,

(b) Two years of service as wheelsman or quartermaster while holding a mate/first class pilot license.

§ 10.437 Service requirements for mate of Great Lakes and inland steam or motor vessels of any gross tons.

(a) The minimum service required to qualify an applicant for license as mate of Great Lakes and inland steam or motor vessels of any gross tons is:

(1) Three years of service in the deck department of steam or motor vessels, at least three months of which must have been on vessels on inland waters and at least six months of which must have been as able seaman, inland mate, boatswain, wheelsman, quartermaster, or equivalent position;

(2) Graduation from the deck class of the Great Lakes Maritime Academy; or,

(3) While holding a license as master of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons, one year service as master on vessels of over 200 gross tons.

(b) Service gained in the engine department on vessels of appropriate tonnage may be creditable for up to six months of the service requirements under paragraph (a)(1) of this section.

§ 10.440 Tonnage limitations and service requirements for licenses as master or mate of Great Lakes and inland vessels of not more than 1600 gross tons.

(a) All required service for licenses as master or mate of Great Lakes and inland vessels of not over 1600 gross tons must be obtained on vessels of 50 gross tons or over. At least one-half of the required service must be obtained on vessels of 100 gross tons or over.

(b) No tonnage limitations are imposed between 200–1600 gross tons.

(c) Service gained in the engine department on vessels of appropriate tonnage may be creditable for up to 25 percent of the service requirements for mate.

§ 10.442 Service requirements for master of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons.

The minimum service required to qualify an applicant for license as master of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons is:

(a) One year of service as a licensed mate or equivalent supervisory position while holding a license as mate of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons; or,

(b) Six months of service as operator while holding a license as operator of uninspected towing vessels.

§ 10.444 Service requirements for mate of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons.

The minimum service required to qualify an applicant for license as mate of Great Lakes and inland steam or motor vessels of not more than 1600 gross tons is:

(a) Two years of service in the deck department of Great Lakes or inland steam or motor vessels, six months of which shall have been as able seaman, boatswain, or quartermaster, or equivalent; or,

(b) One year of service as master of steam or motor or auxiliary sail vessels of not more than 200 gross tons on vessels of 50 gross tons or over; or,

(c) Six months of service as a second class operator of uninspected towing vessels while holding such license.

§ 10.450 Tonnage limitations and qualifying requirements for licenses as master or mate of Great Lakes and inland vessels of not more than 200 gross tons.

(a) Except as noted in subparagraph (d), all licenses issued for master or mate of vessels of not more than 200 gross tons are issued in 50 ton increments based on the applicants qualifying experience in accordance with the provisions of § 10.422. See the tonnage and qualifying service discussion in § 10.422 for further clarification.

(b) Service gained in the engineroom on vessels of not more than 200 gross tons may be creditable for up to 25 percent of the deck service requirements for mate.

(c) When the service is obtained on vessels upon which licensed personnel are not required, the OCMI must be satisfied that the nature of this qualifying service (i.e., size of vessel, route, equipment, etc.) is a reasonable equivalent to the duties performed on vessels which are required to engage licensed individuals.

(d) When the qualifying service is obtained upon vessels of five gross tons or less, the license will be limited to vessels of not more than 25 gross tons.

§ 10.452 Service requirements for master of Great Lakes and inland steam or motor vessels of not more than 200 gross tons.

(a) An applicant for a license as master of Great Lakes and inland steam or motor vessels of not more than 200 gross tons must have six months of service as mate or equivalent

supervisory position on steam or motor, sail, or auxiliary sail vessels while holding a license as mate, operator or second class operator of uninspected towing vessels.

(b) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must have six months of service on sail or auxiliary sail vessels.

§ 10.454 Service requirements for mate of Great Lakes and inland steam or motor vessels of not more than 200 gross tons.

(a) The minimum service required to qualify an applicant for a license as mate of Great Lakes and inland steam or motor vessels of not more than 200 gross tons is six months of service in the deck department of steam or motor, sail, or auxiliary sail vessels.

(b) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of three months of service on sail or auxiliary sail vessels.

(c) A license as master of steam or motor vessels may be endorsed as mate of sail or auxiliary sail vessels upon presentation of three months service on sail or auxiliary sail vessels.

(d) The holder of a license as operator of uninspected passenger vessels upon inland waters may obtain an endorsement as mate of Great Lakes and inland steam or motor vessels of not more than 200 gross tons upon successful completion of an examination on rules and regulations for small passenger vessels.

(e) In order to obtain a tonnage endorsement of over 100 gross tons, the applicant must complete the additional examination topics indicated in Subpart I of this part.

§ 10.455 Service requirements for limited master of Great Lakes and inland steam or motor vessels of not more than 100 gross tons.

Limited masters' licenses for vessels of not more than 100 gross tons upon Great Lakes and inland waters may be issued to applicants to be employed by organizations such as formal camps, educational institutions, yacht clubs, and marinas with reduced service requirements. A license issued under this paragraph is limited to the specific activity and the locality of the camp, yacht club or marina. In order to obtain this restricted license, an applicant must:

(a) Have four months of service in the operation of the type of vessel for which the license is requested; and,

(b) Satisfactorily complete a safe boating course approved by the National Association of State Boating Law Administrators, or those public education courses conducted by the U.S. Power Squadron or the American National Red Cross, or a Coast Guard approved course; and,

(c) Pass a limited examination appropriate for the activity to be conducted and the route authorized.

§ 10.456 Service requirements for master of inland steam or motor vessels of not more than 100 gross tons.

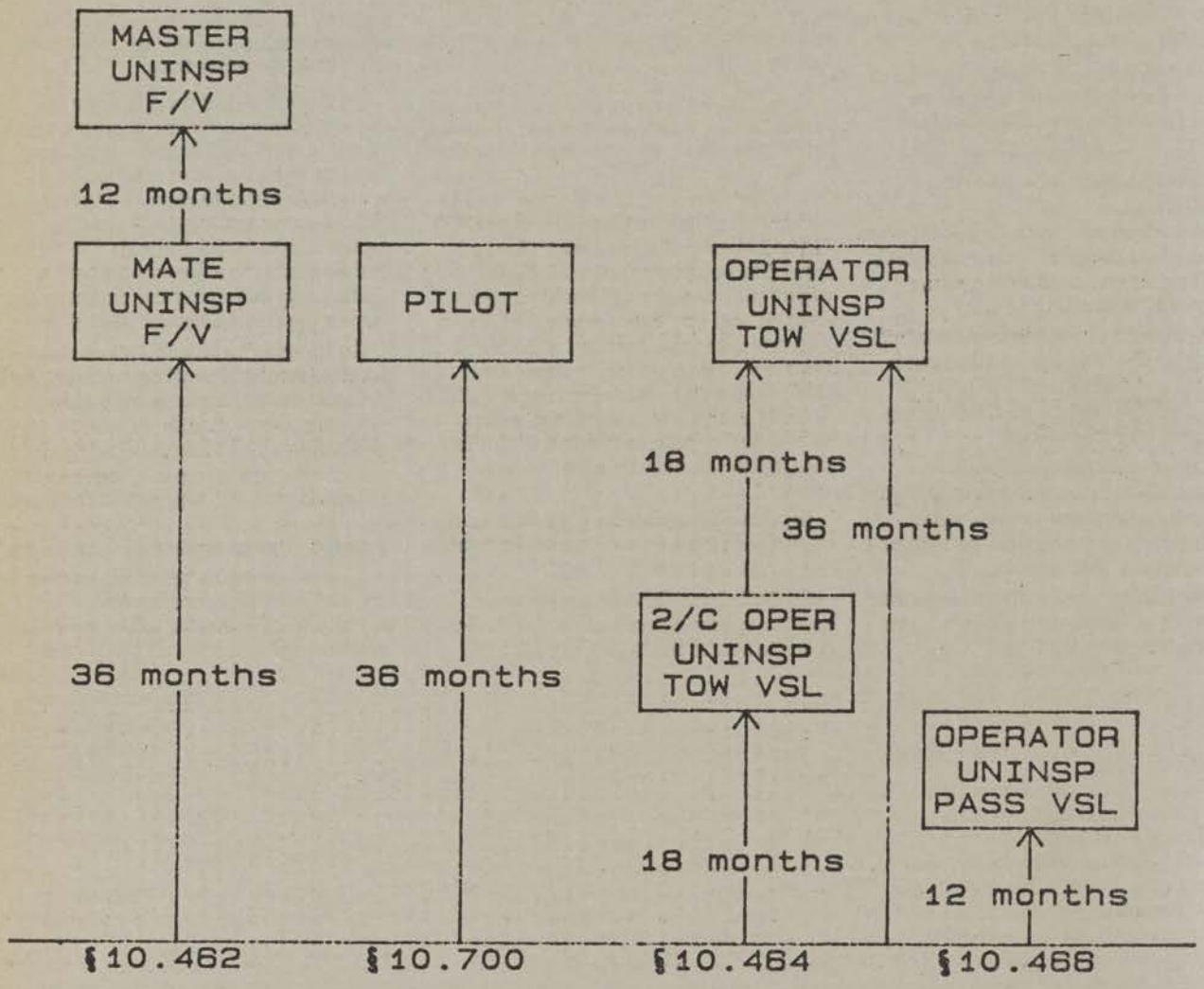
(a) An applicant for a license as master of inland steam or motor vessels of not more than 100 gross tons must present one year of service on any waters. In order to raise the tonnage limitation over 100 gross tons, the examination topics indicated in Subpart I of this Part must be completed in addition to satisfying the experience requirements of Subpart 10.452(a).

(b) In order to obtain an endorsement on this license for sail or auxiliary sail vessels, the applicant must submit evidence of six months of service on sail or auxiliary sail vessels. The required six months of service may have been obtained prior to issuance of the license.

§ 10.460 Special deck license structure.

The following diagram illustrates the special deck license structure. The section numbers refer to the specific requirements.

Figure 10.460
Special Deck License Structure



§ 10.462 Licenses for master or mate of uninspected fishing industry vessels.

(a) This section applies to licenses for masters and mates of all vessels, however propelled, navigating the high seas, which are documented to engage in the fishing industry, with the exception of:

(1) Wooden ships of primitive build;

(2) Unrigged vessels; and,

(3) Vessels of less than 200 gross tons.

(b) Licenses as master and mate of uninspected fishing industry vessels are issued for ocean waters with tonnage limitations in accordance with the provisions of § 10.402.

(c) For a license as master of uninspected fishing industry vessels, the applicant must have served four years at sea in the deck department. One year of this service must have been as a licensed mate or in an equivalent supervisory position.

(d) For a license as mate of uninspected fishing industry vessels, the applicant must have served three years at sea in the deck department.

(e) Applicants may request an oral examination on the subjects listed in Subpart I of this Part.

§ 10.464 Licenses for operator of uninspected towing vessels.

(a) Licenses are issued as operator or second-class operator of uninspected towing vessels. These licenses do not authorize service aboard uninspected towing vessels on a foreign voyage nor on those of more than 200 gross tons in ocean or near coastal service.

(b) Licenses as operator and second-class operator of uninspected towing vessels are endorsed for operation on one or more of the following geographic areas:

(1) Oceans (domestic trade) waters;

(2) Near coastal waters;

(3) Great Lakes and inland waters;

(4) Western rivers; or,

(5) A limited local area designated by the Officer in Charge, Marine Inspection.

(c) For a license as operator of uninspected towing vessels, an applicant must have one of the following:

(1) Three years of service including the following:

(i) Two years on deck of a vessel of 26 feet or over in length;

(ii) One year on deck on a towing vessel, with at least six months of training or duty in the wheelhouse of the towing vessel; and,

(iii) Three months of service in each particular geographic area for which application is made; or,

(2) Three years of service on towing vessels including the following:

(i) one year on deck, with at least six months of training or duty in the wheelhouse of the towing vessel; and,

(ii) Three months of service in each particular geographic area for which application is made; or,

(3) For a license endorsed for a limited local area, 18 months service on deck on a towings vessel within the local area, including at least three months of training or duty in the Wheelhouse of the towing vessel.

(d) For a license as second-class operator of uninspected towing vessels, an applicant must have:

(1) At least 18 months of service on deck, including 12 months on towing vessels. The service must include at least three months of training or duty in the wheelhouse of towing vessels and three months of service in each particular geographic area for which endorsement for the license is requested; or,

(2) At least six months of service on towing vessels while holding a merchant mariner's document endorsed as "able seaman unlimited, able seaman limited, or able seaman special." The service must include three months in each particular geographic area for which an endorsement is requested, and either two months of training or duty in the wheelhouse or one month training or duty in the wheelhouse combined with successful completion of a towboat operator course of training approved by the Commandant under Subpart C.

(e) In order to obtain an operator or second-class operator license for ocean (domestic trade) waters, the applicant must complete the following training and examination requirements:

(1) approved firefighting course;

(2) approved radar observer course; and,

(3) qualification as able seaman unlimited, able seaman limited, able seaman special, or able seaman offshore supply vessels.

(f) The examination for a license as operator of uninspected towing vessels endorsed for a local limited area is modified by deleting inappropriate questions.

(g) A person holding a license as second-class operator of uninspected towing vessels who is 21 years old and possesses the service required in paragraph (c) of this section may be issued a license as operator without further examination.

(h) A person holding a license as operator of uninspected towing vessels may have that license endorsed as second-class operator for a geographic area on which he or she has no operating experience, upon passing an examination for that area. Upon completion of three months of experience in that geographic area, the second-class restriction may be removed.

(i) An applicant for a license as operator or second-class operator of uninspected towing vessels who intends to serve only in the vicinity of Puerto Rico, and who speaks Spanish only, may be issued a license restricted to the navigable waters of the United States in the vicinity of Puerto Rico.

§ 10.466 Licenses for operators of uninspected passenger vessels.

(a) This section applies to all applicants for the license to operate a vessel of less than 100 gross tons, equipped with propulsion machinery of any type, carrying six or less passengers.

(b) Operator of uninspected passenger vessels licenses issued for ocean waters will be limited to near coastal waters not more than 100 miles offshore. Licenses issued for inland waters will include all inland waters, except Great Lakes. Licenses may be issued for a particular local area under paragraph (f) of this section.

(c) For a license as operator of an uninspected passenger vessel with an inland endorsement, an applicant must have a minimum of 12 months experience in the operation of vessels.

(d) For a license as operator of an uninspected passenger vessel with a near coastal endorsement, an applicant must have a minimum of 12 months experience in the operation of vessels, including at least three months service on vessels operating on ocean or near coastal waters.

(e) An operator of uninspected passenger vessels license, limited on its face to undocumented vessels, may be issued to a person who is not a citizen of the United States.

(f) Limited operator of uninspected passenger vessel licenses may be issued to applicants to be employed by organizations such as formal camps, yacht clubs, educational institutions, and marinas. A license issued under this paragraph will be limited to the specific activity and the locality of the camp, yacht club, or marina. In order to obtain this restricted license, an applicant must:

(1) Have three months service in the operation of the type of vessel for which the license is requested; and,

(2) Satisfactorily complete a safe boating course approved by the National Association of State Boating Law Administrators, or those public education courses conducted by the U.S. Power Squadron or the American National Red Cross or a Coast Guard approved course; and,

(3) Pass a limited examination appropriate for the activity to be conducted and the route authorized.

(g) An applicant for a license as operator of uninspected passenger vessels who intends to serve only in the vicinity of Puerto Rico, and who speaks Spanish only, may be issued a license restricted to the navigable waters of the United States in the vicinity of Puerto Rico.

§ 10.468 Licenses for mobile offshore drilling units [Reserved].

§ 10.470 Mobile offshore drilling unit (MODU) license structure [Reserved].

§ 10.480 Radar observer.

(a) This section contains the requirements that must be met to qualify as radar observer. Part 15 of this chapter specifies the persons who must be qualified as a radar observer.

(b) If an applicant meets the requirements in this section, one of the following radar observer endorsements will be added to a deck officer's license:

(1) Radar Observer (Unlimited).

(2) Radar Observer (Inland Waters).

(c) Endorsement as Radar Observer (Inland Waters) is valid only for those waters covered by the Inland Navigational Rules, other than the Great Lakes.

(d) Endorsement as Radar Observer (Unlimited) is valid on all waters. Except as provided in paragraphs (f) and (g) of this section, each applicant for

renewal of an endorsement must complete the appropriate course and receive the appropriate certificate of training from an approved radar training school.

(e) Each applicant for a radar observer endorsement or for renewal of an endorsement must present an approved course completion certificate to the Officer in Charge, Marine Inspection.

(f) Applicants who possess a radar observer endorsement and reside in remote geographic areas and are able to substantiate to the satisfaction of Officer in Charge of Marine Inspection, that their absence would disrupt normal movement of commerce, or that they are unable to attend an approved radar observer renewal course, may have their endorsement renewed upon successful completion of a written examination, administered by the Coast Guard.

(g) An endorsement as radar observer issued under this section is valid for five-years after the month of issuance of the certificate of training from an approved radar training school. The radar observer endorsement is not terminated by the issuance of a new license during this five year period.

(h) The month and year of the expiration of the radar observer endorsement is placed on the license.

(i) A radar observer endorsement may be renewed at any time.

(j) An applicant for renewal of a license that does not have a radar observer endorsement may renew the license without meeting the requirements for a radar observer endorsement.

(k) An applicant who does not have a radar observer endorsement may have a license raised to a higher grade or increased in scope without meeting the requirements for a radar observer endorsement.

Subpart E—Professional Requirements for Engineer Officers' Licenses

§ 10.501 Grade and type of engineer licenses issued.

(a) Licenses are issued in the grades of:

(1) Chief engineer;

(2) First assistant engineer;

(3) Second assistant engineer;

(4) Third assistant engineer;

(5) Chief engineer (limited);

(6) Assistant engineer (limited);

(7) Designated duty engineer;

(8) Chief engineer uninspected fishing industry vessels; and,

(9) Assistant engineer uninspected fishing industry vessels.

(b) Engineer licenses issued in the grades of chief engineer (limited) and assistant engineer (limited) of steam and/or motor vessels allow the holder to serve within any horsepower limitations on vessels of any gross tons on inland waters (other than the Great Lakes) and of not more than 1,600 gross tons in ocean or near coastal service in the following manner:

(1) Assistant engineer (limited—oceans) may serve on ocean waters;

(2) Chief engineer (limited—near coastal) may serve on near coastal waters; and,

(3) Chief engineer (limited-oceans) may serve on ocean waters.

(c) Engineer licenses issued in the grades of designated duty engineer of steam and/or motor vessels allow the holder to serve within stated horsepower limitations on vessels of not more than 500 gross tons in the following manner:

(1) Designated duty engineers limited to vessels of not more than 1000 horsepower or 4000 horsepower may serve only on near coastal or inland waters;

(2) Designated duty engineers with no horsepower limitations may serve on any waters.

(d) Engineer licenses are endorsed to authorize service on either steam or motor vessels or may be endorsed for both modes of propulsion.

(e) A person holding an engineer license which is restricted to near coastal waters may serve within the limitations of the license upon near coastal, Great Lakes, and inland waters.

§ 10.502 Additional requirements for engineer licenses.

(a) For all original and raise of grade of engineer licenses, at least one-third of the minimum service requirements must have been obtained on the particular mode of propulsion for which applied.

(b) If a licensed applicant desires to obtain an endorsement on an engineer license in the other propulsion mode (steam or motor), the following alternative methods are acceptable:

(1) Four months of service as an observer in the same licensed capacity on vessels of the other propulsion mode;

(2) Four months of service as a licensed officer at a lower license level on vessels of the other propulsion mode;

(3) Six months of service as oiler, watertender, or junior engineer on vessels of the other propulsion mode; or,

(4) Completion of a Coast Guard approved training course for this endorsement.

§ 10.503 Horsepower limitations.

(a) Engineer licenses of all grades and types may be subject to horsepower limitations. Other than as provided in § 10.524 for the designated duty engineer license, the horsepower limitation placed on a license is based on the applicant's qualifying experience considering the total shaft horsepower of each vessel on which the applicant has served.

(b) When an applicant for an original or raise of grade of an engineer license, other than a designated duty engineer license, has not obtained at least 50 percent of the required qualifying experience on vessels of 4,000 or more horsepower, a horsepower limitation is placed on the license based on the applicant's qualifying experience. The license is limited to the maximum horsepower on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum horsepower on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 1000 horsepower, using the next higher figure when an intermediate horsepower is calculated. When the limitation as calculated equals or exceeds 10,000 horsepower, an unlimited horsepower license is issued.

(c) The following service on vessels of 4,000 horsepower or over will be considered qualifying for the raising or removing of horsepower limitations placed on engineer licenses:

(1) Six months of service in the highest grade licensed: removal of all horsepower limitations.

(2) Six months of service in any licensed capacity other than the highest grade for which licensed: Removal of all horsepower limitations for the grade in which service is performed and raise the next higher grade license to the horsepower of the vessel on which service was performed. The total cumulative service before and after issuance of the limited license may be considered in removing all horsepower limitations.

(3) Twelve months of service as oiler or junior engineer while holding a license as third assistant engineer or assistant engineer (limited-oceans): removal of all horsepower limitations on third assistant engineer or assistant engineer's (limited-oceans) license.

(4) Six months of service as oiler or junior engineer while holding a license as second assistant engineer: removal of all horsepower limitations on third assistant engineer's license.

(d) Raising or removing horsepower limitations based on service required by paragraph (c) of this section may be

granted without further written examination providing the Officer in Charge, Marine Inspection who issued the applicant's license, considers further examination unnecessary.

§ 10.504 Engineer license structure.

The following diagram illustrates the engineering license structure including cross over points. The section numbers on the diagram refer to the specific requirements applicable.

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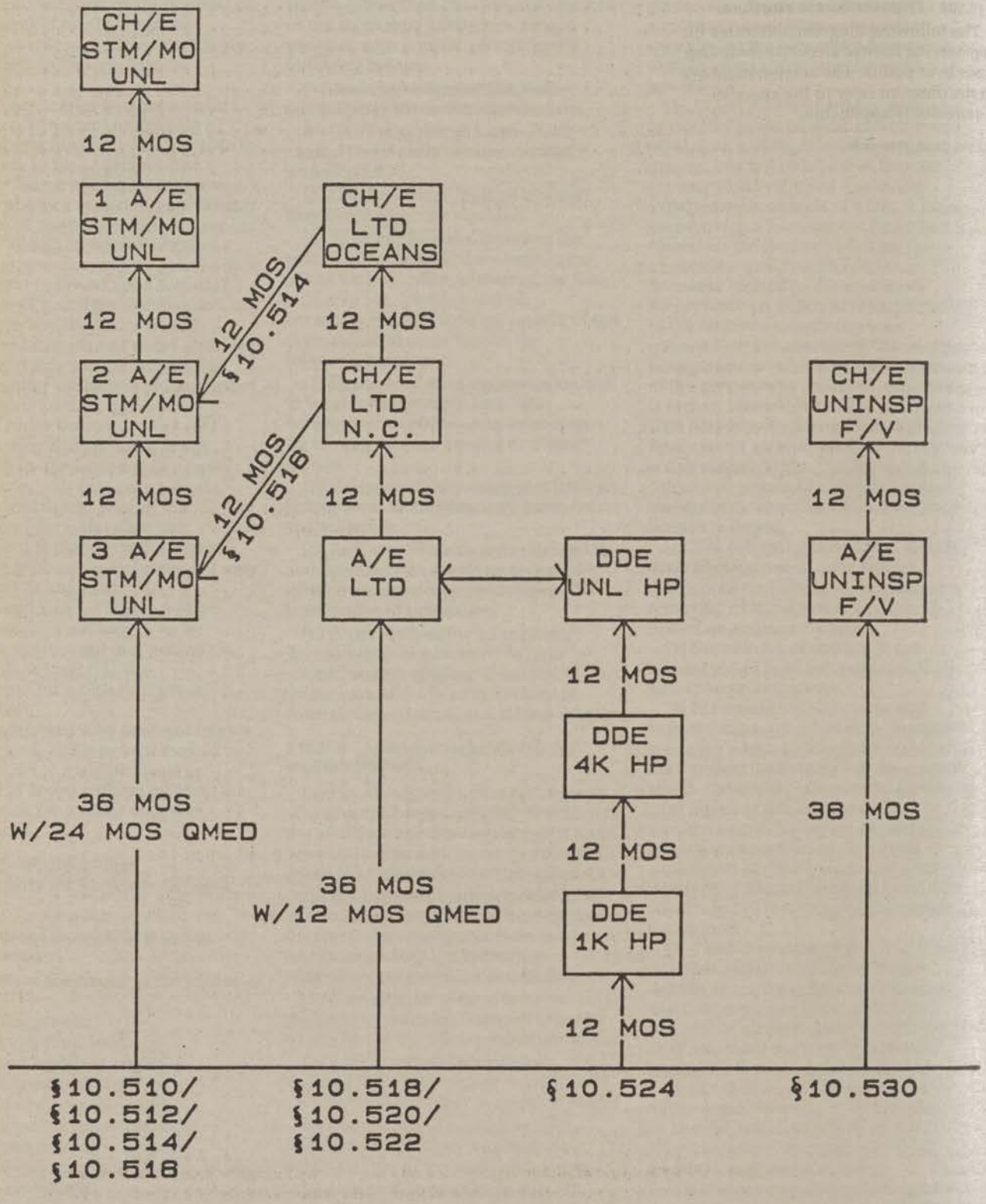
Figure 10.504 Engineer License Structure



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§ 10.510 Service requirements for chief engineer of steam and/or motor vessels.

The minimum service required to qualify an applicant for license as chief engineer of steam and/or motor vessels is:

(a) One year of service as first assistant engineer; or,

(b) One year of service while holding a license as first assistant engineer. A minimum of six months of this service must have been as first assistant engineer. Service as an assistant engineer is accepted on a two-for-one basis to a maximum of six months (12 months of service as a second or third assistant engineer equals six months of creditable service).

§ 10.512 Service requirements for first assistant engineer of steam and/or motor vessels.

The minimum service required to qualify an applicant for license as first assistant engineer of steam and/or motor vessels is one year of service as an assistant engineer, while holding a license as second assistant engineer.

§ 10.514 Service requirements for second assistant engineer of steam and/or motor vessels.

The minimum service required to qualify an applicant for license as second assistant engineer of steam and/or motor vessels is:

(a) One year of service as an assistant engineer, while holding a license as third assistant engineer; or,

(b) One year of service while holding a license as third assistant engineer which includes:

(1) A minimum of six months of service as third assistant engineer; and,

(2) Additional service as a qualified member of the engine department, calculated on a two-for-one basis; or,

(c) One year of service as chief engineer (limited-oceans) of steam or motor vessels, and completing the appropriate examination described in Subpart I of this part.

§ 10.516 Service requirements for third assistant engineer of steam and/or motor vessels.

(a) The minimum service required to qualify an applicant for license as third assistant engineer of steam and/or motor vessels is:

(1) Three years of service in the engineroom of vessels, two years of which must have been as a qualified member of the engine department;

(2) Three years of service as an apprentice to the machinist trade engaged in the construction or repair of marine, locomotive, or stationary engines, together with one year service in the engineroom as oiler, watertender, or junior engineer;

(3) Graduation from:

(i) The U.S. Merchant Marine Academy (engineering curriculum);

(ii) The U.S. Coast Guard Academy and completion of an on-board engineer officer qualification program required by the service;

(iii) The U.S. Naval Academy and completion of an on-board engineer officer qualification program required by the service;

(iv) The engineering class of a Maritime Academy approved by and conducted under the rules prescribed by the Maritime Administrator and listed in Part 310 of this Title;

(4) Graduation from the marine engineering course of a school of technology accredited by the Accreditation Board for Engineering and Technology, together with three months of service in the engine department of steam or motor vessels;

(5) Graduation from the mechanical or electrical engineering course of a school of technology accredited by the Accreditation Board for Engineering and Technology, together with six months of service in the engine department of steam or motor vessels;

(6) Satisfactory completion of a three-year apprentice engineers training program approved by the Commandant; or,

(7) One year of service as chief engineer (limited-near coastal) of steam or motor vessels and completing the appropriate examination described in Subpart I of this Part.

(b) Experience gained in the deck department on vessels of 100 gross tons or over can be credited for up to three months of the service requirements under paragraph (a)(1) of this section.

§ 10.518 Service requirements for chief engineer (limited-oceans) of steam and/or motor vessels.

The minimum service required to qualify an applicant for license as chief engineer (limited-oceans) of steam and/or motor vessels is five years total service in the engineroom of vessels. Two years of this service must have been as a licensed engineer. Thirty months of the service must have been as a qualified member of the engine department or equivalent supervisory position.

§ 10.520 Service requirements for chief engineer (limited-near coastal) of steam and/or motor vessels.

The minimum service required to qualify an applicant for license as chief engineer (limited-near coastal) of steam and/or motor vessels is four years total service in the engineroom of vessels. One year of this service must have been as a licensed engineer. Two years of the service must have been as a qualified member of the engine department or equivalent supervisory position.

§ 10.522 Service requirements for assistant engineer (limited-oceans) of steam and/or motor vessels.

The minimum service required to quailfy an applicant for license as assistant engineer (limited-oceans) of steam and/or motor vessels is three years of service in the engineroom of vessels. Eighteen months of this service must have been as a qualified member of the engine department or equivalent supervisory position.

§ 10.524 Service requirements for designated duty engineer of steam and/or motor vessels.

(a) Designated duty engineer licenses are issued in three levels of horsepower limitations dependent upon the total service of the applicant and completion of appropriate examination. These licenses are limited to vessels of not more than 500 gross tons on certain waters as specified in § 10.501.

(b) The service requirements for licenses as designated duty engineer are:

(1) For designated duty engineer of steam and/or motor vessels of any horsepower, the applicant must have three years of service in the engineroom. Eighteen months of this service must have been as a qualified member of the engine department or equivalent supervisory position.

(2) For designated duty engineer of steam and/or motor vessels of not more than 4,000 horsepower, the applicant must have two years of service in the engineroom. One year of this service must have been as a qualified member of the engine department or equivalent supervisory position.

(3) For designated duty engineer of steam and/or motor vessels of not more than 1,000 horsepower, the applicant must have one year of service in the engineroom. Six months of this service must have been as a qualified member of the engine department or equivalent supervisory position.

§ 10.530 Licenses for engineers of uninspected fishing industry vessels.

(a) This section applies to licenses for chief and assistant engineers of all vessels, however propelled, navigating the high seas, which are documented to engage in the fishing industry, with the exception of:

(1) Wooden ships of primitive build;

(2) Unrigged vessels; and,

(3) Vessels of less than 200 gross tons.

(b) Licenses as chief engineer and assistant engineer of uninspected fishing industry vessels are issued for ocean waters and with horsepower limitations in accordance with the provisions of § 10.503.

(c) For a license as chief engineer, the applicant must have served four years in the engineroom of vessels. One year of this service must have been as a licensed assistant engineer or equivalent supervisory position.

(d) For a license as assistant engineer, an applicant must have served three years in the engineroom of vessels.

(e) Two-thirds of the service required under this section must have been on motor veasels.

(f) Applicants may request an orally assisted examination on the subjects listed in Subpart I of this Part.

§ 10.540 Licenses for mobile offshore drilling units (MODUs) [Reserved].

Subpart F—Licensing of Radio Officers

§ 10.601 Applicability.

This subpart provides for the licensing of radio officers for employment on vessels.

§ 10.603 Requirements for radio officer licenses.

(a) Each applicant for an original license or renewal of license shall present a current first or second class radiotelegraph operator license issued by the Federal Communications Commission. The applicant shall enter on the license application form the number, class, and date of issuance of his or her Federal Communications Commission license.

(b) An applicant for license as radio officer shall apply for a merchant mariner's document under Part 12. This document will be endorsed "See License as Radio Officer."

(c) The application must also include a completed form CG–2765 "Coast Guard Intelligence Agency Check Request".

Subpart G—Professional Requirements for Pilots' Licenses [Reserved]

Subpart H—Registration of Staff Officers

§ 10.801 Applicability.

This Subpart provides for the registration of staff officers for employment on vessels documented or numbered under the laws of the United States. Staff officers must be registered if serving on most vessels in ocean service or on the Great Lakes.

§ 10.803 Grades of certificates issued.

Staff officers are registered in the following grades:

(a) Chief purser.

(b) Purser.

(c) Senior assistant purser.

(d) Junior assistant purser.

(e) Medical doctor.

(f) Professional nurse.

§ 10.805 General requirements.

(a) The applicant for a certificate of registry as staff officer is not required to take any examination; however, the applicant shall present to the Officer in Charge, Marine Inspection a letter justifying the need for the certificate of registry.

(b) The applicant must hold or apply for a merchant mariner s document.

(c) Endorsements for a higher grade are not made on certificates of registry. An applicant for a higher grade in the staff department shall apply in the same manner as for an original certificate of registry and shall surrender the certificate upon issuance of the new certificate of registry. A person holding a certificate of registry as staff officer may serve in a lower grade of a service for which he or she is registered.

(d) Staff officers who are members of the Naval Reserve shall comply with Title 46 U.S.C. 8302 concerning uniforms.

(e) A duplicate certificate of registry may be issued by the Officer in Charge, Marine Inspection. (See § 10.219.)

§ 10.807 Experience requirements for registry.

(a) The applicant for a certificate of registry as staff officer shall submit evidence of experience as follows:

(1) *Chief purser.* Two years of service aboard vessels performing duties relating to work in the purser's office.

(2) *Purser.* One year of service aboard vessels performing duties relating to work in the purser's office.

(3) *Senior assistant purser.* Six months of service aboard vessels performing duties relating to work in purser's office.

(4) *Junior assistant purser.* Previous experience not required.

(5) *Medical doctor.* A valid license as physician or surgeon issued under the authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(6) *Professional nurse.* A valid license as a registered nurse issued under authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(b) Employment on shore in connection with ship's business may be accepted in lieu of service aboard vessels. Related shore employment is accepted in the ratio of two months of shore service to count as one month of service aboard vessels.

(c) In computing the length of service required of an applicant for a certificate of registry, service of one season on vessels on the Great Lakes is counted as service of one year.

(d) In the event an applicant for a certificate of registry, other than medical doctor or professional nurse, presents evidence of other qualifications which, in the opinion of the Officer in Charge, Marine Inspection, is equivalent to the experience requirements of this section and is consistent with the duties of a staff officer, the Officer in Charge, Marine Inspection may issue the certificate of registry.

§ 10.809 Experience requirements for ratings endorsed on certificate of registry.

An applicant for rating to be endorsed on a certificate of registry shall submit evidence of experience as follows:

(a) *Marine physician assistant.* Successful completion of an accredited course of instruction for a physician's assistant or nurse practitioner program.

(b) *Hospital corpsman.* A rating of at least hospital corpsman or health services technician, first class in the U.S. Navy, U.S. Coast Guard, U.S. Marine Corps, or an equivalent rating in the U.S. Army (not less than staff sergeant, Medical Department, U.S.A.), or in the U.S. Air Force (not less than technical sergeant, Medical Department, U.S.A.F.), and a period of satisfactory service of at least one month in a military hospital or U.S. Public Health Service Hospital.

Subpart I—License Examination Subjects

§ 10.901 General provisions.

(a) Applicants for the licenses listed in this Subpart must pass an examination on the subjects listed prior to issuance of a license. For all deck and engineering licenses, the examination must be written, except where indicated in § 10.205(i)(1) of this part.

(b) If the license is to be limited in a manner which would render any of the subject matter unnecessary or inappropriate, the examination may be amended accordingly by the Officer in Charge, Marine Inspection. Limitations which may affect the examination content are:

(1) Restricted routes for reduced service licenses (master or mate of vessels of not more than 200 gross tons, operator of uninspected passenger vessels or uninspected towing vessels); or,

(2) Engineer licenses with horsepower restrictions.

(c) Examinations are required within each license category at entry and command levels with the exception of master of near coastal vessels of not

more than 200 gross tons, master of Great Lakes and inland vessels of not more than 200 gross tons, and operator of uninspected towing vessels when the examination was taken at the entry level.

§ 10.903 Licenses requiring examinations.

(a) The following licenses require examinations for issuance:

(1) Master ocean any gross tons;

(2) Master near coastal any gross tons; [1]

(3) Chief mate ocean any gross tons;

(4) Chief mate near coastal any gross tons; [1]

(5) Second mate ocean any gross tons;

(6) Second mate near coastal any gross tons; [1]

(7) Third mate ocean any gross tons;

(8) Third mate near coastal any gross tons; [1]

(9) Master ocean/near coastal not more than 500 or 1600 gross tons;

(10) Mate ocean/near coastal not more than 500 or 1600 gross tons;

(11) Mate near coastal not more than 200 gross tons;

(12) Master Great Lakes and inland any gross tons;

(13) Mate Great Lakes and inland any gross tons;

(14) Master inland any gross tons;

(15) Master Great Lakes and inland not more than 1600 gross tons;

(16) Mate Great Lakes and inland not more than 1600 gross tons;

(17) Mate Great Lakes and inland not more than 200 gross tons;

(18) Pilot;

(19) Operator or 2/c operator uninspected towing vessels;

(20) Operator uninspected passenger vessels;

(21) Master uninspected fishing industry vessels;

(22) Mate uninspected fishing industry vessels;

(23) Chief engineer steam/motor vessels;

(24) First assistant engineer steam/motor vessels;

(25) Second assistant engineer steam/motor vessels;

(26) Third assistant engineer steam/motor vessels;

(27) Chief engineer (limited) steam/motor vessels;

(28) Assistant engineer (limited) steam/motor vessels;

(29) Designated duty engineer steam/motor vessels;

(30) Chief engineer uninspected fishing industry vessels;

(31) Assistsnt engineer uninspected fishing industry vessels.

(b) The following licenses do not require examinations:

(1) Master ocean or near coastal not more than 200 gross tons, when raising license grade from mate near coastal not more than 200 gross tons. Master ocean not more than 200 gross tons would, however, require an examination in celestial navigation.

(2) Master Great Lakes and inland not more than 200 gross tons, when raising license grade from mate Great Lakes and inland not more than 200 gross tons.

(3) Operator of uninspected towing vessels, when raising license grade from second class operator of uninspected towing vessels (endorsed for same route).

§ 10.905 Examination reference information.

The examinations required under this Subpart are based on international agreements, statutes, regulations, and standard reference materials. Applicants should be familiar with the content and use of the following, to the extent they relate to the particular license sought:

(a) International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS);

(b) Inland Navigational Rules;

(c) "Basic Principles to be Observed in Keeping a Navigational/Engineering Watch" (Regulation II/1 and III/1 of The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978;

(d) International Medical Guide for Ships;

(e) Safety of Life at Sea, 1974 (SOLAS);

(f) Merchant Ship Search and Rescue Manual (MERSAR);

(g) International Code of Signals;

(h) International Regulations for Carriage of Goods;

(i) Titles 33, 46 and 49 of the Code of Federal Regulations;

(j) Light List;

(k) List of Lights;

(l) Radio Navigational Aids;

(m) Coast Pilot;

(n) Sailing Directions;

(o) Tide Tables;

(p) Tidal Current Tables;

(q) Nautical Almanac;

(r) Tables of Computed Altitude and Azimuth (Volume III)—Pub. 214;

(s) Sight Reduction Tables for Marine Navigation (Volume II)—Pub. 229;

(t) American Practical Navigator (Volume II)—Pub. 9;

(u) Commandant Instruction M16616.6 (old CG-388) Chemical Data Guide for Bulk Shipment by Water;

(v) Ship's Code Card.

§ 10.910 Subjects for deck licenses.

Table 10.910-1 gives the codes used in table 10.910-2 for all deck licenses. Table 10.910-2 indicates the examination subjects for each license, by code number. Figures in the body of the table, in place of the letter "x", refer to notes.

[1] Examination will differ from oceans unlimited only by deleting those subjects inappropriate for this route.

TABLE 10.910-1 Codes for Deck Licenses

[Deck Licenses]

1. Master, oceans, any gross tons
2. Master, near coastal, any gross tons
3. Chief mate, oceans, any gross tons
4. Chief mate, near coastal, any gross tons
5. Master, oceans, 500/1600 gross tons
6. Master, near coastal, 500/1600 gross tons
7. Second mate, oceans, any gross tons
8. Second mate, near coastal, any gross tons
9. Third mate, oceans, any gosss tons
10. Third mate, near coastal, any gross tons
11. Mate, oceans, 500/1600 gross tons
12. Mate, near coastal, 500/1600 gross tons
13. Master, oceans, 200 gross tons
14. Master or mate, near coastal, 200 gross tons (includes master, near coastal, 100 gross tons)
15. Operator, uninspected passenger vessels, near coastal
16. Operator, uninspected passenger vessels, inland
17. Operator, uninspected towing vessels, oceans (domestic trade)
18. Operator, uninspected towing vessels, near coastal
19. Operator, uninspected towing vessels, great lakes/inland
20. Operator, uninspected towing vessels, western rivers
21. Master, great lakes/inland, or master, inland, any gross tons
22. Mate, great lakes/inland, any gross tons

TABLE 10.910–1 Codes for Deck Licenses—Continued

[Deck Licenses]

23. Master, great lakes/inland, 1600 gross tons
24. Mate, great lakes/inland, 1600 gross tons
25. Master or mate, great lakes/inland, 200 gross tons (includes master, inland, 100 gross tons)
26. Master, uninspected fishing industry vessels
27. Mate, uninspected fishing industry vessels
28. Pilot

TABLE 10.910–2 SUBJECTS FOR DECK LICENSES

Examination Topics	License codes (Table 10.910–1)																											
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
NAVIGATION AND POSITION DETERMINATION																												
Ocean Track Plotting:																												
Middle latitude sailing	X		X		X		X		X																			
Mercator sailing	X	X	X	X	X		X		X																			
Great circle sailing	X		X				X																					
Parallel sailing	X		X				X		X																			
ETA	X	X	X	X	X		X	X	X	X	X																	
Dead reckoning			X		X		X	X	X	X	X		X				X	X								X	X	
Restricted waters navigation:																												
Piloting			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Chart navigation			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ice navigation	X	X	X	X	X	X					X																	
Restricted visibility navigation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Traffic separation schemes			X	X	X	X	X	X	X	X	X	X	X	X	X		X	X										
Extensive tidal effects	X	X	X	X	X	X																						
Speed by RPM	X	X	X	X	X	X	X	X																				
Fuel conservation	X	X	X	X	X	X																						
Celestial observations including:																												
Special cases	X																											
Latitude by Polaris	X		X		X		X				X						X											
Latitude by Meridian transit	X																											
Latitude by Meridian transit for Sun only		X	X	X	X		X	X	X	X	X		X				X									X	X	
Fix or running fix (any body)	X	X	X	X	X		X	X	X	X	X		X				X									X	X	
Star identification	X		X		X		X				X		X															
Time of Meridian transit	X																											
Time of Meridian transit for Sun only		X	X	X	X		X	X	X	X	X		X				X									X	X	
Second estimate Meridian transit	X																											
Zone time sun rise/set	X	X	X	X	X		X		X		X		X															
Zone time moon rise/set	X	X	X	X			X																					
Naut. astronomy & nav. definitions	X	X	X	X			X	X	X	X																		
Terrestrial observations:																												
Aids to navigation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Charts, nav. publications, & notices to mariners	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Piloting	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
Distance off			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X			
Bearing problems			X	X	X	X	X	X	X	X	X	X	X	X		X	X	X		X	X	X	X	X	X	X		
Fix or running fix			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X		
Electronic navigation	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X	X		X	X	X	X	X	X	X		
Instruments and accessories	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Change in draft due to density	X	X	X	X																								
Marlinspike seamanship & purchases							X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X		
WATCHKEEPING																												
COLREGS	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	1	X	X	1		1	1	1	1	1	X	X	1
Inland Navigational Rules	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Basic Principles, Watchkeeping	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X			
Navigation Safety Regs. (33 CFR 164)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
RADAR EQUIPMENT																												
Radar Observer Certificate	X	X	X	X	X	X	X	X	X	X	X	X									X	X	X	X		X	X	X
COMPASS—MAGNETIC AND GYRO																												
Principles of magnetic & gyro compass	X	X	X	X	X	X	X	X	X	X	X	X	X	X	2	2	X	X	2		X	X	X	X	2	X	X	
Magnetic compass compensation	X	X	X	X			X	X	X	X											X	X						
Magnetic & gyro compass error/corr	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	
Azimuth (any body)			X	X	X	X	X																					
Azimuth (Sun only)									X	X	X		X													X	X	
Amplitude (any body)	X	X							X																			
Amplitude (Sun only)			X	X	X		X	X	X	X	X		X															
Deviation table construction	X	X	X	X	X	X	X	X	X	X																		
Gyro controlled systems	X	X	X	X	X	X	X				X	X																
Operation & care of main gyro systems	X	X	X	X	X	X	X				X	X																
METEOROLOGY AND OCEANOGRAPHY																												
Synoptic chart weather forecasting			X	X	X	X	X	X																				
Characteristics of weather systems			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ocean current systems			X	X	X	X	X		X																	X	X	

TABLE 10.910-2 SUBJECTS FOR DECK LICENSES—Continued

Examination Topics	License codes (Table 10.910-1)																											
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
Tide and tidal current publications			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
Tide & tidal current calculations			X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X		X	X	X	X	X			X
SHIP MANEUVERING AND HANDLING																												
Approaching pilot vessel or station	X	X	X	X	X	X					X	X																X
Shiphandling in rivers, estuaries	X	X	X	X	X	X					X	X	X	X	X	X	X	X			X	X	X	X	X	X		X
Maneuvering in shallow water	X	X	X	X	X	X					X	X	X	X	X	X	X	X			X	X	X	X	X	X		X
Interaction with bank/passing ship	X	X	X	X	X	X					X	X	X	X	X	X	X	X			X	X	X	X	X	X		X
Berthing and unberthing	X	X	X	X	X	X					X	X	X	X	X	X	X	X			X	X	X		X	X		X
Anchoring and mooring			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X
Dragging, clearing fouled anchors			X	X	X	X	X	X	X	X	X	X	X	X							X	X	X	X	X	X		
Drydocking, w & w/o prior damage			X	X	X	X																						
Hvy WX ops with ship/acft distress, tow			X	X	X	X							X	X	X	X									X	X	X	
Maneuvering for launching of lifeboats and liferafts in heavy weather			X	X	X	X							X	X			X	X			X		X			X	X	
Receiving survivors from lfbts/lfrfts			X	X	X	X							X	X			X	X	X			X		X				
Gen. turn circle, pivot point, advance & transfer							X	X	X	X	X	X																
Det. man. char. major vessel types			X	X			X	X	X	X																		
Wake reduction			X	X	X	X									X	X					X	X	X	X		X		X
Ice operations			X	X	X	X											X	X	X	X	X		X					
Towing operations			X	X	X	X					X	X	X	X	X	X	X	X	X	X					X			
SHIP STABILITY, CONSTRUCTION, AND DAMAGE CONTROL																												
Principles of ship construction			X	X	X	X	X	X	X	X											X		X		X			
Trim and stability	X	X	X	X	X	X	X	X	X	X			X	X			X	X	X	X	X		X		X	X	X	
Damage trim & stability	X	X	X	X	X	X					X	X	3	3														
Stab., trim, and stress calculation	X	X	X	X	X	X	X	X					3	3														
Vessel structural members			X	X	X	X	X	X	X	X	X	X	3	3								X	X		X			
IMO ship stability recommendations	X	X	X	X																								
Damage control	X	X	X	X	X	X						X	3	3											X			
SHIP POWER PLANTS																												
Marine power plant op. principles			X	X	X	X							3	3							X		X		X			
Ship's auxiliary machinery			X	X	X	X															X		X					
Marine engineering terms			X	X	X	X							3	3							X		X		X			
Small engine operations & maint.													X	X	X	X									X			
CARGO HANDLING AND STOWAGE																												
Cargo stowage & security, including cargo gear			X	X	X	X	X	X	X	X	X	X	X	X							X	X	X	X	X			
Loading and discharge operations			X	X	X	X	X	X	X	X	X	X									X	X	X	X				
Inter. regs. (IMDG) for cargoes			X	X																								
Dangerous/hazardous cargo regulations			X	X	X	X	X	X	X	X	X	X									X		X					
Tank vessel safety			X	X	X	X	X	X	X	X	X	X									X		X					
Cargo piping and pumping systems			X	X	X	X	X	X	X	X	X	X									X		X					
Cargo oil terms and definitions			X	X	X	X	X	X	X	X	X	X									X		X					
Ball., tank clean., & gas free ops			X	X	X	X	X	X	X	X	X	X									X							
Load on top procedures			X	X	X	X	X	X	X	X	X	X																
Barge regulations (operations)																	X	X	X	X								
FIRE PREV. AND FIREFIGHTING APPLIANCES																												
Organization of fire drills			X	X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	
Classes and chemistry of fire			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Firefighting systems			X	X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	
Firefighting equip. and regulations			X	X	X	X	X	X	X	X	X	X	3	3			X	X	X	X	X	X	X	X	3	X	X	
Firefighting equip. and for T-boats													X	X											X			
Basic firefighting and prevention			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
EMERGENCY PROCEDURES																												
Ship beaching precautions			X	X	X	X															X		X					
Actions prior to/after grounding			X	X	X	X															X		X					
Refloating a grounded ship			X	X	X	X															X		X					
Collision			X	X	X	X							X	X	X		X	X	X	X	X		X		X			
Temporary repairs			X	X	X	X	X	X					X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Passenger/crew safety in emergency			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
Fire or explosion			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Abandon ship			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Emergency steering			X	X	X	X	X	X													X		X			X	X	
Res. surv. from ships/airc. in dist.			X	X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X			
Man overboard			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
MEDICAL CARE																												
Knowledge and use of—																												
Inter. Med. Guide for Ships			X	X	X	X																						
Ship Med. Chest & Med. Aid at Sea			X	X	X	X																						
Med. sec., Inter. Code of Signals			X	X	X	X	X	X	X	X																		
1st aid guide: acc. w D.G.			X	X	X	X																						
First aid			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	

TABLE 10.910-2 SUBJECTS FOR DECK LICENSES—Continued

Examination Topics	License codes (Table 10.910-1)																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
MARITIME LAW																												
International maritime law:																												
Certificates & documents required	X	X	X	X	X	X																						
Int'l convention on load lines	X	X	X	X	X	X																						
SOLAS	X	X	X	X	X								3	3														
MARPOL 73/78	X	X	X	X	X	X	X	X	X	X																		
International health regulations	X	X	X	X	X	X																						
Int'l inst. for ship/pass./crew/cargo safety	X	X	X	X	X	X																						
National maritime law:																												
Load lines	X	X	X	X	X	X					X	X	X	X			X	X	X						3			
Cert. & documentation of vessels	X	X	X	X	X	X							X	X	X	X	X	X	X	X	X		X		3	X		
Ship sanitation	X	X	X	X	X	X							X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Rules and regs for vessel insp.	X	X	X	X	X	X							3	3							X	X	X	X	3			
Rules and regs for T-boat insp.													X	X											X			
Rules & regs for uninsp. vessels													X	X	X	X	X	X	X	X						X	X	
Pollution prevention regs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X	X
COLREG responsibilities	X	X	X	X	X	X								3	3										3			
Pilotage	X	X	X	X	X	X							X	X									X					X
Licensing & certification of seaman	X	X			X	X							X	X	X	X	X	X	X	X	X		X			X	X	
Shipment & discharge, manning	X	X			X	X							X	X			X	X			X		X					
Title 46 U.S. Code	X	X	X	X	X	X															X		X					
Captain of the Port regulations, Vessel Traffic Service procedures for the route desired																												X
PERSONNEL MANAGEMENT AND TRAINING																												
Personnel management	X	X	X	X	X	X															X		X					
Shipboard organization	X	X	X	X	X	X															X		X					
Required crew training	X	X	X	X	X	X															X		X					
SHIP'S BUSINESS	X	X	X	X	X	X																						
COMMUNICATIONS																												
Practical signaling examination	X	X	X	X			X	X	X	X																		
Radiotelephone communications			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Radiotelegraphy emerg. dist. signals			X	X			X	X	X	X																		
Signals: strom/wreck/dist./special			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	
International code of signals			X	X	X	X	X	X	X	X																		
LIFESAVING																												
Survival at sea			X	X	X	X	X	X	X	X																		
Lifesaving appliance regulations			X	X	X	X	X	X	X	X	X	X	3	3							X	X	X		3			
Lifesaving appliance operation for T-boats													X	X											X			
Lifesaving appliance operation			X	X	X	X	X	X	X	X	X	X	3	3							X	X	X	X	3	X	X	
Lifesaving appliance regulations for T-boats													X	X											X			
SEARCH AND RESCUE																												
IMO merch. ship SAR manual (MERSAR)	X	X	X	X	X	X																						
AMVER	X	X	X	X	4	4																						
Chart sketch, including recommended courses, distances, prominent aids to navigation, depths of waters in channels & over hazardous shoals, & other important features of the route, such as character of the bottom																												5
SAIL/AUX. SAIL VESSELS ADDENDUM																												
Sail vessel safety precautions, rules of the road, operations, heavy weather procedures, navigation, maneuvering, and Sailing terminology (6)																												
Any other subject the OCMI considers necessary to establish the applicant's proficiency	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

1—Take COLREGS if license not limited to non-COLREGS waters.
2—Magnetic only.
3—for licenses over 100 gross tons.
4—for licenses over 1,000 gross tons.
5—The OCMI may accept chart sketching of only a portion of the route for long or extended routes.
6—Applicants for sail/auxiliary sail endorsements to master, mate or operator of uninspected passenger vessels licenses are also tested in the subjects contained in this addendum.

§ 10.920 Subjects for mobile offshore drilling unit (MODU) licenses [Reserved].

§ 10.950 Subjects for engineer licenses.

TABLE 10.950 (SUBJECTS FOR ENGINEER LICENSES)

	C/ENG. UNL		1/A ENG. UNL		2/A ENG. UNL		3/A ENG. UNL		C/E LTD		A/E LTD & DDE UNL HP		C/E UNIN		A/E UNIN		DDE	
	STM	MTR	STM	MTR	STM	MTR	STM	MTR	STM	MTR	STM	MTR	MTR	F/V	MTR	F/V	STM	MTR
I Theoretical Knowledge																		
1. Thermodynamics	X	X	X	X	X	X	X	X										
2. Combustion Processes	X	X	X	X	X	X	X	X	X	X	X	X						
3. Heat Transmission	X	X	X	X	X	X	X	X	X	X	X	X						

TABLE 10.950 (SUBJECTS FOR ENGINEER LICENSES)—Continued

	C/ENG. UNL		1/A ENG. UNL		2/A ENG. UNL		3/A ENG. UNL		C/E LTD		A/E LTD & DDE UNL HP		C/E UNIN		A/E UNIN		DDE	
	STM	MTR	STM	MTR	STM	MTR	STM	MTR	STM	MTR	STM	MTR	MTR	F/V	MTR	F/V	STM	MTR
4. Mechanics & Hydromechanics	X	X	X	X	X	X	X	X	X	X	X	X						
5. Propulsion System Operating Prin.:																		
Diesel		X		X		X		X		X		X		X		X		X
Steam	X		X		X		X		X		X						X	
6. Refrigeration	X	X	X	X	X	X	X	X	X	X	X	X						
7. Steering Gear	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
8. Properties of Fuels and Lubricants	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
9. Technology/Properties of Materials	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
10. Fire and Extinguishing Agents	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
11. Marine Electrotechnology	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
12. Marine Electronics	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
13. Marine Electrical Equipment	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
14. Automation, Instrumentation and Control Systems	X	X	X	X	X	X	X	X	X	X	X	X						
15. Naval Architecture	X	X	X	X	X	X	X	X						X		X		
16. Ship Construction	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
17. Damage Control	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
II Practical Knowledge																		
1. Operation/Maintenance:																		
Diesel Plant		X		X		X		X		X		X		X		X		X
Steam Plant	X		X		X		X		X		X						X	
2. Operation/Maintenance of Auxiliary Machinery Including: Pumping/Piping Systems, Auxiliary Boiler Plant, Steering Gear Systems, Propellers and Shafting Systems, Auxiliary Diesel Plants, Sanitary/Sewage Systems, Fresh Water Systems, Distilling Systems, Lubrication Systems, Automation Systems, Control Systems, Cooling Systems, Ventilation Systems	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
3. Operation/Testing/Control of Electrical and Control Equipment	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
4. Operation/Maintenance of:																		
Cargo Handling Equipment	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
Deck Machinery	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
5. Machinery Malfunction Detection and Action to Prevent Damage	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
6. Maintenance & Repair Procedures	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
7. Fire Prevention, Detection, and Extinction	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
8. Methods to Prevent Pollution by Vessels	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
9. Pollution Prevention Regulations	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
10. Effects of Marine Pollution on the Environment	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
11. First Aid/First Aid Equipment	X	X	X	X	X	X	X	X	X	X				X		X		
12. Lifesaving Appliances	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
13. Damage Control including Engineroom Flooding	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
14. Safe Working Practices	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
III Watchstanding																		
1. Change of Watch	X	X	X	X	X	X	X	X	X	X	X	X						
2. Routine Watch Duties	X	X	X	X	X	X	X	X	X	X	X	X		X				
3. Machinery Log Book	X	X	X	X	X	X	X	X	X	X	X	X		X				
4. Main/Auxiliary Machinery Start Up Procedures	X	X	X	X	X	X	X	X	X	X	X	X		X			X	X
5. Boiler Operation	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
6. Boiler Water Levels	X	X	X	X	X	X	X	X	X	X	X	X					X	
7. Diesel Plant Operation	X	X	X	X	X	X	X	X	X	X	X	X						
8. Routine Pumping Operations	X	X	X	X	X	X	X	X	X	X	X	X		X		X		X
9. Bilge, Ballast, Cargo Pumping Systems	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
10. Generator/Alternator Synchronizing & Shifting	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
11. Watch Safety Precautions	X	X	X	X	X	X	X	X	X	X	X	X		X				
12. Fire or Accident	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
13. Electrical Safety Precautions	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
IV Miscellaneous																		
1. Approved Fire Fighting Course	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X
2. International Rules and Regulations Regarding Machinery/Engineering	X	X	X	X	X	X	X	X	X	X	X	X		X		X		
3. U.S. Rules and Regulations Regarding Machinery/Engineering	X	X	X	X	X	X	X	X	X	X	X	X		X		X	X	X

SUBCHAPTER C—UNINSPECTED VESSELS

PART 26—OPERATIONS [AMENDED]

Subpart 26.25—Crew Requirements [Removed]

4. By removing and reserving Subpart 26.25

SUBCHAPTER D—TANK VESSELS

PART 35—OPERATIONS [AMENDED]

§§ 35.05–5 and 35.05–10 [Removed and Reserved]

5. By removing and reserving §§ 35.05–5 and 35.05–10

SUBCHAPTER P—MANNING OF VESSELS

PART 157—MANNING REQUIREMENTS [REDESIGNATED AS PART 15]

6. Part 157 of 46 CFR Subchapter P is redesignated as Part 15, added to Subchapter B, and revised to read as follows:

PART 15—MANNING REQUIREMENTS

Subpart A—Purpose and Applicability

Sec.

Subpart B—Definition of Terms

Subpart C—Manning Requirements; All Vessels

Subpart D—Manning Requirements; Inspected Vessels

Subpart E—Manning Requirements; Uninspected Vessels

Subpart F—Limitations and Qualifying Factors

Subpart G—Computations

Subpart H—Equivalents

Authority: 46 U.S.C. 2103, 3703, 8105, 8901, 8902, 8903, 8904, 9102; 50 U.S.C. 198; 49 CFR 1.46(b).

Subpart A—Purpose and Applicability

§ 15.101 Purpose of regulations.

The purpose of the regulations in this part is to set forth uniform minimum requirements for the manning of vessels. In general, they implement, interpret, or apply the specific statutory manning requirements in Title 46, United States Code, Parts E & F, implement various international conventions which affect merchant marine personnel, and provide the means for establishing the complement necessary for safe operation of vessels.

§ 15.103 General.

(a) The regulations in this Part apply to all vessels which are subject to the manning requirements contained in the navigation and shipping laws of the United States, including uninspected vessels (46 U.S.C. 7101–9308).

(b) The navigation and shipping laws state that a vessel may not be operated unless certain manning requirements are met. In addition to establishing a minimum of licensed individuals and members of the crew to be carried on board certain vessels, they establish minimum qualifications concerning licenses, citizenship, and conditions of employment. It is the responsibility of the owner, charterer, managing operator, master, or person in charge or command of the vessel to ensure that appropriate personnel are carried to meet the requirements of the applicable navigation and shipping laws and regulations.

(c) Inspected vessels are issued a certificate of inspection which indicates the minimum complement of licensed individuals and crew (including lifeboatmen) considered necessary for safe operation. The certificate of inspection complements the statutory requirements but does not supersede them.

Subpart B—Definition of Terms

§ 15.301 Definition of terms used in this part.

(a) The following terms defined in this subpart apply only to the manning of vessels subject to the manning provisions in the navigation and shipping laws of the United States:

"Deck crew (excluding licensed individuals)" means, as used in 46 U.S.C. 8702, only the following members of the deck department below the grade of licensed individual: Able seamen and ordinary seamen.

"Officer in Charge, Marine Inspection (OCMI)" for the purposes of Part 15 means any person designated as such by the Commandant and who under the Coast Guard District Commander is in charge of an inspection zone.

"Staff officer" means a person who holds a certificate of registry in the staff department such as a purser, a medical doctor or professional nurse, which is issued by the Coast Guard.

(b) The following categories of licensed individuals are established in Part 10 of this Chapter. When used in this Part, the following terms mean an individual holding a valid license to serve in that capacity issued under Part 10 of this chapter.

(1) Master;
(2) Mate;
(3) Pilot;
(4) Engineer;
(5) Radio officer;
(6) Operator of uninspected towing vessels;
(7) Operator of uninspected passenger vessels.

(c) The following categories of ratings are established in Part 12 of this Chapter. When used in this part, the following terms mean an individual holding a valid merchant mariner's document to serve in that capacity issued under Part 12 of this chapter.

(1) Able seaman;
(2) Ordinary seaman;
(3) Qualified member of the engine department;
(4) Tankerman;
(5) Lifeboatman;
(6) Wiper;

(7) Steward's department (F.H.).

Subpart C—Manning Requirements; All Vessels

§ 15.401 Employment and service within restrictions of license or document.

A person may not employ or engage an individual, and an individual may not serve, onboard a vessel subject to this Part unless the individual holds a valid license, certificate of registry, or merchant mariner's document authorizing service in the capacity in which the individual is engaged or employed and the individual serves within any restriction placed on the license, certificate of registry, or merchant mariner's document.

§ 15.405 Familiarity with vessel characteristics.

Each licensed, registered, or certificated individual must become familiar with the relevant characteristics of the vessel on which engaged prior to assuming his or her duties. As appropriate, these include but are not limited to: general arrangement of the vessel; maneuvering characteristics; proper operation of the installed navigation equipment; firefighting and lifesaving equipment; stability and loading characteristics; emergency duties; and main propulsion and auxiliary machinery, including steering gear systems and controls.

Subpart D—Manning Requirements; Inspected Vessels

§ 15.501 Certificate of inspection.

(a) The certificate of inspection (COI) issued by an Officer in Charge, Marine Inspection (OCMI), to a vessel required to be inspected under 46 U.S.C. 3301 specifies the minimum complement of officers and crew necessary for the safe operation of the vessel.

(b) The manning requirements for a particular vessel are determined by the OCMI after consideration of the applicable laws, the regulations in this part, and all other factors involved, such as: Size and type of vessel, installed equipment, proposed routes of operation, cargo carried, type of service in which employed, degree of automation, use of labor saving devices, and the organizational structure of the vessel.

§ 15.505 Changes in the certificate of inspection.

All requests for changes in manning as indicated on the certificate of inspection must be made to the OCMI who last issued the certificate of inspection, unless the request is made in conjunction with an inspection for certification, in which case the request should be addressed to the OCMI conducting the inspection.

§ 15.510 Right of appeal.

Whenever any person directly interested in or affected by any decision or action of any OCMI, feels aggrieved by such decision or action with respect to manning requirements, the person has the right to appeal such decision or action under the provisions of § 2.01–70 of this Chapter. Pending the determination of the appeal, the crew specified on the certificate of inspection must be carried.

§ 15.515 Compliance with certificate of inspection.

(a) Except as provided by § 15.725, no vessel may be operated unless it has in its service and on board the complement required by the certificate of inspection.

(b) Any vessel subject to inspection under 46 U.S.C. 3301 must, while on a voyage, be under the direction and control of an individual who holds an appropriate license issued by the Coast Guard. For the purposes of this paragraph:

(1) A voyage is the period of time necessary to transit from the port of departure to the final port of arrival.

(2) A port does not include an Outer Continental Shelf (OCS) facility as defined in 33 CFR Part 140.

§ 15.520 Mobile offshore drilling units [Reserved].

§ 15.525 Reference to other parts.

Parts 31 and 35 of this Chapter contain additional manning requirements applicable to tank vessels.

Subpart E—Manning Requirements; Uninspected Vessels

§ 15.601 General.

The following sections of Subparts F, G, and H of this Part contain provisions concerning manning of uninspected vessels; §§ 15.701, 15.705, 15.710, 15.720, 15.730, 15.801, 15.805, 15.810, 15.820, 15.825, 15.840, 15.850, 15.855, 15.905, 15.910, and 15.915.

§ 15.605 Licensed operators for uninspected passenger vessels.

Each self-propelled, uninspected vessel carrying not more than six passengers, as defined by 46 U.S.C. 2101(21)(D), must be under the direction and control of an individual licensed by the Coast Guard.

§ 15.610 Licensed operators for uninspected towing vessels.

Every uninspected towing vessel which is at least 26 feet in length measured from end to end over the deck (excluding sheer) must be under the direction and control of an individual licensed by the Coast Guard. This does not apply to a vessel of less than 200 gross tons engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.

Subpart F—Limitations and Qualifying Factors

§ 15.701 Officers Competency Certificates Convention, 1936.

(a) This section implements the Officers Competency Certificates Convention, 1936, and applies to each vessel documented under the laws of the United States navigating seaward of the Boundary Lines in Part 7 of this Chapter, except:

(1) A public vessel;

(2) A wooden vessel of primitive build, such as a dhow or junk;

(3) A barge; and,

(4) A vessel of less than 200 gross tons.

(b) The master, mates and engineers on any vessel to which this section applies must hold a license to serve in that capacity issued by the Coast Guard under Part 10 of this Chapter.

(c) A vessel to which this section applies, or a foreign flag vessel to which the Convention applies, may be detained by a designated official until that official is satisfied that the vessel is in compliance with the Convention. "Designated official" includes Coast Guard officers, Coast Guard petty officers and officers or employees of the Customs Service.

(d) Whenever a vessel is detained, the owner, charterer, managing operator, agent, master, or individual in charge may appeal the detention within five days under the provisions of § 2.01–70 of this Chapter.

§ 15.705 Watches.

(a) Title 46 U.S.C. 8104 is the law applicable to the establishment of watches aboard certain U.S. vessels. The establishment of adequate watches is the responsibility of the vessel's master. The Coast Guard interprets the term "watch" to be the direct performance of vessel operations, whether deck or engine, where such operations would routinely be controlled and performed in a scheduled and fixed rotation. The performance of maintenance or work necessary to the vessel's safe operation on a daily basis does not in itself constitute the establishment of a watch. The minimal safe manning levels specified in a

vessel's certificate of inspection takes into consideration routine maintenance requirements and ability of the crew to perform all operational evolutions, including emergencies, as well as those functions which may be assigned to persons in watches.

(b) Subject to exceptions, 46 U.S.C. 8104 requires that when a master of a seagoing vessel of more than 100 gross tons establishes watches for the licensed individuals, sailors, coal passers, firemen, oilers and watertenders, the personnel shall be "divided, when at sea, into at least three watches and shall be kept on duty successively to perform ordinary work incident to the operation and management of the vessel." The Coast Guard interprets "sailors" to mean those members of the deck department other than licensed officers, whose duties involve the mechanics of conducting the ship on its voyage, such as helmsman (wheelsman), lookout, etc., and which are necessary to the maintenance of a continuous watch. "Sailors" is not interpreted to include able seamen and ordinary seamen not performing these duties.

(c) Subject to exceptions, 46 U.S.C. 8104(g) permits the licensed individuals and crew members (except the coal passers, firemen, oilers, and watertenders) to be divided into two watches when at sea and engaged on a voyage of less than 600 miles on the following categories of vessels:

(1) Towing vessel;

(2) Offshore supply vessel; or,

(3) Barge.

(d) Subject to exceptions, 46 U.S.C. 8104(h) permits a licensed individual operating an uninspected towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding sheer) to work not more than 12 hours in a consecutive 24 hour period except in an emergency. The Coast Guard interprets this, in conjunction with other provisions of the law, to permit licensed individuals serving as operators of uninspected towing vessels that are not subject to the provisions of the Officers' Competency Certificates Convention, 1936, to be divided into two watches regardless of the length of the voyage.

(e) Fish processing vessels are subject to various provisions of 46 U.S.C. 8104 concerning watches.

(1) For fish processing vessels that entered into service before January 1, 1988, the following watch requirements apply to the licensed officers and deck crew:

(i) If over 5000 gross tons—three watches.

(ii) If more than 1600 gross tons and not more than 5000 gross tons—two watches.

(iii) If not more than 1600 gross tons—no watch division specified.

(2) For fish Processing vessels which enter into service after December 31, 1987, the following watch requirements apply to the licensed officers and deck crew:

(i) If over 5000 gross tons—three watches.

(ii) If not more than 5000 gross tons and having more than 16 individuals on board primarily employed in the preparation of fish or fish products—two watches.

(iii) If not more than 5000 gross tons and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products—no watch division specified.

§ 15.710 Working hours.

In addition to prescribing watch requirements, 46 U.S.C. 8104 sets limitations on the working hours of licensed individuals and crew members, prescribes certain rest periods, and prohibits unnecessary work on Sundays and certain holidays when the vessel is in a safe harbor. It is the responsibilty of the master or person in charge to ensure that these limitations are met. However, under 46 U.S.C. 8104(f), the master or other licensed individual can require any part of the crew to work when, in his or her judgment, they are needed for:

(a) Maneuvering, shifting berth, mooring, unmooring;

(b) Performing work necessary for the safety of the vessel, or the vessel's passengers, crew, or cargo;

(c) Saving of life on board another vessel in jeopardy; or,

(d) Performing fire, lifeboat, or other drills in port or at sea.

§ 15.715 Automated vessels.

(a) Coast Guard acceptance of automated systems to replace specific personnel or to reduce overall crew requirements is predicated upon the capabilities of the system, the system's demonstrated and continuing reliability, and a planned maintenance program that ensures continued safe operation of the vessel.

(b) The OCMI considers the capabilities of an automated system in establishing initial manning levels; however, until the system is proven reliable, a manning level adequate to operate in a continuously attended mode will be specified on a vessel's COI. It remains the responsibility of the vessel's master to determine when a continuous watch is necessary.

§ 15.720 Use of non-U.S. licensed and/or documented personnel.

(a) United States vessels which need to replace one or more persons while on a foreign voyage and outside the jurisdiction of the United States, in order to meet manning requirements, may utilize non-U.S. licensed and documented personnel until the vessel's first return to a U.S. port. The master must always be a U.S. citizen.

(b) The master shall assure that any replacement will be with an individual who holds a license or document which is equivalent in experience, training, and other qualifications to the U.S. license or document required for the position and that the person possesses or will possess the training required of the position, including an ability to communicate to the extent required by § 15.730.

§ 15.725 Sailing short.

Whenever a vessel is deprived of the service of a member of its complement, and the master or person in charge is unable to find appropriate licensed or documented personnel to man the vessel, the master or person in charge may proceed on the voyage, having determined the vessel is sufficiently manned for the voyage. A report of sailing short must be filed in writing with the Officer in Charge, Marine Inspection (OCMI) having cognizance for inspection in the area in which the vessel is operating, or the OCMI within whose jurisdiction the voyage is completed. The report must explain the cause of each deficiency and be submitted within twelve hours after arrival at the next port. The actions of the master or person in charge in such instances are subject to review and it must be shown the vacancy was not due to the consent, fault or collusion of the master or other individuals specified in 46 U.S.C. 8101(e). A civil penalty may be assessed against the master or person in charge for failure to submit the report.

§ 15.730 Language requirements.

(a) The provisions of 46 U.S.C. 8702 relating to language apply generally to vessels of at least 100 gross tons except:

(1) Vessels operating on rivers and lakes (except the Great Lakes);

(2) A manned barge (except a seagoing barge or a barge to which Chapter 37 of 46 U.S.C. applies);

(3) A fishing vessel, fish tender vessel, whaling vessel, or yacht;

(4) A sailing school vessel with respect to sailing school instructors and sailing school students;

(5) An oceanographic research vessel with respect to scientific personnel;

(6) A fish processing vessel which entered into service before January 1, 1988, and is not more than 1600 gross tons or which enters into service after December 31, 1987, and has not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and,

(7) All fish processing vessels with respect to those personnel primarily employed in the preparation of fish or fish products or in a support position not related to navigation.

(b) 46 U.S.C. 8702(b) requires that on board vessels departing U.S. ports "75 percent of the crew in each department on board is able to understand any order spoken by the officers."

(c) The words "able to understand any order spoken by the officers" relates to any order to a member of the crew when directing the performance of that person's duties and orders relating to emergency situations such as used for response to a fire or in using lifesaving equipment. It is not expected that a member of the deck department understand terminology normally used only in the engineroom or vice versa.

(d) Whenever information is presented to the Coast Guard that a vessel fails to comply with the specified language requirements the Coast Guard investigates the allegation to determine its validity. In determining if an allegation is factual, the Coast Guard may require a demonstration by the licensed individuals and crew that appropriate orders are understood. The demonstration will require that orders be spoken to the individual members of the crew by the licensed individuals in the language ordinarily and customarily used by the licensed individuals. The orders must be spoken directly by the licensed individual to the crew member and not through an interpreter. Signs, gestures, or signals may not be used in the test. The Coast Guard representative will specify the orders to be given and will include not only daily routine but orders involving emergencies, either of a departmental or of a general nature. This test will be conducted, if possible, at a time reasonably in advance of the vessel's departure, to avoid delays.

Subpart G—Computations

§ 15.801 General.

The Officer in Charge, Marine Inspection (OCMI) will determine the specific manning levels for vessels required to have certificates of inspection by Part B of Subtitle II of Title 46 U.S. Code. The masters of all vessels, whether certificated or not, are responsible for properly manning vessels in accordance with the applicable laws, regulations, and international conventions.

§ 15.805 Master.

(a) There must be an individual holding an appropriate license as master in command of each of the following vessels:

(1) Every self-propelled, seagoing documented vessel of 200 gross tons and over.

(2) Every self-propelled inspected vessel.

(3) Every inspected passenger vessel.

(b) Every vessel documented under the laws of the United States must be under the command of a U.S. citizen.

§ 15.810 Mates.

(a) The minimum number of licensed mates required to be carried on every inspected self-propelled seagoing and Great Lakes vessel, and every inspected seagoing passenger vessel is as follows:

(1) Vessels of 1000 gross tons or more—three licensed mates (except when on a voyage of less than 400 miles from port of departure to port of final destination—two licensed mates).

(2) Vessels of 100 or more gross tons but less than 1000 gross tons—two licensed mates (except vessels of at least 100 but less than 200 gross tons on voyages which do not exceed 24 hours in duration—one licensed mate).

(3) All offshore supply vessels of 100 gross tons or more—two licensed mates (except when on a voyage of less than 600 miles–one licensed mate). A voyage includes the accrued distance from port of departure to port of arrival and does not include stops at offshore points.

(4) All vessels of less than 100 gross tons—one licensed mate (except vessels on voyages not exceeding 12 hours in duration may, if the OCMI determines it to be safe, be operated without licensed mates).

(b) An individual in charge of the navigation or maneuvering of a self-propelled, uninspected, documented, seagoing vessel of 200 gross tons or over must hold an appropriate license authorizing service as mate.

(c) The OCMI may increase the minimum number of mates indicated in paragraph (a) of this section where it is deemed the vessel's characteristics, route, or other operating conditions create special circumstances requiring an increase.

(d) The Commandant will consider reductions to the number of mates required by this section when special circumstances allowing a vessel to be safely operated can be demonstrated.

§ 15.812 Pilots.

(a) The following vessels, when underway and not sailing on register, must be under the direction and control of a pilot:

(1) Coastwise seagoing vessels propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, and seagoing tank barges subject to inspection under 46 U.S.C. Chapter 37, except when seaward of pilotage waters.

(2) Vessels operating on the Great Lakes propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, and tank barges subject to inspection under 46 U.S.C. Chapter 37.

(b) (Reserved)

(c) The requirements of paragraph (a) of this section are satisfied when the vessel is under the direction or control of either:

(1) A first class pilot holding a valid license issued by the Coast Guard, acting within the restrictions on his or her license; or,

(2) An individual holding a valid license issued by the Coast Guard as master, mate, or operator, employed aboard a vessel within the restrictions on his or her license and the limitations of paragraphs (d) and (e) of this section, provided he or she:

(i) Has reached the age of 21 years;

(ii) Complies with the currency of knowledge provisions of 46 CFR 10.713 of this chapter; and,

(iii) Has a current physical examination in accordance with the provisions of 46 CFR 10.709.

(d) A licensed master or mate qualifying under paragraph (c)(2) of this section may serve as pilot of a coastwise seagoing vessel or a Great Lakes vessel, of not more than 1600 gross tons propelled by machinery and subject to inspection for certification, provided the individual has four round trips over the route to be traversed, while in the wheelhouse as watchstander or observer. One of the round trips must be made during the hours of darkness if the route is to be traversed during darkness.

(e) A licensed individual qualifying under paragraph (c)(2) of this section may serve as pilot of coastwise seagoing tank barges or tank barges operating upon the Great Lakes, totaling not more than 10,000 gross tons carrying cargoes subject to the provisions of 46 U.S.C. Chapter 37, provided the individual:

(1) Has twelve round trips over the route to be traversed, three of which must be made during the hours of darkness if the route is to be traversed during darkness, as an observer or

under instruction in the wheelhouse; and,

(2) Has at least six months' service in the deck department on towing vessels engaged in towing operations.

(f) (Reserved)

(g) In any instance when the qualifications of a person discharging the requirement for pilotage through the provisions of this Subpart are questioned by the Coast Guard, the individual shall, within a reasonable time, provide the Coast Guard with documentation proving compliance with paragraph (c) of this section and the applicable portion(s) of paragraph (d) or (e) of this section.

§ 15.815 Radar observers.

(a) Each person in the required complement of licensed deck individuals, including the master, on inspected vessels of 300 gross tons or over which are radar equipped, shall hold a valid endorsement as radar observer.

(b) Each person who is employed or serves as pilot in accordance with Federal law on board vessels of 300 gross tons or over which are radar equipped, shall hold a valid endorsement as radar observer.

§ 15.820 Chief engineer.

(a) There must be an individual holding an appropriate license as chief engineer or a license authorizing service as chief engineer employed on board the following inspected mechanically propelled vessels:

(1) seagoing or Great Lakes vessels of 200 gross tons and over.

(2) offshore supply vessels of more than 200 gross tons.

(3) inland (other than Great Lakes) vessels of 300 gross tons and over, if the OCMI determines that a licensed individual responsible for the vessel's mechanical propulsion is necessary.

(b) An individual engaged or employed to perform the duties of chief engineer on a mechanically propelled, uninspected, seagoing, documented vessel of 200 gross tons or over must hold an appropriate license authorizing service as a chief engineer.

§ 15.825 Engineers.

(a) An individual in charge of an engineering watch on a mechanically propelled, seagoing, documented vessel of 200 gross tons or over, other than an individual described in § 15.820, must hold an appropriate license authorizing service as an assistant engineer.

(b) The Officer in Charge, Marine Inspection determines the minimum number of licensed engineers required for the safe operation of inspected vessels.

§ 15.830 Radio officers.

Radio officers are required on certain merchant vessels of the United States. The determination of when a radio officer is required is based on the Federal Communications Commission requirements.

§ 15.835 Staff officers.

Staff officers, when carried, must be registered as specified in Part 10 of this Chapter.

§ 15.840 Able seamen.

(a) With certain exceptions, 46 U.S.C. 8702 applies to all vessels of at least 100 gross tons. At 1east 65 percent of the deck crew of these vessels, excluding licensed individuals, must be able seamen. For vessels permitted to maintain a two watch system, the percentage of able seamen may be reduced to 50 percent.

(b) Able seamen are rated as: unlimited, limited, special, offshore supply vessel, sail, and fishing industry, under the provisions of Part 12 of this Chapter. 46 U.S.C. 7312 specifies the categories of able seamen (i.e., unlimited, limited, etc.) necessary to meet the requirements of 46 U.S.C. 8702.

(c) It is the responsibility of the master or person in charge to ensure that the able seamen in the service of the vessel meet the requirements of 46 U.S.C. 7312 and 8702.

§ 15.845 Lifeboatmen.

The number of lifeboatmen required for a vessel are specified in the parts of the regulations dealing with the inspection of that specific type of vessel.

§ 15.850 Lookouts.

The requirements for the maintenance of a proper lookout are specified in Rule 5 of the International Regulations for Preventing Collisions at Sea, 1972, and Rule 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2005). Lookout is a function to be performed by a member of a navigational watch.

§ 15.855 Cabin watchmen and fire patrolmen.

(a) On vessels carrying passengers at night, the master or person in charge shall ensure that a suitable number of watchmen are in the vicinity of the cabins or staterooms and on each deck, to guard against and give alarm in case of fire or other danger.

(b) On a fish processing vessel of more than 100 gross tons, there must be a suitable number of watchmen trained in firefighting on board when hot work is being done, to guard against and give alarm in case of a fire.

Subpart H—Equivalents

§ 15.901 Licenses required on board inspected vessels of less than 100 gross tons.

(a) A license authorizing service as mate or pilot of vessels over 200 gross tons will also authorize service as master on vessels of not more than 100 gross tons.

(b) A license which authorizes the holder to serve as master or mate of a mechanically propelled vessel or a sail vessel subject to inspection, also authorizes the holder to serve as master or mate, respectively, of a passenger barge, subject to the route and tonnage restrictions on the license.

(c) A license which authorizes the holder to serve as master or mate of an auxiliary sail vessel subject to inspection, also authorizes the holder to serve as master or mate, respectively, of mechanically propelled or sail vessels, subject to the route and tonnage restrictions on the license.

§ 15.905 Uninspected passenger vessels.

An individual holding a license as master or mate is authorized to serve as an operator of uninspected passenger vessels within any restrictions on the individual's license.

§ 15.910 Uninspected towing vessels.

(a) An individual of 21 years or more of age holding a license as master, or a license as mate on vessels over 200 gross tons, is authorized to serve as operator of uninspected towing vessels within any restrictions on the individual's license. A mate may, however, only serve as operator on domestic routes.

(b) Whenever an uninspected towing vessel is under the direction and control of a person holding a license authorizing service as second-class operator of uninspected towing vessels, a person holding a license authorizing service as operator of uninspected towing vessels must be on board as a member of the crew.

(c) An individual of 19 years or more of age holding a license which authorizes service as mate of vessels of not more than 200 gross tons authorizes the holder to serve as second-class operator of uninspected towing vessels within any restrictions on the individual's license.

§ 15.915 Engineer licenses.

(a) The following licenses authorize the holder to serve on the vessels noted

within any restrictions on the individual's license:

(1) A designated duty engineer license authorizes service as chief or assistant engineer on vessels of not more than 500 gross tons.

(2) A chief engineer (limited, oceans) license authorizes service as chief or assistant engineer on vessels of not more than 1600 gross tons upon any waters and any gross tons upon inland waters (other than the Great Lakes).

(3) A chief engineer (limited, near coastal) license authorizes service on vessels of not more than 1600 gross tons upon near coastal and inland waters and of any gross tons upon inland waters (other than the Great Lakes).

(b) An assistant engineer (limited) license authorizes the holder to serve on vessels of not more than 1600 gross tons upon any waters and of any gross tons upon inland waters (other than the Great Lakes).

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS) [AMENDED]

PART 175—GENERAL PROVISIONS [AMENDED]

7. The authority citation for Part 175 is revised to read as follows, and all other authority citations with this part are removed:

Authority: 46 U.S.C. 3306; 49 CFR 1.46(b).

8. Section 175.01–1 is amended by revising paragraph (a) to read as follows:

§ 175.01–1 General.

(a) The regulatins in this Subchapter are prescribed by the Commandant of the Coast Guard to carry out the intent and purpose of Title 46, United States Code, sections 3301, 3302, 3307, 7101 and 8101, which require the inspection and certification of certain vessels of less than 100 gross tons carrying freight for hire or more than six passengers.

* * * * *

9. By revising § 175.10–13 to read as follows:

§ 175.10–13 Headquarters.

This term means the office of the Commandant, United States Coast Guard, Washington, DC 20593–0001.

10. By adding a new § 175.10–15 to read as follows:

§ 175.10–15 Master.

This term means the officer having command of the vessel.

PART 185—OPERATIONS [AMENDED]

11. The authority citation for Part 185 is revised to read as follows, and all other authority citations with this Part are removed:

Authority: 46 U.S.C. 3306, 6101, 8105; 49 CFR 1.46(b).

12. By revising § 185.10–1 to read as follows:

§ 185.10–1 Officers licenses.

The licensed individuals employed upon any vessel subject to the provisions of this Subchapter shall have their licenses in their possession and available for examination at all times when the vessel is operated.

13. By revising § 185.17–1 to read as follows:

§ 185.17–1 Use prohibited by law.

No person may use a vessel subject to the provisions of this Subchapter in a negligent manner so as to endanger the life, limb, or property of any person. Violations of this Subpart involving use which is grossly negligent, subject the violator, in addition to any other penalties, to the criminal penalties prescribed in 46 U.S.C. 2302.

14. By revising § 185.19–1 to read as follows:

§ 185.19–1 Duty of master.

The master of a vessel involved in a collision, accident or other casualty, to the extent possible without serious danger to his or her own vessel or persons aboard, shall render all practicable and necessary assistance to persons affected by the collision, accident, or casualty. The master shall also give his or her name, address, and the identification of his or her vessel to any person injured and to the owner of any property damaged.

15. By revising § 185.20–1 to read as follows:

§ 185.20–1 Compliance with provisions of certificate of inspection.

The master of the vessel must ensure that all of the provisions of the certificate of inspection are strictly adhered to; however, the master may divert from the route prescribed in the certificate of inspection or take such other steps as deemed necessary and prudent to assist vessels in distress or for other similar emergencies.

16. By revising § 185.20–10 to read as follows:

§ 185.20–10 Steering gear tests.

The master or mate of every vessel, before getting underway for a day's operation, shall test the steering gear, signaling whistle, controls and communication system.

17. By revising § 185.20–15 to read as follows:

§ 185.20–15 Hatches.

It shall be the duty of the master of any vessel to assure that all exposed hatches are properly secured before getting underway for a voyage on other than protected waters.

18. By revising § 185.20–20 to read as follows:

§ 185.20–20 Vessels carrying vehicles.

(a) Automobiles or other vehicles shall be stowed in such a manner as to permit their occupants to get out and away from them freely in the event of fire or other disaster. The decks, where necessary, shall be distinctly marked with painted lines to indicate the vehicle runways and the aisle spaces.

(b) The master shall take any necessary precautions to see that automobiles or other vehicles have their motors turned off and their emergency brakes set when the vessel ia underway, and that the motors are not started until the vessel is secured to the landing. In addition, the vehicles at each end shall have their wheels securely blocked, while the vessel is being navigated.

(c) The master shall have appropriate "NO SMOKING" signs posted and shall take all necessary precautions to prevent smoking or carrying of lighted or smoldering cigars, cigarettes, etc., in the deck area assigned to automobiles or other vehicles.

19. Section 185.20–30 is amended by revising paragraph (c) to read as follows:

§ 185.20–30 Use of auto pilot.

* * * * *

(c) All other hazardous navigational situations, the master shall ensure that:

(1) It is possible to immediately establish manual control of the ship's steering;

(2) A competent person is ready at all times to take over steering control; and,

(3) The changeover from automatic to manual steering and vice versa is made by, or under the supervision of the master or mate.

20. By revising § 185.22–1 to read as follows:

§ 185.22–1 Duties.

(a) At all times during which bunks in passenger areas located below the main deck are occupied, the master shall designate a member of the vessel's crew as a patrolman.

(b) The patrolman shall be stationed in the vicinity of the cabins or staterooms and on each deck to guard against and give alarm in case of fire or other danger.

§ 185.25-1 [Amended]

21. In § 185.25-1, paragraphs (a) and (d) are amended by removing the phrase "operator in charge" and adding in its place the word "master."

22. By revising § 185.25-10 to read as follows:

§ 185.25-10 Drills.

The master shall conduct drills and give instructions as necessary to ensure that all crew members are familiar with their duties.

23. By revising § 185.25-15 to read as follows:

§ 185.25-15 Officers' responsibilities.

Nothing in the recommended emergency instructions in this Subpart shall exempt any officer from the exercise of good judgment in any emergency situation.

24. By revising § 185.25-20 to read as follows:

§ 185.25-20 Tests of emergency position indicating radiobeacon (EPIRB).

The master of the vessel shall ensure that:

(a) The EPIRB required in § 180.40-1 of this Subchapter is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and,

(b) The EPIRB's battery is replaced after the EPIRB is used and before the date required by FCC regulations in 47 CFR Part 83.

PART 186—[REMOVED AND RESERVED]

25. By removing and reserving Part 186.

PART 187—[REMOVED AND RESERVED]

26. By removing and reserving Part 187.

J.C. Irwin,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

June 3, 1987.

[FR Doc. 87-23433 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Part 10

[CGD 81-059b]

Licensing of Pilots

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: The Coast Guard is republishing its rules concerning professional requirements for pilot's licenses in a revised organization and format. This is being done to make them more understandable, and compatible with the complete revision of the rules for the licensing of maritime personnel appearing elsewhere in this issue under docket (CGD 81-059). The new format and organization is intended to make them clearer and easier to apply.

DATES: Comments must be received on this Interim Final Rule on or before January 14, 1988. Effective December 1, 1987.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/21) (CGD 81-059b), U.S. Coast Guard, Washington, DC 20593-0001. Between 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Merchant Vessel Personnel Division (G-MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-0217.

SUPPLEMENTARY INFORMATION: This Interim Final Rule is open to comments. Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 81-059b), the name and address of the person submitting the comments, and the specific section of the interim final rule to which each comment is addressed. Persons desiring an acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is confirmed.

The substance of these rules concerning the professional requirements for pilot's licenses was published as a Final Rule under docket (CGD 77-084) on June 24, 1985 (50 FR 26106) and subsequently modified on March 31, 1986 (51 FR 10837). The rules are being reformatted and reorganized in this rulemaking for consistency with the rules for licensing of maritime personnel which have been completely rewritten and appear as an interim final rule under docket CGD 81-059 appearing elsewhere in this issue. They are published without prior opportunity for notice and comment because they do not change the intent or interpretation of the rules as originally published. For this reason the Coast Guard has determined, under 5 U.S.C. 553, that providing prior notice and opportunity for comment is unnecessary.

Drafting Information

The principal persons involved in drafting this rule are: Mr. John J. Hartke, Project Manager, Merchant Vessel Personnel Division and CDR Ronald C. Zabel, Project Attorney, Regulations and Administrative Law Division.

Discussion of Reformatting and Reorganization

The revision of the regulations concerning licensing of maritime personnel (46 CFR Part 10) appears elsewhere in this issue. That revision contains many provisions which duplicate portions of the rules pertaining to pilots, including the basic physical exam requirements, the acceptance of equivalent service, and examination topics; consequently these provisions have been modified or removed from the subpart concerning pilots.

Several of the sections have been reformatted and reorganized, both to be compatible with the general format of the remainder of 46 CFR Part 10 and to make the rules more understandable. Two provisions in particular have been reworded because they created some confusion. The Coast Guard has received numerous questions on how they were to be applied. These are the provisions concerning who can obtain an endorsement as first class pilot, and the provisions concerning removal of tonnage limitations. The preamble to the final rule clearly stated how these provisions would be applied. To eliminate the confusion, some of the explanatory material from the preamble has been added to the rule. In addition, endorsements as first class pilot will not be placed on licenses unless the individual is qualified as first class pilot of vessels over 1,600 gross tons, instead of 1,000 gross tons as currently noted. This is necessary to maintain compatibility with the new licensing structure and the manning provisions authorizing other license holders to serve as pilot. The new manning provisions provide that licensed masters and mates may serve as pilot on vessels of not over 1,600 gross tons. The provision authorizing operators of uninspected towing vessels to serve as pilot on coastwise seagoing tank barges totalling not more than 10,000 gross tons remains unchanged. Since specific endorsements with a tonnage limit of 1,600 gross tons or less are no longer necessary, they will no longer be issued by the Coast Guard. The Coast Guard will continue to issue first class pilots

licenses with tonnage limitations commensurate with the individuals experience even if that tonnage is 1,600 gross tons or less. In view of these changes and the fact that the companion rulemaking is being issued as an interim rule, this rulemaking is being issued as an interim rule subject to comment.

Regulatory Evaluation

This interim final rule is considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). It is not expected to have any economic impact as it is only a republication of an existing rule in a new organization and format. The economic impact of this interim final rule has been found to be so minimal that further evaluation is unnecessary. Since the impact of the rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 10

Seamen, Marine Safety, Navigation (water), Passenger vessels.

The text of this interim final rule is integrated with the remainder of the revision of Part 10 which is published in this issue of the **Federal Register.**

In consideration of the foregoing, the Coast Guard is amending Part 10 of Title 46, Code of Federal Regulations, as follows:

1. The authority citation for Part 10 continues to read as follows:

Authority: 46 U.S.C. 7101; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (2).

2. The table of contents for Part 10 is amended by adding a new Subpart G to read as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

* * * * *

Subpart G Professional Requirements for Pilot Licenses

Sec.

3. Part 10 is amended by adding a new Subpart G to read as follows:

Subpart G—Professional Requirements for Pilot Licenses

§ 10.701 Scope of pilot licenses and endorsements.

(a) An applicant for a license as first class pilot need not hold any other license issued under this Part. An individual holding a license as master, mate, or operator of uninspected towing vessels may apply for an endorsement as first class pilot for a specific route or routes in lieu of applying for a first class pilot's license.

(b) The issuance of a license or endorsement as first class pilot to an individual qualifies that individual to serve as pilot over the route(s) specified on the license, subject to any limitations imposed under paragraph (c) of this section.

(c) The Officer in Charge, Marine Inspection, issuing a license or endorsement as first class pilot, imposes appropriate limitations commensurate with the experience of the applicant, with respect to class or type of vessel, tonnage, route, and waters.

(d) A license issued for service as a master, mate, or operator of uninspected towing vessels authorizes service as a pilot under the provisions of § 15.812 of this Chapter; first class pilot endorsements to these licenses for a specific route are only issued if the individual qualifies for a tonnage limitation exceeding 1,600 gross tons.

§ 10.703 Service requirements.

(a) The minimum service required to qualify an applicant for a license as first class pilot is predicated upon the nature of the waters for which pilotage is desired.

(1) *General routes (routes not restricted to rivers, canals and small lakes).* The applicant must have at least 36 months service in the deck department of steam or motor vessels navigating on oceans, coastwise, Great Lakes, or bays, sounds, and lakes other than the Great Lakes, as follows:

(i) 18 months of the 36 months service must be as quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties.

(ii) At least 12 months of the 18 months service required in paragraph (a)(1)(i) of this section must be on vessels operating on the class of waters for which pilotage is desired.

(2) *River routes.* The applicant must have at least 36 months service in the deck department of any vessel including at least 12 months service on vessels operating on the waters of rivers while the applicant is serving in the capacity of quartermaster, wheelsman, apprentice pilot, or deckhand who stands watches at the wheel as part of routine duties.

(3) *Canal and small lakes routes.* The applicant must have at least 24 months service in the deck department of any vessel including at least 8 months service on vessels operating on canals or small lakes.

(b) A graduate of the Great Lakes Maritime Academy in the deck class meets the service requirements of this section for a license as first class pilot on the Great Lakes.

(c) Completion of a course of pilot training approved by the Commandant under Subpart C of this Part may be substituted for a portion of the service requirements of this section in accordance with § 10.304. Additionally, round trips made during this training may apply toward the route familiarization requirements of § 10.705. An individual using substituted service must have at least nine months of shipboard service.

§ 10.705 Route familiarization requirements.

(a) The Officer in Charge, Marine Inspection having jurisdiction determines, within the range limitations specified in this section, the number of round trips required to qualify an applicant for a particular route, considering the following:

(1) The geographic configuration of the waterway;

(2) The type and size of vessels using the waterway;

(3) The abundance or absence of aids to navigation;

(4) The background lighting effects;

(5) The known hazards involved, including waterway obstructions or constrictions such as bridges, narrow channels, or sharp turns; and,

(6) Any other factors unique to the route that the OCMI deems appropriate.

(b) An applicant for an original license as first class pilot shall furnish evidence of having completed a minimum number of round trips, while serving as quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties, over the route sought. The range of round trips for an initial license is a minimum of 12 round trips and a maximum of 20 round trips. An applicant may have additional routes added to the first class pilot license by meeting the requirements for obtaining an endorsement.

(c) An applicant for an endorsement as first class pilot for a particular route shall furnish evidence of having completed the number of round trips over the route, specified by the Officer In Charge, Marine Inspection, within the range limitations of this paragraph, for the particular grade of existing license held. The range of round trips for an endorsement is a minimum of 8 round trips and a maximum of 15 round trips.

(d) Unless determined impracticable by the OCMI, 25% of the round trips required by the OCMI under this section must be made during the hours of darkness.

(e) One of the round trips required by the OCMI under this section must be made over the route within the six months immediately preceding the date of application.

§ 10.707 Examination requirements.

(a) An applicant for a license as first class pilot is required to pass the examination described in Subpart I of this part.

(b) An applicant for an extension of route, or a licensed master or mate authorized to serve on vessels of over 1,600 gross tons seeking an endorsement as first class pilot, is required to pass those portions of the examination described in Subpart I of this Part that concern the specific route for which endorsement is sought.

§ 10.709 Annual physical examination requirements.

(a) This section applies only to an individual who pilots a vessel of 1,600 gross tons and over.

(b) Every person holding a license or endorsement as first class pilot shall have a thorough physical examination each year while holding the license or endorsement.

(c) Each annual physical examination must meet the requirements specified in § 10.205(d) except that the record of examination need not be submitted to the Coast Guard except as provided for in paragraph (e) of this section.

(d) An individual's first class pilot license or endorsement becomes invalid on the first day of the month following the first anniversary of the individual's most recent physical examination satisfactorily completed; the individual may not operate under the authority of that license or endorsement until a physical examination has been satisfactorily completed.

(e) Upon request, a first class pilot shall provide the Coast Guard with a copy of his or her most recent physical examination.

§ 10.711 Tonnage requirements.

(a) In order to obtain a first class pilot license or endorsement authorizing service on vessels of "any gross tons" over a particular route, the applicant must have sufficient experience on vessels of over 1,600 gross tons.

(b) If an applicant does not have sufficient experience on vessels of over 1,600 gross tons, the license or endorsement will be for a limited tonnage until the applicant completes a number of additional round trips, as determined by the OCMI, within the range contained in § 10.705 (b) or (c), as appropriate, on vessels of over 1,600 gross tons.

(c) For purposes of this section, an applicant is considered to have sufficient experience if the applicant has 18 months experience as master, mate, quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties, on vessels of 1,600 gross tons or over, and two-thirds of the minimum number of round trips required for the route have been on vessels of 1,600 gross tons or over.

(d) For purposes of this section, for experience with respect to tonnage on towing vessels, the combined gross tonnage of the towing vessel and the vessel(s) towed will be considered. However, the OCMI may require that all or a portion of the required number of round trips be obtained on self-propelled vessels of 1,600 gross tons or over, when the OCMI determines that due to the nature of the waters and the overall experience of the applicant, self-propelled vessel experience is necessary to obtain a first class pilot license or endorsement that is not restricted to tug and barge combinations.

§ 10.713 Requirements for maintaining current knowledge of waters to be navigated.

(a) If a first class pilot has not served over a particular route within the past 60 months, that person's license or endorsement is invalid for that route, and remains invalid until the individual has made one re-familiarization round trip over that route, except as provided in paragraph (b) of this section. Whether this requirement is satisfied or not has no effect on the renewal of a license or endorsement. Round trips made within the 90 day period preceding renewal will be valid for the duration of the renewed license or endorsement.

(b) For certain long or extended routes, the OCMI may, at his discretion, allow the re-familiarization requirement to be satisfied by reviewing appropriate navigation charts, coast pilots tide and current tables, local Notice to Mariners, and any other materials which would provide the pilot with current knowledge of the route. Persons using this method of re-familiarization shall certify, when applying for renewal of their license or endorsement, the material they have reviewed and the dates on which this was accomplished. Review within the 90 day period preceding renewal is valid for the duration of the renewed license or endorsement.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

Dated: May 27, 1987.

[FR Doc. 87-23431 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Parts 10 and 15

[CGD 81-059a]

Licensing of Officers and Operators for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This interim final rule deals solely with the licensing of officers on mobile offshore drilling units (MODUs) and the manning of these vessels. The licensing structure implements National Transportation Safety Board (NTSB) recommendations for the establishment of personnel qualifications and manning regulations for this type of vessel. Compliance with these minimum standards will ensure that qualified individuals are on board to deal with marine safety related matters. This rule will establish three industry-restricted licenses and five sub-categories within one major class of license (the offshore installation manager) and serve as a basis for establishing minimum MODU manning requirements. These regulations are necessary to address the unique characteristics, operating conditions and procedures, service, and extraordinary chain of command and authority inherent in the offshore oil drilling industry. They are being published in conjunction with the complete revision of 46 CFR Part 10 concerning the licensing of maritime personnel under docket number (CGD 81-059) which appears elsewhere in this issue of the **Federal Register.**

DATES: Comments must be received on or before January 14, 1988. This regulation is effective on April 1, 1989, except §§ 15.301 and 15.520 which will be effective on October 1, 1989.

ADDRESSES: Comments should be submitted to: The Executive Secretary, Marine Safety Council (G–CMC/21) [CGD 81–059a] U.S. Coast Guard, Washington, DC 20593–0001. Between 8:00 a.m. and 3:00 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: LCDR Gerald D. Jenkins, Project Manager, Office of Marine Safety, Security, and Environmental Protection (G–MVP), phone (202) 267–0224.

SUPPLEMENTARY INFORMATION: Although this is an interim final rule, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the name and address of the person making them, identify this interim final rule [CGD 81–059a], the specific section of the interim final rule to which the comment applies, and the reason for the comment. Persons desiring an acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received before expiration of the comment period will be considered before final action is confirmed. The delay in placing these regulations in effect will provide the industry time to qualify personnel for the required licenses. Considerable effort on the part of the Coast Guard and industry will be required to prepare the required examinations and course guidelines. In the interim, the Coast Guard will continue to offer licenses as master, mate, chief engineer, and assistant engineer of MODU's.

Drafting Information

The principal drafters of this interim final rule are: CDR George N. Naccara, Office of Merchant Marine Safety, and CDR Ronald C. Zabel, Office of Chief Counsel.

Background

The Notice of Proposed Rulemaking to completely revise licensing regulations in Part 10 of Title 46, Code of Federal Regulations, published on August 8, 1983, (48 FR 35920) included proposed rules which formalized the special industry licenses and extended their application to all mobile offshore drilling units. As a result of comments received, a separate Supplemental Notice of Proposed Rulemaking (SNPRM) concerning the licensing of officers on mobile offshore drilling units (MODU's) and the manning of these vessels was published on October 24, 1985 (50 FR 43366). Six public hearings were held and forty-five specific written comments were received on this project. While there was generally much support for the Coast Guard effort, particularly in conjunction with the industry directed Marine Task Analysis, further changes were necessary to address the differing modes of operation and the types of MODUs. The International Association of Drilling Contractors (IADC) prepared and offered the Coast Guard a marine task analysis for key marine positions on the major types of MODUs in various modes of operation. This report analyzed realistic industry practices and those tasks required of the key marine positions. It also identified personnel training and qualification standards and essential marine tasks. The report provided valuable industry information to the Coast Guard and has been utilized in preparing the proposed rules and this interim final rule. The report is included in the public docket and is available for inspection and copying. Manning examples are also included in the preamble to this rule to provide affected personnel information on Coast Guard manning policy. One should note the variables indicated on the positions, realizing that the final manning is a function of the determinations made by the local Officer in Charge, Marine Inspection.

This interim final rule, in agreement with the industry task analysis, does not require any conventionally licensed personnel on the non-self-propelled units. A person with extensive experience in the drilling industry and an understanding and appreciation for the marine aspects of drilling offshore is most suited for command on a non-self-propelled MODU. The problem of correlating offshore drilling operations with the conventional command structure of a vessel also exists in other countries of the world where MODUs are registered. There is recognition of the need for unique personnel qualifications to meet the demands of both industrial and marine safety. Discussions have been held at the International Maritime Organization (IMO) at various times during recent years. Certain countries have requested the IMO subcommittee on Standards of Training and Watchkeeping (STW) to establish uniform international standards of training and knowledge necessary for persons holding responsible positions on board MODUs. The United States has opposed this, arguing that the IMO subcommittee should "confine its consideration to the conventional maritime training and qualification standards appropriate * * * while in transit and on site floating. * * *" The U.S. position paper delivered to IMO asserted that "consideration of the industrial aspects of such [MODU] operations is believed to be beyond the traditional expertise of the subcommittee and should remain within the authority of each administration. It is indeed a difficult matter to determine the needed qualifications for a person in charge of a MODU since industrial and maritime aspects are so intertwined. The industrial aspects tend to override the marine aspects in terms of specialized knowledge. This knowledge is typically obtained by on-the-job training coupled with short-term shoreside training courses, which include portions dealing with maritime procedures and responsibilities." Therefore, it is the Coast Guard's position that each country should be left to develop appropriate training standards and qualifications for the marine crews and those having joint marine/industrial responsibilities on MODUs. This approach is reflected in this interim final rule.

The only statements concerning personnel qualifications and training on MODUs issued by the STW subcommittee exist in a working paper (STW/WP.4) and in IMO Resolution A.538(13) which mention the necessary familiarity the person-in-charge should have with the characteristics, capabilities and limitations of the unit. These nearly identical documents further state that the person in charge must be fully cognizant of his responsibilities for conducting emergency drills, and that certain designated persons should possess the capability to operate all firefighting equipment and life-saving appliances. These concepts are also followed in this interim final rule.

Discussion of Comments

It was very encouraging to note the quality and constructive criticism contained in the forty-five comments received. The interim final rule was prepared not only with the written comments in mind, but also based on the discussions held at the public hearings. To conform with the approach taken in the revision of Part 10 all license exam topics are listed in a table similar to that prepared for conventional licenses and the MODU engineer exam topics have been added to the conventional engineer license table. In response to comments the following

adjustments have been made: MODU chief and assistant engineer licenses (which are already being issued) are provided for as alternative manning compliance for certain units in various modes of operation; lifeboatman certification is required for deck licenses in lieu of able seaman qualification; and the license of offshore installation manager is subdivided into five categories to address the unique training requirements an qualifications for the different unit types and modes of operation. In view of the changes and the fact that the companion rule is being published as an interim rule, the rulemaking is being published as an interim rule, subject to comment.

Specific Comment Areas

1. Public Hearings

After publication of the supplemental notice, six hearings were held in Seattle, Washington; San Francisco, California; New York, New York; Washington, DC; Houston, Texas; and New Orleans, Louisiana. Prior to the public hearings, the Coast Guard sent 2500 copies of the proposal to a Coast Guard maintained mailing list and to large associations for reprinting and dissemination to their membership. At the public hearings, the Coast Guard, in a departure from standard public hearing format, introduced the supplemental notice, discussed the highlights of the notice, and then responded immediately to most of the public comments. This process provided opportunity for the constructive exchange of ideas and enhanced the rulemaking process. Public hearings are not planned on this interim final rule unless meaningful substantive issues are raised during the comment period.

2. MODU Deck Licenses

The interim final rule adopts the three new specialized licenses proposed in the SNPRM for service on MODU's. Although the titles given these licenses are offshore installation manager (OIM), barge supervisor (BS), and ballast control operator (BCO), to reflect their specialized nature, they are considered the equivalent of the conventional licenses of master and mate. The terms "master" and "mate" are used in 46 U.S.C. 7101, the Coast Guard's specific licensing authority, and in 46 U.S.C. 8304, which implements the Officer's Competency Convention, but are not defined, apparently because their meaning is so well established in regard to the operation of conventional vessels. The linkage of these titles with specific duties on conventional vessels is so strong that, if the titles were retained for use on MODU's, apparent conflicts would arise with the training requirements, experience levels, and examination requirements of the Internation a 1 Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW), 1978. The titles chosen have more meaning in the mixed maritime and industrial environment of MODU operations, where many of the personnel have never served on a MODU which was operating as a conventional vessel. The titles reflect the scope of the duties of the persons who are serving as the equivalent of master and mate.

Most of the comments noted the need for specialized endorsements for the offshore installation manager due to the different types of units and different modes of operation. In response to the comments, the interim final rule provides for special endorsements to more accurately reflect the unique training needs and exam qualifications of each mode of operation and MODU type. The license as offshore installation manager is divided into five categories: OIM/Unrestricted; OIM/Surface Units Under Tow; OIM/Surface Units on Location; OIM/Bottom Bearing Units Under Tow; and OIM/Bottom Bearing Units on Location. Persons serving under these licenses would perform functions with equivalent authority and responsibility as conventional masters and mates. They are issued under the authority of 46 U.S.C. 7101 for all MODUs under tow, on station, or underway independently.

For self-propelled MODUs on location, the conventionally licensed deck officers required on board would need to hold the appropriate endorsement indicated in the proposed manning examples. The Coast Guard's position, which is supported by NTSB findings and by comments, is that conventional masters and mates must have special training and some amount of experience on MODUs prior to assuming positions of responsibility on these vessels. Appropriate sections in the proposal address this issue by requiring between three to six months of service and various industry-related training courses in order to obtain an OIM endorsement.

The interim final licensing regulation, appearing elsewhere in this issue of the **Federal Register** under docket number CGD 81–059, at 46 CFR 10.101, states the overall responsibilities of the licensed personnel on board every type of vessel. Repeating part of this section: "* * * all licensed personnel must become familiar with the relevant characteristics of each vessel prior to assuming their duties. As appropriate, these include but are not limited to: General arrangement of the vessel; maneuvering characteristics; proper operation of the installed navigation equipment; firefighting and lifesaving equipment; stability and loading characteristics; emergency duties; and main propulsion and auxiliary machinery, including steering gear systems and controls." This requirement applies to holders of MODU licenses.

Applicants for any of the three deck MODU licenses would have to successfully complete a Coast Guard written examination appropriate to their tasks and responsibilities. Since these licenses do not authorize service underway independently, typical navigation, shiphandling and position determination topics were excluded. The emphasis instead is placed on ballasting and stability, emergency procedures, meteorology, lifesaving, firefighting, medical care, and maritime law and regulations. We will again request industry assistance to design a comprehensive examination and to develop the questions. The Coast Guard plans to develop the examinations during the interval before the effective date of the regulations. The Coast Guard was quite satisfied with the results of the combined efforts of our own personnel in the Eighth Coast Guard District, the Coast Guard Institute, and the representatives from industry in preparing workable, understandable and, most important, appropriate examinations for able seaman-MOU and lifeboatman-MOU ratings.

In response to comments received from the drilling industry, a certification as lifeboatman will be required for a MODU license rather than certification as able seaman. This certification may be unrestricted lifeboatman or lifeboatman (MOU).

Inquiries were received concerning "grandfathering" provisions for those holding MODU licenses issued during the past 13 years. Persons holding MODU licenses will be "grandfathered" as to their examination requirements. For those persons who obtained master (MODU) or mate (MODU) licenses under the policy guidelines in effect since 1973, the endorsement or license as OIM, BS, or BCO may be obtained by providing evidence of an equivalent amount of service and attendance of the required training courses. The required service and training is considered to be critical in the development of the licensee's competence to serve in those positions.

3. Chain of Command

While some of the comments to the docket suggested different personnel serving separately as OIM and master on self-propelled MODUs, the Coast Guard has decided to continue the concept introduced in the supplemental notice. A clear chain of command is essential on all MODUs. The issue of "who is in charge?" has often been cause for concern wherever MODUs are operating. This proposal provides that the person having ultimate authority, that is,the person required to be in command, is the offshore installation manager (OIM), or the master or mate with OIM endorsement, as appropriate. Our position does not rule out a concept of shared responsibility in some situations (but not shared authority) or the use of specialists in directing or assisting roles. The point to be made is that continuity and control must be assured through a central authority familiar with MODU characteristics, personnel, and with an appreciation for all aspects of MODU operations.

The Coast Guard encourages and expects each company owning or operating MODUs to concisely state in their operating manuals that on self-propelled MODUs the master (with appropriate license endorsement) or on non-self-propelled MODUs, the person serving in the capacity of offshore installation manager, has complete and ultimate responsibility for the rig. In the event that there is more than one person qualified to serve as OIM, it would be the responsibility of the owner of a unit or the owner's agent to designate the OIM in charge. There must be only *one person serving in the capacity of OIM.*

4. Manning Levels on MODUs

Many comments suggested deleting any conventionally licensed personnel from the crew requirements. Statutory requirements for manning on self-propelled vessels, which includes drillships and semi-submersibles, prohibit this at the present time. The billets marked with asterisks in the manning guidelines are subject to revision based upon vessel design and operating status. In determining a sufficient manning scale to operate any MODU, the Officer in Charge, Marine Inspection (OCMI) must consider many factors in addition to specific statutory and regulatory requirements. These factors include, but are not limited to: size of vessel; self-propelled or non-self-propelled status; surface or bottom bearing mode; length of voyage and route; fire protection and lifesaving equipment; number of personnel carried aboard; general arrangement of vessel equipment; level of qualification of each crew member to perform normal or emergency tasks; successful operation of similar vessels; and, among the most important factors, the geographical area of operations, including typical weather patterns and accessibility of rescue and assistance.

5. Rig-Mover Concept

Many comments suggested creating a license as "rig-mover" or "barge-mover" in recognition of the use of such specialists in the drilling industry. The license as OIM/Bottom Bearing Units Under Tow is essentially the rig-mover. Many rig-movers with qualifying service have already obtained a master of MODUs license, which could be converted to an OIM license with documentation of the required training course completions. The responsibility and authority of the rig-mover varies from company to company, as do the requirements to qualify. However, it is a common practice to keep the toolpusher, who would be licensed as an OIM, onboard during rig moves. In such cases, the rig-mover would direct those activities involving the movement of the vessel, but would not be the ultimate authority on firefighting or rig abandonment matters. Instead, the position of a rig-mover can be likened to that of a maritime pilot who acts as a technical adviser to the master, actually giving manuvering orders to the bridge watch, but not assuming ultimate responsiblity for the safety of the vessel.

Use of an unlicensed rig-mover would not be precluded by this rulemaking, as long as a licensed offshore installation manager is on board. There is, however, a critical need for a single ultimate authority relative to vessel and personnel safety. That person is the OIM, who might be the rig-mover licensed as an OIM.

Rig-mover service is by its nature intensive and sporadic. When on duty, that individual is called upon to put in long hours. The rig-mover may also be called upon to go directly from one rig move to the next if scheduling so dictates. That individual may, however, spend extended periods ashore between rig moves and be limited as to the quantity of on board time accumulated.

Additional comment is solicited on means by which equivalent experience to that required of an offshore installation manager might be established. A case by case evaluation is inappropriate without established criteria as this is certain to result in the inequitable treatment of applicants.

6. MODU Engineer Licenses

In response to our request for comments, there was much support for specialized engineer licenses, suitable for self-propelled MODUs in certain modes of operation, and containing a career progression for mariners. In this interim final rule, licenses as chief engineer (MODU) and assistant engineer (MODU) have been added to fit into 46 CFR Part 10. The experience requirements, qualifications and professional examinations are designed similar to the existing licenses issued under our 13 year old policy. Where the Officer in Charge, Marine Inspection (OCMI) determines an equivalent level of safety is maintained, the MODU certificate of inspection may be endorsed allowing MODU license holders to serve on certain self-propelled MODUs in operating modes not requiring the skills of an unlimited license holder. As in current policy, the MODU engineers are an alternative to the conventionally licensed engineers at the discretion of the OCMI.

7. Methods for Certifying Required Training Courses

Nearly all of the comments which discussed the proposed approval or acceptance scheme for training courses required to meet Coast Guard licensing requirements were favorable. Several comments recommended that the "survival suit and survival craft" training be subject to Coast Guard approval rather than industry self-certification. The Coast Guard agrees and has made this change. The specific types of training required for MODU licensed personnel and their method of certification is as follows:

a. Lifeboatman certificate—meeting present regulatory requirements;

b. Survival suit and survival craft training—attendance at a Coast Guard approved course (discussed in 46 CFR Part 10, Subpart C); and,

c. Basic and advanced stability—course will require Coast Guard approval in accordance with the procedures of 46 CFR Part 10, Subpart C.

8. Service Requirements for Masters and Mates To Obtain MODU Licenses

In response to those comments which support higher standards on this issue, the Coast Guard agrees that the amount of service on MODUs proposed for conventionally licensed masters and mates to obtain a MODU endorsement was insufficient, and should be increased. In the interim final rule, the service on MODUs required for masters and mates to obtain an OIM, BS, or BCO

license has been increased by one to three months.

9. Separate Subchapter for MODU Licenses

Many comments suggested a separate subchapter for licensing and manning regulations for MODUs. The Coast Guard does not agree totally with this proposal as we are endeavoring to arrange all our regulations by topic, i.e., all licensing regulations will be in Part 10, all manning regulations in Part 15. The Coast Guard will, as discussed in the supplemental notice, publish a special "specimen examination" booklet addressing the qualifications, training, licenses offered, examination topics and schedules and location of all licensing offices.

10. Conversion of Old Master/Mate MODU Licenses to the New System

Comments requested Coast Guard policy on converting master or mate MODU licenses issued since 1973 to those licenses in the new system. As discussed in the supplemental notice, personnel holding master or mate MODU licenses will not be required to reexamine to convert their licenses to the OIM, BS, or BCO. They will, however, be required to present evidence of an equivalent amount of service and attendance at the appropriate required training courses. Acquisition of the minimum amount of sea service and completion of the required training courses is critical to the development of skills the license holder must possess.

11. "Employment" Versus "Service" for Calculating MODU Experience

A few comments suggested a different phrase "employment assigned to" MODUs in lieu of "service on" MODUs as had been proposed for the license experience requirements. The Coast Guard agrees that the flexibility created by using this phrase rather than the strict "service on" is appropriate in some cases considering a typical assignment in the offshore industry. Therefore, the experience requirements for all MODU licenses have been modified. "Employment assigned to" will include the entire period assigned to a MODU, including that time spent ashore as part of normal crew rotation. The term "service" has been retained where necessary to state the minimum necessary experience on board a unit or performing a particular duty, as appropriate. As an example, if the normal crew rotation is two weeks on and two weeks off, in one year an individual would acquire six months "service on" MODU's and one year "employment assigned to" MODUs.

12. License and Examination Topic Chart

A table similar to that previously proposed for conventional engineers has been designed for all of the MODU licenses as there was much support in the comments for a simplified table with references for all licenses and exam topics.

13. Drilling Safety Courses

Some comments suggested that it was inappropriate for the Coast Guard to become involved with requiring drilling safety courses, and should instead limit its requirements to marine safety considerations. The Coast Guard agrees that requiring such courses merits additional consideration. Therefore, the requirements for blowout prevention or well control, hydrogen sulfide, and drilling equipment safety and management training have not been included in the interim final rule. While the U.S. Minerals Management Service (MMS) already requires such training for certain positions on MODUs, authority to require such training is limited to MODUs on the Outer Continental Shelf of the United States. Comment is solicited as to the appropriateness of requiring personnel with this training to be onboard when MODUs are drilling in foreign locations, or requiring other arrangements which augment the MMS requirement for personnel with such training. Additional comment is solicited as to what material should be included in that training.

14. Manning Scales

The following proposed manning scales would become part of our published policy in the Marine Safety Manual:

Guidelines for Manning of MODUs

1. Drillships underway—voyage of more than 400 miles:

1—Master
1—Chief Mate
1—Second Mate
1—Third Mate
6—Able Seamen
*3—Ordinary Seamen
1—Radio Officer, if required by FCC
1—Chief Engineer
*3—Assistant Engineers**
*3—QMEDs

2. Drillships underway—voyage of less than 400 miles:

1—Master
*2—Mates
*4—Able Seamen
*2—Ordinary Seamen
1—Radio Officer, if required by FCC
1—Chief Engineer
*2—Assistant Engineers**
*3—QMEDs

When engaged on a voyage of 16 hours or less, the required crew may be reduced by 2 ABs, 1 OS, 1 assistant engineer, and 1 QMED. Required mate manning may be modified for short infield moves.

3. Drillships on location:

1—Master (with OIM endorsement)
1—Mate
2—Able Seamen
1—Ordinary Seaman
1—Chief Engineer
*2—QMEDs

4. Self-propelled surface units (other than drillships) underway—voyage of more than 400 miles:

1—Master (with OIM endorsement)
1—Chief Mate (with BS endorsement)
2—Mates (with BCO endorsement)
6—Able Seamen
3—Ordinary Seamen
1—Radio Officer, if required by FCC
1—Chief Engineer
*3—Assistant Engineers**
*3—QMEDs

5. Self-propelled surface units (other than drillships) underway—voyage of less than 400 miles:

1—Master (with OIM endorsement)
*2—Mates (with BCO endorsement)
*4—Able Seamen
*2—Ordinary Seamen
1—Radio Officer, if required by FCC
1—Chief Engineer
*2—Assistant Engineers**
*3—QMEDs

When engaged on a voyage of 16 hours or less, the required crew may be reduced by 2 ABs, 1 OS, 1 assistant engineer, and 1 QMED. Required mate manning may be modified for short infield moves.

6. Self-propelled surface units (other than drillships) on location or under tow:

1—Master (with OIM endorsement)
1—Mate (may also serve as barge supervisor or ballast control operator if so endorsed)
1—Barge Supervisor
2—Ballast Control Operators
2—Able Seamen
1—Ordinary Seaman
1—Chief Engineer**
*2—QMEDs

7. Non-self-propelled surface units (excluding bottom bearing units) on location or under tow:

1—OIM
1—Barge Supervisor
2—Ballast Control Operators
2—Able Seamen

1—Ordinary Seamen

8. Non-self-propelled bottom bearing MODUs on location or under tow:

1—OIM
2—Able Seamen
1—Ordinary Seamen

*—Variables based upon degree of automation, deck labor saving devices, length of period underway, statutory requirements, etc.

**—Individuals holding MODU engineer licenses may be substituted for the required engineers.

Regulatory Evaluation

The Coast Guard considers these regulations to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034; 26 February 1979). Coast Guard docket CGD 81-059 (the Licensing of Maritime Personnel revision) contains a full draft regulatory evaluation which also applies to this interim final rule. It may be inspected or copied at the Marine Safety Council (G-CMC/21) [CGD 81-059], Room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, from 8 a.m. to 3 p.m.

The rule is not expected to have a significant economic impact. The rule will not require any major expenditures by the maritime industry, consumers, Federal, state or local governments. The costs associated with the interim final rule primarily concern training of personnel. The interim final rule requires individuals serving in certain responsible positions on MODUs of either the self-propelled or non-self-propelled type to obtain a Coast Guard issued license or endorsement that qualifies them for the positions held. Implementation will not increase manning requirements on MODUs but rather will set a standard for training and experience for certain responsible positions. Persons holding these positions on MODUs will have to meet licensing qualifications including a particular level of experience on MODUs, completion of training courses, physical standards and professional examination. Most drilling companies already require high standards of experience and training for the people serving on their units. Therefore, the actual costs are anticipated to be less than the assumed costs.

The cost of the training required by the interim final rule is summarized below. The cost is expressed in 1986 dollars. The assumed cost of $1,452,622 presumes that all personnel that will be required to, hold the required licenses or endorsements on all active U.S. flag MODUs would require the training. The cost may be considered to be a one-time start-up cost, with minimal additional costs in the ensuing years. Of course, anyone entering the industry thereafter would be required to meet the same requirements; however, the offshore industry has been in a severe decline for the past few years and there appear to be no problems in drawing from the current pool of qualified personnel. Although the current industry recession will end, it will probably take an extended period of time for the industry to recover. This will allow a smooth transition as the industry moves from drawing on the large pool of qualified workers, as the recovery begins, to drawing new personnel into the industry as the recovery gains momentum.

The following factors will significantly reduce the assumed cost shown in the evaluation. It is, however, impractical to quantify the exact reductions without polling every licensee and potential license holder in the industry:

(1) Through conversations with industry representatives, it was determined the required amounts of experience are reasonably equivalent to the level of those persons serving in present positions of responsibility;

(2) Many assigned personnel also hold previously issued Coast Guard licenses as master MODU (375 licenses issued), mate MODU (140 licenses), chief engineer MODU (80 licenses) and assistant engineer MODU (25 licenses). By virtue of holding these licenses, they have met our current Coast Guard qualification standards including experience, physical standards and professional examination. They may or may not meet the specialized sea service or training course requirements in this rule. The license holders will have to meet the service and training course requirements in order to convert their licenses to a license under the new system; and,

(3) Many established drilling companies have designed and developed their own in-house training courses and facilities; therefore, these companies already train their personnel in courses similar to those required by the interim final rule. While some costs must still be absorbed, such as loss of productive work time, salary, travel and per diem, the actual cost of the training will be much less when provided by the parent company. Furthermore, by allowing industry certification of courses in some cases, rather than Coast Guard approval, additional flexibility is provided for on-site training with company employees, video cassettes and other portable training devices.

Summary of Costs

1. As explained more fully in the evaluation, assumed training costs are as follows (excluding travel and per diem):

a. Basic and advanced stability.	$1,000	6.5 days
b. Survival suit and survival craft.	175	5
c. First aid and cardiopulmonary resuscitation.	55	2
d. Basic and advanced firefighting.	150	5

2. The figures below reflect the number of licensed individuals required to satisfy the manning standards of those U.S. flag MODUs active in May, 1986. Two individuals for each position is assumed, based upon a standard industry practice of six months on and six months off for each position. The number of required license holders by vessel type is:

a. Drill ships	32
b. Other self-propelled vessels	54
c. Jackups	200
d. Other non-self-propelled	115

3. All the license candidates will be required to complete the courses listed as 1.a. through 1.d. The total cost is $553,380, excluding travel and per diem. This would, on average, involve 18.5 days of training.

4. Finally, the travel and per diem costs must be determined. The computations assume $250 in travel charges and an $85 per diem rate. In addition to the time and travel involved in taking the required courses, a trip to the Regional Examination Center (REC) with two days of testing is included. The travel and per diem costs are:

a. Training required of all candidates	$730,822
b. REC visit	168,420
c. Total	$899,242

5. The total start-up cost to license candidates is $1,452,622.

The total cost will be mitigated by company owned or sponsored training offered on-site to large groups of personnel, among many other factors. Furthermore, the costs associated with licensing and qualification of the personnel in positions of responsibility on MODUs are quite insignificant when compared to typical MODU construction costs and operating fees. Current

estimates of construction range from $40–$70 million for a jackup rig, $70–$110 million for a semisubmersible and $55–$125 million for a drillship. Operating fees are approximately $8,000–$10,000 per day for jackups, $15,000 per day for semisubmersibles, and $16,000 per day for drillships. The training and qualifications contained in the interim final rule, which are strongly recommended by the National Transportation Safety Board, generally supported by industry, and under development internationally, will certainly be justified if they contribute to the prevention of the loss of even one MODU and its crew, or even minimize the down-time of an operating unit.

Major casualties affecting MODU's are sporadic but when they have occurred, there have been multiple lives lost. If the increased training and experience required for these licenses results in the prevention of casualties which would otherwise have resulted in the loss of only three lives, the benefits of these rules will outweigh the costs. This assumes the minimum accepted value of a human life to be $1,000,000.

The agency certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities. These interim final rules apply to licenses for individuals only. The effect on training schools would be to formalize the requirement to attend such industry-specific training; presently, such training is often optional for the individuals serving on the MODU at the discretion of the owner/operator.

List of Subjects

46 CFR Part 10

Seamen, Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 15

Seamen, Vessels.

The text of this interim final rule is integrated with the remainder of the revision of Parts 10 and 157 (redesignated as Part 15) which are published elsewhere in this issue of the **Federal Register**.

In consideration of the foregoing the Coast Guard is amending Parts 10 and 15 of Title 46, Code of Federal Regulations, as follows:

PART 10—LICENSING OF MARITIME PERSONNEL [AMENDED]

1. The authority citation for Part 10 continues to read as follows:

Authority: 46 U.S.C. 2103, 7101; 43 U.S.C. 1333(d); 49 CFR 1.46 (b) and (z).

2. In § 10.103, the following definitions are added in alphabetical order to read as follows:

§ 10.103 Definitions of terms used in this Part.

* * * * *

"Ballast control operator (BCO)" is a licensed officer restricted to service on MODUs. His duties involve the operation of the complex ballast system found on many MODUs. A ballast control operator, when assigned to a MODU, is the equivalent of a conventionally licensed mate.

* * * * *

"Barge supervisor (BS)" is a licensed officer restricted to service on MODUs. His duties involve support to the OIM in marine related matters including, but not limited to, maintaining watertight integrity, inspecting and maintaining mooring and towing components, and the maintenance of emergency and other marine related equipment. A barge supervisor, when assigned to a MODU is the equivalent of a conventionally licensed mate.

* * * * *

"Employment assigned to" is the total period a person is assigned to work on MODUs, including time spent ashore as part of normal crew rotation.

* * * * *

"Mobile offshore drilling unit (MODU)" means a vessel capable of engaging in drilling operations for the exploration for or exploitation of subsea resources. MODU designs include:

(a) "Bottom bearing units" which include:

(1) "Self-elevating (or jackup) units" with moveable (bottom bearing) legs capable of raising its hull above the surface of the sea; and,

(2) "Submersible units" of ship shape, barge type or novel hull design (other than a self-elevating unit) intended for operating while bottom bearing.

(b) "Surface units" with a ship shape or barge type displacement hull of single or multiple hull construction intended for operating in a floating condition (semi-submersibles and drillships included).

* * * * *

"Offshore installation manager (OIM)" is a licensed officer restricted to service on MODUs. An assigned offshore installation manager is equivalent to a conventionally licensed master or the person-in-charge and has complete and ultimate command of the unit.

"On location" means that the vessel is bottom bearing or moored with anchors placed in the drilling configuration.

* * * * *

3. Section 10.201(f)(1) is revised to read as follows:

§ 10.201 Eligibility for licenses, general.

* * * * *

(f) * * *

(1) A license as master of vessels of 25–200 gross tons on near coastal or inland waters, third mate, third assistant engineer, mate of vessels of 200–1600 gross tons, ballast control operator, assistant engineer (MODU), second-class operator of uninspected towing vessels, radio officer, assistant engineer (limited-oceans), or designated duty engineer on vessels of not more than 4000 horsepower may be granted an applicant who has reached the age of 19 years, but no such license may be raised in grade before the holder has reached the age of 21 years.

* * * * *

4. Section 10.205(f)(1) is revised to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

* * * * *

(f) *Character check and references.* (1) Each applicant for an original license shall submit written recommendations concerning the applicant's suitability for duty from a master and two other licensed officers of vessels on which the applicant has served. For a license as engineer or as pilot, at least one of the recommendations must be from the chief engineer or licensed pilot, respectively, of a vessel on which the applicant has served. For a license as operator of uninspected towing vessels, the recommendations may be from recent marine employers with at least one recommendation from a master, operator, or person in charge of a vessel upon which the applicant has served. For a license as offshore installation manager, barge supervisor, or ballast control operator, at least one recommendation must be from an offshore installation manager of a unit on which the applicant has served. Where an applicant qualifies for a license through an approved training school, one of the character references must be an official of that school. For a license for which no commercial experience may be required, such as: master or mate 0–200 gross tons, operator of uninspected passenger vessels, radio officer or certificate of registry, the applicant may have the written recommendations of three persons who have knowledge of the applicant's suitability for duty.

* * * * *

5. The text of § 10.468 is added to read as follows:

§ 10.468 Licenses for mobile offshore drilling units.

(a) Licenses for service on mobile offshore drilling units (MODUs) authorize service on units of any gross tons upon ocean waters while under tow or at the exploration or exploitation site. These licenses do not authorize service on units when underway independently. Licenses are issued as:

(1) Offshore installation manager (endorsed for one or more of the following):

(i) OIM/Unrestricted;

(ii) OIM/Surface Units on Location;

(iii) OIM/Surface Units Under Tow;

(iv) OIM/Bottom Bearing Units on Location; or,

(v) OIM/Bottom Bearing Units Under Tow.

(2) Barge Supervisor.

(3) Ballast Control Operator.

(b) For a license as offshore installation manager, an applicant must meet the following applicable requirements:

(1) Applicants not holding an unlimited license as master, chief mate or second mate must have qualifying experience as follows:

(i) Four years of employment assigned to MODUs including at least two years service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position; or,

(ii) An appropriate bachelor of science or associate degree from a recognized school of technology accredited by the Accreditation Board for Engineering and Technology and have at least two years of employment assigned to MODUs with one year serving in a supervisory position on MODUs.

(2) In addition to the general requirements for license listed in Subpart B of this Part and successful completion of the examinations in Subpart I of this Part, the applicant for the license as offshore installation manager shall also present certificates or evidence of course completion as follows:

(i) Lifeboatman certificate (unrestricted or MOU);

(ii) Basic and advanced stability course certificates (Coast Guard approved); and,

(iii) Survival suit and survival craft training (Coast Guard approved).

(3) Applicants holding an unlimited license as master, chief mate or second mate must meet the requirements in paragraph (b)(2) or (b)(3) of this section as appropriate, and have six months service on MODUs in order to obtain an endorsement for offshore installation manager.

(c) For a license as barge supervisor, an applicant must meet the following applicable requirements:

(1) Applicants not holding an unlimited license as master or mate must have qualifying experience as follows:

(i) Three years of employment assigned to MODUs with at least one year of service as mechanic, electrician, driller, subsea specialist, or ballast control operator of which at least six months shall have been as a ballast control operator; or,

(ii) An appropriate bachelor of science or associate degree from a recognized school of technology accredited by the Accreditation Board for Engineering and Technology and have one year of employment assigned to MODUs with at least six months service in a supervisory position, and three months service as a ballast control operator.

(2) In addition to the general requirements for license listed in Subpart B of this Part and successful completion of the examinations in Subpart I of this Part, the applicant shall also present certificates or evidence of course completion as follows:

(i) Lifeboatman certificate (unrestricted or MOU);

(ii) Basic and advanced stability course certificates (Coast Guard approved); and,

(iii) Survival suit and survival craft training (Coast Guard approved).

(3) Applicants holding an unlimited license as master or mate must meet the requirements in paragraph (c)(2) of this section and have six months of employment assigned to MODUs including three months service as ballast control operator or trainee in order to obtain an endorsement for barge supervisor.

(d) For a license as ballast control operator, an applicant must meet the following applicable requirements:

(1) Applicants not holding an unlimited license as master, mate or engineer must have qualifying experience as follows:

(i) One year of employment assigned to MODUs including three months of training in the position of ballast control operator. This ballast control training must include one month service as an observer with the ballast control operator; or,

(ii) An appropriate bachelor of science or associate degree from a recognized school of technology accredited by the Accreditation Board for Engineering and Technology and three months of training in the position of ballast control operator. This training must include one month service as an observer with the ballast control operator.

(2) In addition to the general requirements for license listed in Subpart B of this Part and successful completion of the examination in Subpart I of this Part, the applicant must also present certificates and evidence of course completion as follows:

(i) Lifeboatman certificate (unrestricted or MOU);

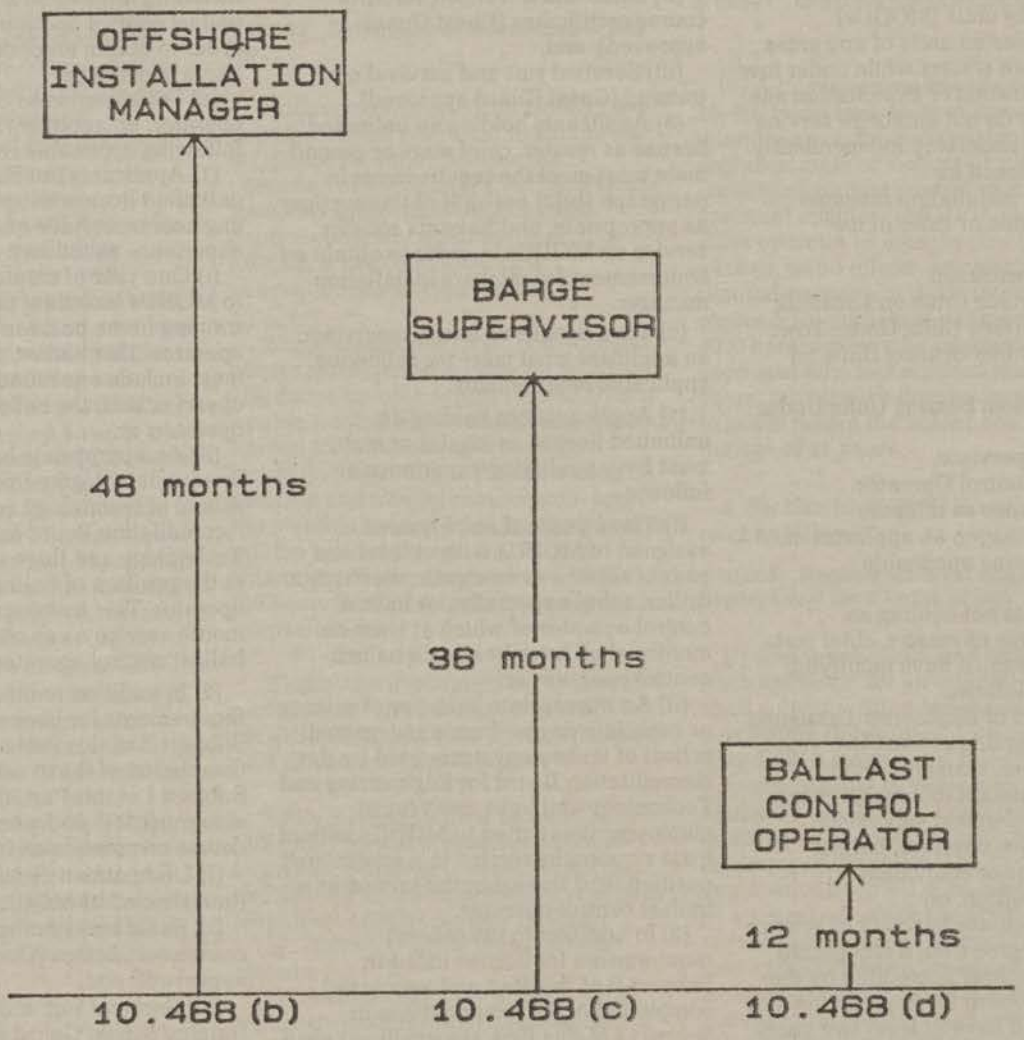
(ii) Basic and advanced stability course certificates (Coast Guard approved); and,

(iii) Survival suit and survival craft training (Coast Guard approved).

(3) Applicants holding an unlimited license as master, mate or engineer must meet the requirements in subparagraph (d)(2) of this section and have three months of employment assigned to MODUs including one month service as an observer with the ballast control operator in order to obtain an endorsement for ballast control operator.

6. The text of § 10.470 is added to read as follows:

Figure 10.470 MODU Licenses



§ 10.470 Mobile offshore drilling unit (MODU) license structure.

7. The text of § 10.540 is added to read as follows:

§ 10.540 Licenses for mobile offshore drilling units (MODUs).

(a) Licenses as chief engineer or assistant engineer of mobile offshore drilling units (MODUs) authorize service on certain self-propelled or non-self-propelled units of any horsepower.

(b) For a license as chief engineer (MODU) an applicant must have:

(1) Six years of employment assigned to MODUs including three years employed as mechanic, motorman, subsea engineer, electrician, barge engineer, toolpusher, unit superintendent, crane operator or equivalent. Eighteen months of this six year employment must have been aboard self-propelled units; or,

(2) Two years of employment as an assistant engineer (MODU).

(c) For a license as assistant engineer (MODU), an applicant must have:

(1) Three years of employment assigned to MODUs with 18 months employed as mechanic, electrician, motorman, subsea engineer, barge engineer, toolpusher, unit superintendent, crane operator or equivalent. Nine months of this three year employment must have been aboard self-propelled units; or,

(2) Three years of employment in the machinist trade engaged in the construction or repair of diesel engines together with one year of employment on MODUs in the capacity of mechanic, motorman, oiler, or equivalent; or,

BILLING CODE 4910-14-M

(3) An appropriate bachelor of science or associate degree from the marine engineering, mechanical or electrical engineering program of a recognized school of technology accredited by the Accreditation Board for Engineering and Technology, and have at least six months of employment in any of the capacities listed in paragraph (c)(1) of this section.

8. The text of § 10.920 is added to read as follows:

§ 10.920 Subjects for mobile offshore drilling unit (MODU) licenses.

TABLE 10.920.—SUBJECTS FOR MODU LICENSES

Examination topics	OIM	BS	BCO
Watchkeeping:			
*COLREGS	X	X	
"Basic Principles To Be Observed in Keeping a Navigational Watch"	X	X	
Meteorology and Oceanography:			
Synoptic chart weather forecasting	X	X	
Characteristics of weather systems	X	X	X
Ocean current systems	X	X	
Tide and tidal current publications	X	X	
*Tide and tidal current calculations	X		
Stability, Ballasting, Construction and Damage Control:			
Principles of construction, structural members	X	X	X
Trim and stability	X	X	X
*Damage trim and stability, countermeasures	X	X	X
*Stability and trim calculations	X	X	X
*IMO stability recommendations	X	X	X
Casualty control	X	X	X
Leg reaction & reloading calculations	X	X	
Operating manual	X	X	X
*Ballasting procedures	X	X	X
*Load line requirements	X	X	
Maneuvering and Handling:			
*Anchoring and anchor handling	X	X	
Heavy weather operations	X	X	X
*Mooring, positioning	X	X	
*Towing operations, general	X	X	
Fire Prevention and Firefighting Appliances:			
Organization of fire drills	X	X	X
Classes and chemistry of fire	X	X	X
Firefighting systems	X	X	X
Firefighting equipment and regulations	X	X	X
Basic firefighting and prevention (isolation and containment)	X	X	X
Emergency Procedures and Contingency Plans:			
Temporary repairs	X	X	X
Fire or explosion	X	X	X
Abandon ship	X	X	X
Man overboard	X	X	
Heavy weather	X	X	X
Collision	X	X	X
*Failure of ballast control system	X	X	X
General Engineering—Power Plants and Auxiliary Systems:			
Marine engineering terminology	X	X	X
Marine power plant operating principles	X	X	
Auxiliary machinery	X	X	
Mathematics involved in engineering calculations		X	
Deck Seamanship—General:			
Transfer of personnel	X	X	
Support boats/helicopters	X	X	
Cargo stowage and securing	X	X	
Hazardous materials/dangerous goods precautions	X		
Mooring equipment	X		

TABLE 10.920.—SUBJECTS FOR MODU LICENSES—Continued

Examination topics	OIM	BS	BCO
Crane use procedures & inspections	X	X	
Medical Care:			
Knowledge and use of:			
International Medical Guide for Ships	X	X	
Ships Medicine Chest and Medical Aid at Sea	X	X	
First aid	X	X	X
Preventative and controlled medicines	X		
First response medical action	X	X	
Maritime Law and Regulation:			
International maritime law:			
Certificates and documents required	X		
SOLAS	X		
International Convention on Prevention of Pollution from Ships (MARPOL 73/78)	X		
International health regulations	X		
National maritime law:			
Certification & documentation of vessels	X		
Ship sanitation	X		
Rules and regulations for vessel inspection	X		
Pollution prevention regulations	X	X	
Licensing and certification regulations	X		
Rules and regulations for MODUs	X	X	
Personnel Management and Training:			
Ship's business including:			
Required logs and record keeping	X	X	X
Shipping articles	X		
Casualty reports and records	X		
Shipboard organization	X		
Required crew training	X	X	
Communications:			
Radiotelephone communications and FCC permit	X	X	
Radiotelegraphy emergency distress signals and frequencies	X	X	
Radiotelephone procedures	X	X	
Lifesaving/Survival:			
Lifesaving appliance operation (launching, boat handling)	X	X	X
Procedures and regulations involving lifeboats, survival suits, PFDs, liferafts and workvests, emergency signals	X	X	X
Hypothermia/exposure	X	X	X
Emergency radio transmissions	X	X	X
Survival at sea	X	X	X

*Note: Items marked with an asterisk are not required for OIM/Bottom Bearing Units on Location.

9. Section 10.950 is amended by adding two columns to table 10.950 marked to reference the existing subject list, which is republished herein for clarity, to read as follows:

§ 10.950 Subjects for engineer licenses.

TABLE 10.950—SUBJECTS FOR ENGINEER LICENSES

	. . .	C/E MODU	A/E MODU
I Theoretical Knowledge:			
1. Thermodynamics			
2. Combustion Processes.			
3. Heat Transmission			
4. Mechanics & Hydromechanics.		X	X
5. Propulsion System Operating Prin.:			
—Diesel		X	X
—Steam			
6. Refrigeration		X	X
7. Steering Gear			
8. Properties of Fuels and Lubricants.		X	X
9. Technology/ Properties of Materials.		X	X
10. Fire and Extinguishing Agents.		X	X
11. Marine Electrotechnology.		X	
12. Marine Electronics		X	X
13. Marine Electrical Equipment.		X	X
14. Automation, Instrumentation and Control Systems.		X	X
15. Naval Architecture		X	
16. Ship Construction		X	X
17. Damage Control		X	X
II Practical Knowledge:			
1. Operation/ Maintenance:			
—Diesel Plant		X	X
—Steam Plant			
2. Operation/ Maintenance of Auxiliary Machinery Including:.		X	X
—Pumping/ Piping Systems			
—Auxiliary Boiler Plant			
—Steering Gear Systems			
—Propellors and Shafting Systems			
—Auxiliary Diesel Plants			
—Sanitary/ Sewage Systems			
—Fresh Water Systems			
—Distilling Systems			
—Lubrication Systems			
—Automation Systems			
—Control Systems			
—Cooling Systems			
—Ventilation Systems			
3. Operation/ Testing/ Control of Electrical and Control Equipment.		X	X
4. Operation/ Maintenance of			
—Cargo Handling Equipment.		X	X
—Deck Machinery		X	X
5. Machinery Malfunction Detection and Action to Prevent Damage.		X	X
6. Maintenance & Repair Procedures.		X	X
7. Fire Prevention, Detection, and Extinction.		X	X
8. Methods to Prevent Pollution by Vessels.		X	X
9. Pollution Prevention Regulations.		X	X
10. Effects of Marine Pollution on the Environment.		X	X
11. First Aid/First Aid Equipment.		X	X
12. Lifesaving Appliances.		X	X
13. Damage Control including Engineroom Flooding.		X	X
14. Safe Working Practices.		X	X

TABLE 10.950—SUBJECTS FOR ENGINEER LICENSES—Continued

	* * *	C/E MODU	A/E MODU
III Watchstanding:			
1. Change of Watch		X	X
2. Routine Watch Duties.		X	X
3. Machinery Log Book		X	X
4. Main/Auxiliary Machinery Start Up Procedures.		X	X
5. Boiler Operation			
6. Boiler Water Levels			
7. Diesel Plant Operation.		X	X
8. Routine Pumping Operations.		X	X
9. Bilge, Ballast, Cargo Pumping Systems.		X	X
10. Generator/ Alternator Synchronizing & Shifting.		X	X
11. Watch Safety Precautions.		X	X
12. Fire or Accident		X	X
13. Electrical Safety Precautions.		X	X
IV Miscellaneous:			
1. Approved Fire Fighting Course.		X	X
2. International Rules and Regulations Regarding Machinery/ Engineering.		X	X
3. U.S. Rules and Regulations Regarding Machinery/ Engineering.		X	X

PART 15—MANNING REQUIREMENTS [AMENDED]

10. The authority citation for Part 15 continues to read as follows:

Authority: 46 U.S.C. 3703, 8105, 9102; 50 U.S.C. 198; 49 CFR 1.46(b).

11. Section 15.301 is amended by adding paragraphs (b)(8), (b)(9), and (b)(10) to read as follows:

§ 15.301 Definition of terms used in this part.

* * * * *

(b) * * *

(8) Offshore installation manager (OIM);

(9) Barge supervisor (BS);

(10) Ballast control operator (BCO).

* * * * *

12. The text of § 15.520 is added to read as follows:

§ 15.520 Mobile offshore drilling units.

(a) The requirements in this section for mobile offshore drilling units (MODUs) supplement other requirements in this part.

(b) A license as offshore installation manager (OIM), barge supervisor (BS), or ballast control operator (BCO) authorizes service only upon MODUs. A license as OIM is restricted to the MODU type and mode of operation specified on the license.

(c) Self-propelled MODUs (other than a drillship) must be under the command of an individual who holds a license as master endorsed as OIM.

(d) Drillships must, when on location, be under the command of an individual who holds a license as master endorsed as OIM.

(e) Non-self-propelled MODUs must be under the command of an individual who holds a license as OIM.

(f) An individual serving as mate on a self-propelled surface unit (other than a drillship) must hold an appropriate license as mate and an endorsement as BS or BCO. Individuals holding licenses as barge supervisor or ballast control operator may be substituted for the required mates when a self-propelled surface unit (other than a drillship) is on location or under tow, under certain circumstances as determined by the cognizant OCMI.

(g) An individual holding a license as barge supervisor is required on a surface unit (other than a drillship) when the MODU is on location or under tow.

(h) An individual holding a license or endorsement as barge supervisor also may serve as ballast control operator.

(i) The OCMI issuing the vessel's certificate of inspection may authorize the substitution of chief or assistant engineer (MODU) for chief or assistant engineer, respectively, on self-propelled surface units.

(j) Drillships, when underway, will be required to meet the same manning standards as a conventional industrial vessel.

(k) Requirements in this part concerning radar observers do not apply to non-self-propelled MODUs.

(l) Mobile offshore drilling units, when afloat and equipped with a ballast control room, must have that ballast control room continuously manned by an individual holding a license or endorsement authorizing service as ballast control operator.

Dated: May 27, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-23432 Filed 10-15-87; 8:45 am]

BILLING CODE 4910-14-M

federal register

Friday
October 16, 1987

Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

October 1, 1987.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1987, of 13 deferrals contained in the first special message of FY 1988. There were no rescissions proposed. This message was transmitted to the Congress on October 1, 1987.

Rescissions (Table A and Attachment A)

As of October 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of October 1, 1987, $1,771.7 million in 1987 budget authority was being deferred from obligation. Attachment B shows the history and status of each deferral reported during FY 1988.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the **Federal Register** listed below: Vol. 52, FR 37739, Thursday, October 8, 1987.

James C. Miller III,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1988 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

****

TABLE B

STATUS OF 1988 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	1,776.7
Routine Executive releases through October 1, 1987 (OMB/Agency releases of $5.0 million and cumulative adjustments of $0)	-5.0
Overturned by the Congress	0
Currently before the Congress	1,771.7

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1988

As of October 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

As of October 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D88-1	40,000		10-1-87	5,000				35,000
Special Assistance for Central America									
Promotion of stability and security in Central America	D88-2	1,000		10-1-87					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D88-3	120,425		10-1-87					120,425
Timber salvage sales	D88-4	34,841		10-1-87					34,841
Cooperative work	D88-5	628,025		10-1-87					628,025
Gifts, donations, and bequests for forest and rangeland research	D88-6	104		10-1-87					104
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D88-7	900		10-1-87					900
Family Housing									
Family housing, Defense	D88-8	51,015		10-1-87					51,015
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D88-9	636		10-1-87					636
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction)	D88-10	6,171		10-1-87					6,171
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D88-11	11,638		10-1-87					11,638

Attachment B - Status of Deferrals - Fiscal Year 1988

As of October 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-87
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D88-12	879,049		10-1-87					879,049
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D88-13	2,933		10-1-87					2,933
TOTAL, DEFERRALS		1,776,738	0		5,000	0		0	1,771,738

[FR Doc. 87-23995 Filed 10-15-87; 8:45 am]
BILLING CODE 3110-01-C

federal register

Friday
October 16, 1987

Part VI

Congressional Budget Office

Sequestration Report for Fiscal Year 1988; Notice

CONGRESSIONAL BUDGET OFFICE

Sequestration Report for Fiscal Year 1988

AGENCY: Congressional Budget Office.

ACTION: Report transmittal.

SUMMARY: This notice transmits the Initial Sequestration Report for Fiscal Year 1988 to the Office of Management and Budget and the Congress in accordance with the new procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Public Law 100–119.

BILLING CODE 1450-01-M

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 15, 1987

Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Miller:

In accordance with the new procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Public Law 100-119, I herewith transmit to you my *Initial Sequestration Report for Fiscal Year 1988*.

Following the specifications set forth in the act, the report provides two sets of budget baseline estimates for 1988--one based on laws and regulations in effect on January 1, 1987, and the other for October 10, 1987. Because no full-year appropriations for 1988 have been enacted so far, both sets of budget baseline estimates use inflated 1987 appropriations as stipulated in the act.

Sequestration of budgetary resources will be necessary for 1988 if the amount of net deficit reduction since January 1 is less than $23 billion. The Congressional Budget Office estimates that the budget baseline deficit for 1988 has increased by $1.0 billion between January 1 and October 10, 1987. Therefore, the required amount of outlay reductions to be obtained through sequestration is $23.0 billion, the maximum amount specified by law for 1988. The report calculates the amounts and percentages by which various budgetary resources must be sequestered, including a detailed listing by budget account.

We would be pleased to provide you with any assistance that you may require in preparing your own initial sequestration report.

With best wishes,

Sincerely yours,

Edward Gramlich

Edward M. Gramlich
Acting Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 15, 1987

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

In accordance with the new procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Public Law 100-119, I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1988.*

Following the specifications set forth in the act, the report provides two sets of budget baseline estimates for 1988--one based on laws and regulations in effect on January 1, 1987, and the other for October 10, 1987. Because no full-year appropriations for 1988 have been enacted so far, both sets of baseline budget estimates use inflated 1987 appropriations as stipulated in the act.

Sequestration of budgetary resources will be necessary for 1988 if the amount of net deficit reduction since January 1 is less than $23 billion. The Congressional Budget Office estimates that the budget baseline deficit for 1988 has increased by $1.0 billion between January 1 and October 10, 1987. Therefore, the required amount of outlay reductions to be obtained through sequestration is $23.0 billion, the maximum amount specified by law for 1988. The report calculates the amounts and percentages by which various budgetary resources must be sequestered, including a detailed listing by budget account.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget to be issued on October 20, 1987.

With best wishes,

Sincerely yours,

Edward Gramlich

Edward M. Gramlich
Acting Director

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

October 15, 1987

Honorable James C. Wright, Jr.
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with the new procedures of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, Public Law 100-119, I herewith submit to the Congress my *Initial Sequestration Report for Fiscal Year 1988*.

Following the specifications set forth in the act, the report provides two sets of budget baseline estimates for 1988--one based on laws and regulations in effect on January 1, 1987, and the other for October 10, 1987. Because no full-year appropriations for 1988 have been enacted so far, both sets of baseline budget estimates use inflated 1987 appropriations as stipulated in the act.

Sequestration of budgetary resources will be necessary for 1988 if the amount of net deficit reduction since January 1 is less than $23 billion. The Congressional Budget Office estimates that the budget baseline deficit for 1988 has increased by $1.0 billion between January 1 and October 10, 1987. Therefore, the required amount of outlay reductions to be obtained through sequestration is $23.0 billion, the maximum amount specified by law for 1988. The report calculates the amounts and percentages by which various budgetary resources must be sequestered, including a detailed listing by budget account.

I would be pleased to provide the Congress with any assistance it may require in responding to this report, or to the initial report by the Director of the Office of Management and Budget to be issued on October 20, 1987.

With best wishes,

Sincerely yours,

Edward M. Gramlich
Acting Director

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1988

A Congressional Budget Office Report to the Congress and the Office of Management and Budget

October 15, 1987

CONTENTS

NOTES

All years referred to in this report are fiscal years, unless otherwise noted.

Details in the text and tables of this report may not add to totals because of rounding.

The Balanced Budget and Emergency Deficit Control Act of 1985 (popularly known as Gramm-Rudman-Hollings) is also referred to in this report more briefly as the Balanced Budget Act. The amendments to this act made by Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, are also referred to in this report more briefly as the Reaffirmation Act.

The source for all data in this report is the Congressional Budget Office, unless otherwise noted.

INITIAL SEQUESTRATION REPORT FOR FISCAL YEAR 1988

A CONGRESSIONAL BUDGET OFFICE REPORT TO THE CONGRESS AND THE OFFICE OF MANAGEMENT AND BUDGET

October 15, 1987

INTRODUCTION

The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) provides a new set of deficit targets to be met over the next six years and reinstitutes an automatic sequestration procedure for achieving deficit reductions. The act also provides a $10 billion margin-of-error amount for 1988 through 1992, but none for 1993. The new deficit targets specified by the act are:

Fiscal Year	Maximum Deficit (in billions of dollars)
1988	144
1989	136
1990	100
1991	64
1992	28
1993	0

The sequestration of budgetary resources would be triggered automatically under the following conditions:

- For 1988 only, if the amount of net deficit reduction achieved through laws enacted and regulations promulgated between January 1, 1987, and November 20, 1987, is less than $23 billion. The act sets a $23 billion deficit reduction target for 1988 so that the deficit target of $144 billion and the $10 billion margin-of-error amount do not affect sequestration.
- For 1989 only, if the estimated deficit on October 10, 1988, exceeds $146 billion ($136 billion deficit target plus the $10 billion margin) and the amount of net deficit reduction achieved through laws enacted and regulations promulgated between January 1, 1988, and October 10, 1988, is less than $36 billion.
- For 1990 through 1992, if the estimated deficit at the beginning of each fiscal year exceeds the deficit target by more than $10 billion.
- For 1993 only, if there is any deficit estimated on October 15, 1992.

Sequestration involves the permanent cancellation of new budget authority and other authority to obligate and expend funds, except for special and trust funds where the sequestered amounts of spending authority remain in the funds. The sequestration of budgetary resources is designed to achieve outlay reductions sufficient to reach the deficit targets, except for 1988 and 1989 when the outlay reductions that can be achieved through sequestration are limited to $23 billion and $36 billion, respectively.

Under the Reaffirmation Act, the Director of the Office of Management and Budget (OMB) is to determine each year whether or not sequestration is necessary and the magnitude of sequestration. The role of the Congressional Budget Office (CBO) is advisory to OMB and the Congress. Each year, the two agencies are required to prepare independently two sets of sequestration reports. The CBO reports are transmitted to the Director of OMB and to the Congress, and they provide a benchmark against which the Congress and others may assess the OMB reports. The OMB reports are made to the President and to the Congress, and they provide the basis for sequestration orders to be issued by the President. The timetable for the agency reports and sequestration orders is shown in the box on the next page.

The initial CBO and OMB sequestration reports are to be based on laws enacted and regulations promulgated as final by a common "snapshot date" (October 10 for the 1988 reports). The revised reports, however, must be based on laws enacted and regulations promulgated by the latest possible date

before they are issued. Therefore, because the snapshot date may be different in the two final agency reports, some legislation and regulations reflected in one report may not be reflected in the other.

Unlike the original Balanced Budget Act of 1985, the amended law does not provide a role for the Comptroller General in the preparation and issuance of sequestration reports. His role under the amended Balanced Budget Act is threefold: preparing a report each year to the Congress and the President that certifies whether the final sequestration order issued by the President complies with the requirements of the Balanced Budget Act, as amended; assessing the compliance and accuracy of the OMB sequestration reports; and making recommendations for improving sequestration procedures. The Comptroller's first report for fiscal year 1988 is due December 15, 1987; in later years, it is due on November 15.

This document is the initial CBO report for 1988. The report:

- Estimates budget baseline levels as of January 1, 1987, and October 10, 1987, the amount of net deficit change that has occurred between the two dates, and the outlay reductions required for 1988;
- Provides CBO economic assumptions used for the two baseline estimates, including the estimated rate of real economic growth for fiscal year 1988 by quarter; and
- Calculates the amounts and percentages by which various budgetary resources must be sequestered in order to achieve the required outlay reductions.

BUDGET BASELINE TOTALS

The CBO budget baseline estimates of total revenues, outlays, and the deficit for fiscal year 1988 are shown in Table 1. These estimates are made in accordance with the specifications set forth in the Balanced Budget Act, as amended by the Reaffirmation Act of 1987. Two sets of budget baseline estimates are provided--one for laws and regulations in effect on January 1, 1987, and the other for laws and regulations in effect on October 10, 1987. The economic and technical assumptions used for the October 10 budget baseline estimates are also used for the January 1 budget baseline estimates. The differences between the two sets of estimates, therefore, result only from laws enacted and final regulations promulgated since January 1 (except for federal pay raises).

The budget baseline specifications were altered by the Reaffirmation Act to approximate more closely the concepts that have been used by OMB in its current services estimates and by CBO in its baseline projections--primarily in the treatment of annual appropriations. When appropriations for the new fiscal year have not been enacted, the CBO and OMB budget baseline estimates under the act are to

	For FY 1988	For FY 1989-1993
Snapshot date for initial CBO and OMB reports	October 10	August 15
Initial CBO report	October 15	August 20
Initial OMB report	October 20	August 25
Initial sequestration order	October 20	August 25
Revised CBO report	November 16	October 10
Revised OMB report	November 20	October 15
Final sequestration order	November 20	October 15

Table 1. CBO ESTIMATES OF BUDGET BASELINE TOTALS FOR 1988
(In billions of dollars)

Budget Aggregates	As of January 1	As of October 10	Difference
Revenues	897.0	897.0	a/
Outlays	1,075.3	1,076.3	1.0
Deficit	178.3	179.3	1.0

a. Less than $50 million.

be based on the appropriations enacted for the previous year with an adjustment for inflation and increased pay costs. The act specifies that the inflator used for 1988 budget baseline estimates shall be 4.2 percent. The inflation factor for future years will be the estimated increase in the gross national product implicit price deflator. For federal personnel costs in 1988, and for 70 percent of personnel costs in 1989 through 1993, the inflator is reduced when pay raises would be in effect for only part of the fiscal year, and is also reduced to account for 22 percent historical pay absorption.

In addition, the Reaffirmation Act resolved a number of disagreements between CBO and OMB about budget baseline calculations under the original Balanced Budget Act regarding appropriated entitlements, federal pay raises, and farm price supports. According to the amended act, appropriated entitlements will be assumed to be fully funded, provision will be made for federal pay raises, and advanced farm deficiency and paid land diversion payments will be included in the budget baseline estimates unless otherwise required by law. The act did not resolve, however, the disagreement about how the new Federal Employees' Thrift Savings Fund should be handled for federal budget accounting. Following guidance in a recent opinion by the General Accounting Office, CBO has not included any amounts for the fund in its budget baseline estimates, in contrast to the President's budget and the Congressional budget resolution for 1988, which include the fund in the budget. This different treatment, however, does not affect the calculations of net deficit reductions in 1988.

For nonappropriated spending accounts and revenues, the baseline estimates assume that current laws and regulations will continue unchanged, except that expiring provisions of law will terminate as scheduled. The amended Balanced Budget Act, however, provides an exception to the general treatment of expiring provisions in the cases of excise taxes dedicated to a trust fund, Commodity Credit Corporation agricultural price support programs, and contract authority for transportation trust funds. As required by the act, the budget baseline estimates include the receipts and outlays of the Social Security trust funds, even though they are legally off-budget.

The Reaffirmation Act provides that asset sales and loan prepayments shall neither be included in the budget baseline estimates nor contribute to any net deficit reduction. The act makes an exception for asset sales and loan prepayments that are routine and ongoing according to fiscal year 1986 practices and for asset sales mandated by law as of September 17, 1987. The budget baseline estimates may not, however, assume or reflect an acceleration of routine asset sales and loan prepayments. The act also prohibits the inclusion of savings resulting from the transfer of outlays, receipts, or revenues from one year to an adjacent year, except for certain types of transfers identified in law.

Under these specifications, CBO's estimate of the budget baseline deficit for 1988 as of October 10 is $179.3 billion. This is $9.4 billion higher than the $169.9 billion deficit that CBO estimated as of August 15 in the joint CBO/OMB sequestration report of August 20, 1987. Almost all of the higher deficit amount can be attributed to inflating 1987 appropriations as required by the Reaffirmation Act.

Table 2 shows the estimated budget effect of laws enacted and final regulations promulgated since January 1, 1987, and the effect of the President's federal pay raise proposal submitted to the Congress at the end of August. The estimated net deficit change that has occurred since January 1 is an increase of $1.0 billion. The increase results primarily from the supplemental appropriations for 1987 enacted in July, which add an estimated $3.0 billion to the budget baseline for 1988. Partially offsetting this increase are other legislative actions and the President's proposal to limit federal pay raises for 1988 to 2 percent. As required by the Reaffirmation Act, the January 1 budget baseline estimates assume that the federal pay raises effective January 1, 1988, will be 4.2 percent, the same inflation factor that is assumed for other appropriated funds. Substituting a 2 percent pay raise proposed by the President reduces the budget baseline deficit by $1.0 billion. Other laws enacted between January 1 and October 10, 1987, reduce the budget baseline deficit for 1988 by an estimated $1.2 billion, as shown in Table 2.

Table 2. CBO ESTIMATES OF DEFICIT REDUCTIONS ACHIEVED FOR 1988

Budget Baseline Deficit as of January 1, 1987	178.3
Effect of New Laws and Regulations:	
Supplemental Appropriations, 1987 (P.L. 100-71)	3.0
Federal employee pay raises a/	-1.0
Surface Transportation and Relocation Act (P.L. 100-17)	-0.4
Competitive Equality Banking Act of 1987 (P.L. 100-86)	-0.6
Balanced Budget Reaffirmation Act of 1987 (P.L. 100-119)	-0.2
Other enacted laws (Public Laws 100-4, 6, 14, 20, 45, 72, 92, and 93) and regulations	0.1
Debt service costs b/	0.2
Net Deficit Change	1.0
Budget Baseline Deficit as of October 10, 1987	179.3

a. Estimated savings from substitution of 2 percent pay raises for 4.2 percent pay raises assumed for January 1 baseline.

b. Costs result largely from the supplemental appropriations for 1987.

Table 3. CBO ECONOMIC ASSUMPTIONS FOR 1988

Gross National Product:	
Current dollars (in billions of dollars)	4,718
Percent change, year over year	7.0
Constant (1982) dollars (in billions of dollars)	3,886
Percent change, year over year	2.8
GNP Implicit Price Deflator (percent change, year over year)	4.1
CPI-W (percent change, year over year)	5.1
Civilian Unemployment Rate (percent, fiscal year average)	6.1
Interest Rates (fiscal year average):	
91-day Treasury bills	6.6
10-year Treasury notes	8.5

ECONOMIC ASSUMPTIONS

The principal economic assumptions underlying the CBO budget baseline estimates for fiscal year 1988 are shown in Table 3. These assumptions are unchanged from those contained in the August 20 joint CBO/OMB sequestration report. CBO's technical assumptions also are unchanged except for Medicare supplementary medical insurance premium rates and the Medicare economic index, which incorporate the actual amounts announced recently by the Health Care Financing Administration.

The Balanced Budget Act requires the OMB and CBO Directors to estimate the rate of real economic growth for the fiscal year covered by their reports, for each quarter of the fiscal year, and for the last two quarters of the preceding fiscal year. If either OMB or CBO projects real economic growth to be less than zero for any two consecutive quarters, or if the Department of Commerce reports actual real growth to have been less than 1 percent for two consecutive quarters, the Congress can suspend many of the provisions of the act. Table 3 cites the CBO estimates for the rate of real economic growth for fiscal year 1988; Table 4 shows the quarterly estimates. CBO does not project real economic growth to be less than zero in any quarter during fiscal year 1988.

REQUIRED OUTLAY REDUCTIONS

Sequestration of budgetary resources will be necessary for 1988 if the amount of net deficit reduction since January 1 is less than $23 billion. The Congressional Budget Office estimates that the budget baseline deficit has increased by $1.0 billion between January 1 and October 10, 1987. Therefore, the required amount of outlay reductions to be obtained through sequestration is $23.0 billion, the maximum amount specified by law for 1988. One half of the required outlay reduction--($11.5 billion)--must be taken from defense programs (budget accounts in the national defense function, 050, excluding the Federal Emergency Management Agency) and the other half from nondefense programs.

All savings from eliminating automatic spending increases in three specific programs--the National Wool Act, the special milk program, and vocational rehabilitation--are applied to the required reduction in outlays for nondefense programs. According to CBO estimates, this would produce $19 million in outlay savings in 1988. The outlay savings to be obtained by applying four special rules are also credited to the required spending reductions in nondefense programs. These special rules are for guaranteed student loans, foster care and adoption assistance, Medicare, and certain health programs, and are described in a later section of this report. Outlay savings for these programs under the special rules would be $1.6 billion.

Table 4. REAL ECONOMIC GROWTH RATES FROM PREVIOUS QUARTER
(Percentage growth at annual rates)

Fiscal Year 1987			Fiscal Year 1988 Estimates			
Actual		Estimate				
Jan-Mar 1987 a/	Apr-Jun 1987 a/	Jul-Sep 1987	Oct-Dec 1987	Jan-Mar 1988	Apr-Jun 1988	Jul-Sep 1988
4.4	2.5	2.6	2.9	3.1	2.3	2.4

a. As reported by the Department of Commerce (September 18, 1987).

The $11.5 billion in outlay reductions in defense programs and the remaining $9.9 billion in outlay reductions in nondefense programs must be taken on a uniform percentage basis, computed separately for each category. The uniform reduction percentages are computed from outlay estimates. The required outlay savings to be achieved through across-the-board reductions are divided by the estimated outlays from sequesterable budgetary resources in each category. The resulting uniform reduction percentages are then applied to all of the sequesterable budgetary resources (budget authority, credit authority, and other spending authority) for defense and nondefense programs.

According to CBO estimates, the 1988 outlays associated with sequesterable budgetary resources for defense programs are $110.5 billion. This amount excludes $71.2 billion in 1988 outlays for military personnel accounts that the President has chosen to exempt from sequestration, which he is permitted to do under the Reaffirmation Act. The President notified the Congress of this exemption on October 10. Outlays from obligated defense balances in 1988 are also excluded by law from the sequesterable outlay base. The uniform percentage to be applied to sequesterable defense budgetary resources therefore is 10.4 percent, as shown in Table 5. The effect of the President's exemption for military personnel accounts is to increase the uniform percentage reduction made in all the remaining defense accounts by 4.1 percentage points since the total required defense outlay reduction of $11.5 billion is unchanged by his action.

The 1988 outlays associated with sequesterable budgetary resources for nondefense programs subject to the uniform percentage reduction are estimated to be $113.5 billion. A number of nondefense programs are exempted by law from the sequestration process. The largest are Social Security benefits, net interest, certain low-income programs, most federal retirement and disability benefits, veterans compensation and pensions, and regular state unemployment insurance benefits. Outlays

Table 5. CBO SEQUESTRATION CALCULATIONS FOR 1988
(Outlays in millions of dollars)

	Defense Programs	Nondefense Programs
Total Required Outlay Reductions	11,500	11,500
Savings from Eliminating Automatic Spending Increases	---	19
Savings from the Application of Special Rules:		
Guaranteed student loans	---	25
Foster care and adoption assistance	---	9
Medicare	---	1,390
Other health programs	---	178
Remaining Reductions Required	11,500	9,879
Estimated Sequestration Outlay Base a/	110,459	113,509
Uniform Reduction Percentage	10.4	8.7

a. Excludes $71,177 million in estimated military personnel outlays that have been exempted from sequestration by the President. Includes $7,490 million in estimated 1989 outlays for the Commodity Credit Corporation that can be affected by a 1988 sequestration (see discussion of special rule for the CCC). Also includes an estimated $2,264 million in outlays from the spending of offsetting collections.

from prior-year appropriations for nondefense programs are also generally not subject to sequestration. Federal administrative expenses for most otherwise exempt programs and activities, however, are sequesterable. The estimated uniform percentage to be applied to sequesterable nondefense programs is 8.7 percent (see Table 5).

The calculations in this report generally assume that all nonexempt budgetary resources can be sequestered so as to produce outlay savings, including entitlement programs and other mandatory spending programs where the spending authority is not controlled through the annual appropriation process. An exception is made for the administrative expenses of the Postal Service. While more than $1 billion of budgetary resources of the Postal Service are sequesterable under CBO estimates, no outlay savings are attributed by CBO to sequestration because the Administration appears to have no mechanism for enforcing a sequestration order on the Postal Service. The CBO calculations also exclude the 1988 federal payment of $214 million to the Corporation for Public Broadcasting because the entire payment was made on October 1, 1987.

AUTOMATIC SPENDING INCREASES

The three programs with automatic spending increases currently subject to sequestration by the Balanced Budget Act, as amended, are listed in Table 6. (Automatic spending increases in federal retirement and disability programs were subject to sequestration under the original act, but have been exempted by subsequently enacted legislation.) The scheduled percentage increases are shown as well as the amount of estimated outlay savings to be gained by eliminating these increases.

SPECIAL RULES

The Balanced Budget Act provides special rules for the sequestration of budgetary resources for certain federal programs. This section describes these special rules and their application to the 1988 sequestration calculations. The estimated outlay savings derived from the first four rules are shown separately in Table 5. Any outlay savings resulting from the remaining special rules are included in the amount to be obtained from the uniform percentage reductions.

Table 6. AUTOMATIC SPENDING INCREASES FOR 1988 SUBJECT TO SEQUESTRATION
(Outlay estimates in millions of dollars)

Program	Scheduled Increase (percent)	Sequestration Outlay Reductions
National Wool Act a/	3.5	4
Special Milk Programs	b/	b/
Vocational Rehabilitation c/	1.6	15
Total		19

a. Payment increases are based on changes in wool parity price.
b. Benefits are indexed to the Producer Price Index for Fresh Processed Milk. This index is not projected to increase between May 1987 and May 1988.
c. This program is indexed to the change in the Consumer Price Index from October of the previous year.

Guaranteed Student Loan Program

The Balanced Budget Act requires two changes in the guaranteed student loan (GSL) program to occur automatically under sequestration. First, the statutory factor for calculating the quarterly special allowance payments to lenders will be reduced by the lesser of 0.40 percentage points or the amount by which the statutory factor exceeds 3 percent for the first four quarters after the loan is made. Under the current program, the reduction will be 0.25 percentage points. Second, a student's origination fee will increase by 0.50 percentage points. In both cases, sequestration affects only GSL loans disbursed during the applicable fiscal year, but after the order is issued. For 1988, these changes are estimated by CBO to reduce outlays by $25 million.

Foster Care and Adoption Assistance Programs

The Balanced Budget Act limits the amount to be sequestered in the foster care and adoption assistance programs to increases in foster care maintenance payment rates or adoption assistance payment rates taking effect during the current fiscal year. Moreover, the amounts are limited to the extent that the reductions can be made by reducing federal matching payments by a uniform percentage across states. The increases in payment rates for these programs are made by the states and localities. Any increases planned by the states for fiscal year

1988 were included in the CBO calculations for sequestration reductions. The estimated outlay savings in 1988 from sequestration are $9 million.

Medicare

The sequestration reductions in the Medicare program are to be achieved by reducing payment amounts for covered services. No changes in coinsurance or deductible amounts are to be made, and covered services are unaffected under a sequestration order. Under such an order, each payment amount for services provided during the fiscal year would be reduced by a maximum of 2 percent relative to whatever level of payment would otherwise be made under Medicare law and regulation. For fiscal year 1988, however, sequestration reductions for Medicare will not go into effect until a final sequestration order is issued on November 20, 1987. In order to achieve a full-year reduction of 2 percent in Medicare outlays, a 2.3 percent reduction in payments will be necessary after November 20. Based on the need for a $23.0 billion sequestration in 1988, a full-year reduction of 2 percent will be required. According to CBO estimates, the outlay savings to be achieved in 1988 by applying this special rule are $1.4 billion.

Veterans Medical Care and Other Health Programs

The Balanced Budget Act limits reductions in budget authority for the nonadministrative expenditures for veterans medical care, community and migrant health centers, and Indian health services and facilities to 2 percent in 1988 and any subsequent year. The estimated outlay savings to be achieved in 1988 by applying this special rule in these programs are $178 million.

Child Support Enforcement Program

In the child support enforcement (CSE) program, the Balanced Budget Act provides that sequestration of entitlement payments to states, including grants to states for interstate projects from the Family Support Administration's program administration account, is to be accomplished by reducing the federal matching rates for state administrative expenses. For 1988, the federal matching rate on most expenditures under CBO estimates would be reduced from 68 percent to 60.3 percent, and the rate for computer-related expenditures would be reduced from 90 percent to 79.8 percent. These reductions in the matching rates are necessary to achieve the same 8.7 percent reduction applied to other nondefense programs, adjusted to allow also for the sequestration of spending on interstate grants.

If states increase their share of CSE spending to maintain total program spending at the expected 1988 level, this reduction in the federal matching rate will lower federal outlays by the same percentage as other nondefense programs. If states do not increase their 1988 budgeted amounts to compensate for lower matching rates, however, the lower federal matching rate would result in a larger percentage reduction in federal spending than the act requires. The estimated outlay savings that are to be achieved in 1988 by applying this special rule are $87 million.

Unemployment Compensation Programs

The Balanced Budget Act provides that the following items are not to be sequestered: regular state unemployment benefits, the state share of extended unemployment benefits, unemployment benefits paid to former federal employees and former members of the armed services, and loans and advances to the state and federal unemployment accounts. The federal share of extended benefits, unemployment insurance for railroad employees, other federally paid benefits, and state and federal administrative expenses are to be sequestered.

Both the federal and state shares of extended unemployment benefits are paid from the unemployment trust fund--the federal share from a federal account and the state share from each state's account. State law sets the amount of each weekly extended benefit. The Balanced Budget Act permits any state to reduce the weekly extended benefit amount by a percentage equal to the percentage reduction in the federal share. If states do not change their laws to provide for such a reduction, weekly benefit payments will not be reduced, the state share will increase by the amount of the decrease in the federal share, and total budget outlays that include both federal and state benefits will not be changed by the sequestration. No states are currently paying extended benefits.

Commodity Credit Corporation

Under the Balanced Budget Act, payments and loan eligibility under any contract entered into by the Commodity Credit Corporation (CCC) after a sequestration order has been issued for a fiscal year are subject to a percentage reduction. The act requires that reductions for all farm commodities supported by the CCC be made in a uniform manner, including all noncontract programs, projects, and

activities within CCC's jurisdiction. The act further stipulates that outlay reductions in the post-sequestration year that are the result of contract adjustments in the sequestration year should be credited to the overall outlay reduction required in the sequestration year. The amount of outlay savings to be achieved by applying this special rule are estimated by CBO to be $772 million in 1988, and $652 million in 1989. The actual amount of savings realized in each year will depend upon how the sequestration is implemented for the various CCC programs. In accordance with the act, however, all $1.4 billion of these estimated outlay savings are credited toward the $11.5 billion nondefense spending reduction required for 1988.

Federal Pay

The Balanced Budget Act provides that rates of pay for civilian employees (and rates of basic pay, basic subsistence allowances, and basic quarter allowances for members of the uniformed services), or any scheduled pay increases, may not be reduced pursuant to a sequestration order. Budgetary resources available for federal pay, however, will be subject to sequestration as part of the reduction of administrative expenses, which include travel, printing, supplies, and other services. The total amount of governmentwide savings to be achieved in 1988 from employee compensation cannot be estimated because program managers are expected to be urged not to resort to personnel furloughs and reductions in force until other administrative expenses are reduced as much as possible.

SEQUESTRATION REDUCTIONS

A summary of the CBO calculations for the sequestration of budgetary resources and the estimated outlay savings for 1988 are provided for national defense programs in Table 7 and for nondefense programs by function in Table 8. The tables show CBO budget baseline estimates for new budget authority and outlays, the sequestration reductions, and the post-sequestration levels. Table 9 provides a similar summary of the 1988 sequestration reductions for credit programs. In most instances, additional outlay savings would be gained in 1989 and later years as a result of the cancellation of 1988 budget authority. The 1989 savings have not been estimated for this report. A detailed listing of the sequestration base and reductions by agency and budget account by type of spending authority is provided as an appendix to this report.

The CBO sequestration calculations and post-sequestration spending levels are advisory and do not necessarily represent the final outcome of fiscal year 1988. The actual sequestration amounts will be determined by the Office of Management and Budget. OMB's initial sequestration calculations will be issued on October 20, and an initial Presidential sequestration order will become effective that day. This order will result in temporary withholding of funds from obligation and expenditure until a final order is issued on November 20. Since no full-year appropriations for 1988 have been enacted yet, the sequestration for appropriated budget accounts will be applied to the short-term continuing resolution that is in effect through November 10.

The final sequestration reports and Presidential order will incorporate any new laws enacted and regulations promulgated after October 10. If the Congress acts to achieve net deficit reductions of $23 billion from the January 1 budget baseline before November 20, there will be no sequestration of spending for 1988. If the net deficit reductions fall short of $23 billion, sequestration of spending will be necessary to make up the difference and the sequestration calculations will be altered accordingly. Under CBO estimates, the Congress will have to achieve $24 billion in net deficit reductions during the next five weeks to avoid sequestration because $1 billion has been added to the budget baseline deficit since January 1, 1987.

The amended Balanced Budget Act allows the President to propose modifications to the sequestration order for defense programs as long as the total required outlay reductions are still met. This provision could result in changes in the amount of defense budgetary resources that would be sequestered. The Congress would have to approve such a proposal or its own version under expedited legislative procedures. The amended act also provides for an expedited procedure under which the Congress may enact a joint resolution requiring the President to modify his sequestration order, including modifications that effectively cancel it.

In addition, the amended act establishes a procedure for the sequestration of budget accounts in the event that a short-term continuing resolution is in effect when the final order is issued and full-year appropriations are enacted later. In this situation, the sequestration dollar amount will be applied to the full-year appropriation with credit given for any reductions below the budget baseline. Supplemental appropriations are not affected by this new procedure.

TABLE 7. DEFENSE PROGRAM SEQUESTRATIONS FOR 1988 (In billions of dollars)

Budget Function 050	October Baseline a/	CBO Estimated Sequestration b/	Post-Sequestration
Department of Defense-Military			
Military personnel			
Budget authority	75.4	0 c/	75.4
Outlays	74.9	0	74.9
Operation and maintenance			
Budget authority	83.7	8.7	75.1
Outlays	81.3	6.6	74.7
Procurement			
Budget authority	89.1	9.3	79.9
Outlays	83.5	1.7	81.7
Research, development, test, and evaluation			
Budget authority	37.5	3.9	33.6
Outlays	34.7	2.2	32.5
Military construction and other			
Budget authority	8.8	1.0	7.8
Outlays	7.8	0.4	7.5
Subtotal, DoD--military			
Budget authority	294.6	22.8	271.8
Outlays	282.2	10.9	271.3
Atomic Energy Defense Activities			
Budget authority	7.8	0.8	7.0
Outlays	7.7	0.6	7.1
Other Defense-related Activities d/			
Budget authority	0.5	e/	0.5
Outlays	0.6	e/	0.5
Total			
Budget authority	302.9	23.7	279.3
Outlays	290.4	11.5	278.9

a. Does not include an estimated $47.7 billion in unobligated balances subject to sequestration.

b. Does not include $5.0 billion in unobligated balances that would be sequestered.

c. The President has exempted the military personnel accounts from sequestration in 1988.

d. Includes the function 050 portion of Federal Emergency Management Agency budget accounts, which are reduced at the same rate as nondefense programs.

e. $50 million or less.

TABLE 8. NONDEFENSE PROGRAM SEQUESTRATIONS FOR 1988 BY FUNCTION
(In billions of dollars)

Budget Function		October Budget Baseline	CBO Estimated Sequestration	Post-Sequestration
150	International Affairs			
	Budget authority	17.5	1.6	15.9
	Outlays	16.4	0.9	15.5
250	General Science, Space, and Technology			
	Budget authority	13.1	1.1	12.0
	Outlays	11.0	0.6	10.4
270	Energy			
	Budget authority	3.8	0.5	3.3
	Outlays	4.0	0.3	3.7
300	Natural Resources and Environment			
	Budget authority	15.9	1.5	14.4
	Outlays	14.8	1.0	13.8
350	Agriculture a/			
	Budget authority	28.2	1.0	27.2
	Outlays	27.4	1.1	26.3
370	Commerce and Housing Credit			
	Budget authority	9.4	0.3	9.1
	Outlays	6.0	0.3	5.7
400	Transportation			
	Budget authority	28.0	2.4	25.6
	Outlays	28.1	0.8	27.3
450	Community and Regional Development			
	Budget authority	7.7	0.5	7.2
	Outlays	6.6	0.2	6.5
500	Education, Training, Employment, and Social Services			
	Budget authority	35.7	2.6	33.0
	Outlays	33.5	0.9	32.6
550	Health			
	Budget authority	44.5	1.2	42.3
	Outlays	44.3	0.6	43.7
570	Medicare			
	Budget authority	94.9	---	94.9
	Outlays	82.3	1.5	80.8
600	Income Security			
	Budget authority	169.8	1.3	167.6
	Outlays	132.7	0.7	132.0
650	Social Security			
	Budget authority	258.4	---	258.4
	Outlays	220.7	0.2	220.5
700	Veterans Benefits and Services			
	Budget authority	28.5	0.5	28.0
	Outlays	28.0	0.4	27.6
750	Administration of Justice			
	Budget authority	9.3	0.8	8.5
	Outlays	9.1	0.7	8.5
800	General Government			
	Budget authority	7.5	0.7	6.8
	Outlays	7.1	0.6	6.5
850	General Purpose Fiscal Assistance			
	Budget authority	1.9	0.1	1.8
	Outlays	1.9	0.1	1.7
900	Net Interest b/			
	Budget authority	150.0	0.9	149.1
	Outlays	150.0	0.9	149.1
950	Undistributed Offsetting Receipts			
	Budget authority	-38.0	---	-38.0
	Outlays	-38.0	---	-38.0
	Total			
	Budget authority	885.1	16.9	868.2
	Outlays	785.9	11.7	774.2

a. Excludes $0.7 billion in estimated 1989 outlay savings for programs of the Commodity Credit Corporation that are credited toward the 1988 sequestration (see discussion of special rule for CCC).

b. Includes $0.9 billion savings in debt service costs as result of 1988 outlay reductions through sequestration.

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TABLE 9. CREDIT PROGRAM SEQUESTRATIONS FOR 1988 BY FUNCTION
(In billions of dollars)

Budget Function		October Budget Baseline	CBO Estimated Sequestration	Post-Sequestration
150	International Affairs			
	Direct loans	6.2	0.5	5.6
	Loan guarantees	12.2	1.1	11.1
270	Energy			
	Direct loans	1.3	0.1	1.2
	Loan guarantees	2.2	0.2	2.0
300	Natural Resources and Environment			
	Direct loans	0.1	a/	0.1
350	Agriculture			
	Direct loans	17.4	1.5	15.9
	Loan guarantees	8.1	0.7	7.4
370	Commerce and Housing Credit			
	Direct loans	2.8	0.2	2.6
	Loan guarantees	255.0	22.2	232.8
400	Transportation			
	Direct loans	0.1	a/	0.1
450	Community and Regional Development			
	Direct loans	1.1	0.1	1.0
	Loan guarantees	0.5	a/	0.5
500	Education, Training, Employment, and Social Services			
	Direct loans	0.1	a/	0.1
550	Health			
	Direct loans	a/	a/	a/
600	Income Security			
	Direct loans	a/	a/	a/
700	Veterans Benefits and Services			
	Direct loans	a/	a/	a/
	Loan guarantees	31.6	2.8	28.9
	Total			
	Direct loans	29.0	2.5	26.5
	Loan guarantees	309.6	26.9	282.7

NOTE: Direct loans include new direct loan obligations, commitments, and limitations. Loan guarantees include new loan guarantee commitments and limitations.

a. $50 million or less.

APPENDIX

SEQUESTRATION REDUCTIONS

BY AGENCY AND BUDGET ACCOUNT

(Fiscal Year 1988, in thousands of dollars)

Percentages used:

Defense	10.4 percent
Nondefense	8.7 percent

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Legislative Branch			
Senate			
Mileage of the Vice President and Senators			
00 0101 0 1 801	Budget Authority	63	5
	Outlays	50	4
Expense allowances of the Vice President, President Pro Tempore, Majorit			
00 0107 0 1 801	Budget Authority	58	5
	Outlays	58	5
Representation allowances for the Majority and Minority Leaders			
00 0108 0 1 801	Budget Authority	21	2
	Outlays	21	2
Salaries, officers and employees			
00 0110 0 1 801	Budget Authority	196,564	17,101
	Outlays	184,770	16,075
Miscellaneous items			
00 0123 0 1 801	Budget Authority	12,102	1,053
	Outlays	12,102	1,053
Secretary of the Senate			
00 0126 0 1 801	Budget Authority	697	61
	Outlays	691	60
Sergeant at Arms and Doorkeeper of the Senate			
00 0127 0 1 801	Budget Authority	67,334	5,858
	Outlays	60,601	5,272
Inquiries and investigations			
00 0128 0 1 801	Budget Authority	57,760	5,025
	Outlays	54,872	4,774
Expenses of United States International Narcotics Control Commission			
00 0129 0 1 801	Budget Authority	349	30
	Outlays	315	27
Stationery (revolving fund)			
00 0140 0 1 801	Budget Authority	14	1
	Outlays	14	1
Office of Senate Legal Counsel			
00 0171 0 1 801	Budget Authority	637	55
	Outlays	478	42
Expense allowances of the Secretary of the Senate, Sergeant at Arms, and			
00 0172 0 1 801	Budget Authority	13	1
	Outlays	8	1
Senate policy committees			
00 0182 0 1 801	Budget Authority	2,156	188
	Outlays	1,833	159
Office of the Legislative Counsel of the Senate			
00 0185 0 1 801	Budget Authority	1,617	141
	Outlays	1,536	134
House of Representatives			
Mileage of Members			
00 0208 0 1 801	Budget Authority	219	19
	Outlays	110	10
House leadership offices			
00 0408 0 1 801	Budget Authority	3,710	323
	Outlays	3,298	287
Salaries, officers and employees			
00 0410 0 1 801	Budget Authority	56,961	4,956
	Outlays	55,195	4,802
Members' clerk hire			
00 0415 0 1 801	Budget Authority	188,396	16,390
	Outlays	185,570	16,145
Committee employees			
00 0416 0 1 801	Budget Authority	53,136	4,623
	Outlays	52,605	4,577
Committee on Appropriations (studies and investigations)			
00 0418 0 1 801	Budget Authority	4,629	403
	Outlays	4,398	383
Committee on the Budget (studies)			
00 0419 0 1 801	Budget Authority	343	30
	Outlays	309	27
Special and select committees			
00 0433 0 1 801	Budget Authority	55,268	4,809
	Outlays	53,058	4,616

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Allowances and expenses			
00 0438 0 1 801	Budget Authority	157,650	13,715
	Outlays	132,426	11,521
Congressional use of foreign currency, House of Representatives			
00 0488 0 1 801	401(C) Authority	2,779	242
	Outlays	2,779	242
Joint Items			
Capitol Guide Service			
00 0170 0 1 801	Budget Authority	1,089	95
	Outlays	980	85
Joint Committee on Printing			
00 0180 0 1 801	Budget Authority	1,017	88
	Outlays	915	80
Joint Economic Committee			
00 0181 0 1 801	Budget Authority	3,029	264
	Outlays	2,876	250
Office of the Attending Physician			
00 0425 0 1 801	Budget Authority	1,353	118
	Outlays	541	47
Joint Committee on Taxation			
00 0460 0 1 801	Budget Authority	4,555	396
	Outlays	4,327	376
General expenses, Capitol police			
00 0476 0 1 801	Budget Authority	1,960	170
	Outlays	1,665	145
Statements of appropriations, House of Representatives			
00 0499 0 1 801	Budget Authority	21	2
Official mail costs			
00 0825 0 1 801	Budget Authority	95,263	8,288
	Outlays	95,263	8,288
Congressional Budget Office			
Salaries and expenses			
08 0100 0 1 801	Budget Authority	18,698	1,627
	Outlays	16,828	1,464
Architect of the Capitol			
Office of the Architect of the Capitol: Salaries			
01 0100 0 1 801	Budget Authority	5,825	507
	Outlays	5,301	461
Contingent expenses			
01 0102 0 1 801	Budget Authority	52	5
	Outlays	52	5
Capitol buildings			
01 0105 0 1 801	Budget Authority	12,834	1,117
	Outlays	11,474	998
Capitol grounds			
01 0108 0 1 801	Budget Authority	3,436	299
	Outlays	3,027	263
Senate office buildings			
01 0123 0 1 801	Budget Authority	27,171	2,364
	Outlays	26,193	2,279
House office buildings			
01 0127 0 1 801	Budget Authority	27,370	2,381
	Outlays	24,469	2,129
Capitol Power Plant			
01 0133 0 1 801	Budget Authority	25,794	2,244
	401(C) Authority - Off. Coll.	135	12
	Outlays	22,318	1,942
Structural and mechanical care, Library buildings and grounds			
01 0155 0 1 801	Budget Authority	6,454	561
	Outlays	5,983	521
Library of Congress			
Salaries and expenses			
03 0101 0 1 503	Budget Authority	144,409	12,564
	401(C) Authority - Off. Coll.	5,000	435
	Outlays	123,415	10,737
Salaries and expenses, Copyright Office			
03 0102 0 1 376	Budget Authority	10,867	945
	401(C) Authority - Off. Coll.	6,992	608
	Outlays	16,935	1,473
Congressional Research Service: Salaries and expenses			
03 0127 0 1 801	Budget Authority	43,554	3,789
	Outlays	39,373	3,425
Books for the blind and physically handicapped: Salaries and expenses			
03 0141 0 1 503	Budget Authority	37,793	3,288
	Outlays	18,897	1,644

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Collection and distribution of library materials (special foreign curren			
03 0144 0 1 503	Budget Authority	410	36
	Outlays	20	2
Furniture and furnishings			
03 0146 0 1 503	Budget Authority	5,298	461
	Outlays	1,325	115
Gift and trust fund accounts			
03 9971 0 7 503	401(C) Other - incl. ob. limit	346	30
	Outlays	346	30
Government Printing Office			
Office of Superintendent of Documents: Salaries and expenses			
04 0201 0 1 806	Budget Authority	23,506	2,045
	Outlays	15,514	1,350
Printing and binding			
04 0202 0 1 801	Budget Authority	11,845	1,031
	Outlays	7,699	670
Congressional printing and binding			
04 0203 0 1 801	Budget Authority	68,634	5,971
	Outlays	52,162	4,538
Government Printing Office revolving fund			
04 4505 0 4 806	401(C) Authority - Off. Coll.	29,000	2,523
	Outlays	29,000	2,523
General Accounting Office			
Salaries and expenses			
05 0107 0 1 801	Budget Authority	332,584	28,935
	Outlays	305,977	26,620
United States Tax Court			
Salaries and expenses			
23 0100 0 1 752	Budget Authority	27,499	2,392
	Outlays	21,999	1,914
Other Legislative Branch Agencies			
Commission on Security and Cooperation in Europe: Salaries and expenses			
09 0110 0 1 801	Budget Authority	573	50
	Outlays	515	45
Botanic Garden: Salaries and expenses			
09 0200 0 1 801	Budget Authority	2,265	197
	Outlays	2,039	177
Salaries and expenses, Copyright Royalty Tribunal			
09 0310 0 1 376	Budget Authority	133	12
	Outlays	119	10
Biomedical Ethics: Salaries and expenses			
09 0400 0 1 801	Budget Authority	166	14
	Outlays	166	14
Office of Technology Assessment: Salaries and expenses			
09 0700 0 1 801	Budget Authority	17,141	1,491
	Outlays	12,950	1,127
Railroad Accounting Principles Board: Salaries and expenses			
09 0800 0 1 801	Budget Authority	657	57
TOTAL FOR Legislative Branch			
	Budget Authority	1,823,460	158,642
	401(C) Authority	2,779	242
	401(C) Authority - Off. Coll.	41,127	3,578
	401(C) Other - incl. ob. limit	346	30
	Outlays	1,678,268	146,010
The Judiciary			
Supreme Court of the United States			
Salaries and expenses			
10 0100 0 1 752	Budget Authority	14,767	1,285
	Outlays	11,592	1,009
Care of the building and grounds			
10 0103 0 1 752	Budget Authority	2,427	211
	Outlays	2,233	194
United States Court of Appeals for the Federal Circuit			
Salaries and expenses			
10 0510 0 1 752	Budget Authority	6,066	528
	Outlays	5,465	475
United States Court of International Trade			
Salaries and expenses			
10 0400 0 1 752	Budget Authority	6,638	578
	Outlays	6,306	549
Courts of Appeals, District Courts, and other Judicial Services			
Salaries and expenses			
10 0920 0 1 752	Budget Authority	963,846	83,854
	Outlays	890,594	77,482

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Defender services			
10 0923 0 1 752	Budget Authority	91,241	7,938
	Outlays	54,745	4,763
Fees of jurors and commissioners			
10 0925 0 1 752	Budget Authority	56,460	4,912
	Outlays	52,508	4,568
Court security			
10 0930 0 1 752	Budget Authority	37,545	3,266
	Outlays	26,845	2,336
Administrative Office of the United States Courts			
Salaries and expenses			
10 0927 0 1 752	Budget Authority	32,227	2,803
	Outlays	28,586	2,487
Federal Judicial Center			
Salaries and expenses			
10 0928 0 1 752	Budget Authority	11,348	987
	Outlays	9,045	787
Bicentennial Expenses, The Judiciary			
Bicentennial activities			
10 0933 0 1 806	Budget Authority	1,042	91
TOTAL FOR The Judiciary			
	Budget Authority	1,223,607	106,453
	Outlays	1,087,919	94,650
Executive Office of the President			
The White House Office			
Salaries and expenses			
11 0110 0 1 802	Budget Authority	26,504	2,306
	Outlays	23,854	2,075
Executive Residence at the White House			
Operating expenses			
11 0210 0 1 802	Budget Authority	5,140	447
	401(C) Authority - Off. Coll.	729	63
	Outlays	5,761	501
Official Residence of the Vice President			
Operating expenses			
11 0211 0 1 802	Budget Authority	222	19
	Outlays	50	4
Special Assistance to the President			
Salaries and expenses			
11 1454 0 1 802	Budget Authority	1,937	169
	Outlays	1,705	148
Council of Economic Advisers			
Salaries and expenses			
11 1900 0 1 802	Budget Authority	2,484	216
	Outlays	2,161	188
Council on Environmental Quality and Office of Environmental Quality			
Council on Environmental Quality and Office of Environmental Quality			
11 1453 0 1 802	Budget Authority	874	76
	Outlays	830	72
Office of Policy Development			
Salaries and expenses			
11 2200 0 1 802	Budget Authority	2,838	247
	Outlays	2,469	215
National Security Council			
Salaries and expenses			
11 2000 0 1 802	Budget Authority	4,946	430
	Outlays	3,957	344
National Critical Materials Council			
Salaries and expenses			
11 0111 0 1 802	Budget Authority	190	17
	Outlays	172	15
Office of Administration			
Salaries and expenses			
11 0038 0 1 802	Budget Authority	16,719	1,455
	Outlays	12,038	1,047
Office of Management and Budget			
Office of Federal Procurement Policy: salaries and expenses			
11 0201 0 1 802	Budget Authority	1,739	151
	Outlays	1,567	136
Salaries and expenses			
11 0300 0 1 802	Budget Authority	40,233	3,500
	Outlays	35,767	3,112
Office of Science and Technology Policy			
Salaries and expenses			
11 2600 0 1 802	Budget Authority	2,048	178
	Outlays	1,229	107

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of the United States Trade Representative			
Salaries and expenses			
11 0400 0 1 802	Budget Authority	14,400	1,253
	Outlays	12,240	1,065
White House Conference on Drug Abuse and Control			
Salaries and expenses			
11 0212 0 1 551	Budget Authority	5,328	464
	Outlays	4,369	380
TOTAL FOR Executive Office of the President			
	Budget Authority	125,602	10,928
	401(C) Authority - Off. Coll.	729	63
	Outlays	108,169	9,409
Funds Appropriated to the President			
Disaster Relief			
Disaster relief			
11 0039 0 1 453	Budget Authority	125,040	10,878
	Outlays	75,024	6,527
Unanticipated Needs			
Unanticipated needs			
11 0037 0 1 802	Budget Authority	1,053	92
	Outlays	1,013	88
International Security Assistance			
Peacekeeping operations			
11 1032 0 1 152	Budget Authority	33,020	2,873
	Outlays	14,133	1,230
Economic support fund			
11 1037 0 1 152	Budget Authority	3,712,642	323,001
	Direct Loan Limitation	182,955	15,917
	Outlays	2,267,775	197,296
Military assistance			
11 1080 0 1 152	Budget Authority	991,070	86,223
	Outlays	257,678	22,418
International military education and training			
11 1081 0 1 152	Budget Authority	58,352	5,077
	Outlays	26,258	2,284
Foreign military sales credit			
11 1082 0 1 152	Budget Authority	4,223,686	367,461
	Direct Loan Limitation	4,223,686	367,461
	Outlays	1,985,961	172,778
Multilateral Assistance			
Contribution to the Inter-American Development Bank			
11 0072 0 1 151	Budget Authority	35,095	3,053
	Outlays	360	31
Contribution to the International Development Association			
11 0073 0 1 151	Budget Authority	864,964	75,252
	Outlays	86,496	7,525
Contribution to the Asian Development Bank			
11 0076 0 1 151	Budget Authority	109,034	9,486
	Outlays	5,516	480
Contribution to International Bank for Reconstruction and Development			
11 0077 0 1 151	Budget Authority	58,149	5,059
	Outlays	5,815	506
Contribution to the International Finance Corporation			
11 0078 0 1 151	Budget Authority	7,509	653
	Outlays	7,509	653
Contribution to the African Development Fund			
11 0079 0 1 151	Budget Authority	94,225	8,197
Contribution to the African Development Bank			
11 0082 0 1 151	Budget Authority	21,340	1,857
	Outlays	21,340	1,857
Contribution to the special facility for Sub-Saharan Africa			
11 0086 0 1 151	Budget Authority	67,527	5,875
	Outlays	13,505	1,175
International organizations and programs			
11 1005 0 1 151	Budget Authority	247,229	21,509
	Outlays	162,985	14,180
Agency for International Development			
Operating expenses Agency for International Development			
11 1000 0 1 151	Budget Authority	369,605	32,156
	Outlays	277,204	24,117
Operating expenses, Agency for International Development			
11 1007 0 1 151	Budget Authority	22,612	1,967
	Outlays	16,959	1,475
Sahel development program			
11 1012 0 1 151	Budget Authority	72,940	6,346
	Outlays	8,972	781

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
American schools and hospitals abroad			
11 1013 0 1 151	Budget Authority	36,470	3,173
	Outlays	9,300	809
Functional development assistance program			
11 1021 0 1 151	Budget Authority	1,534,853	133,533
	Direct Loan Limitation	156,300	13,598
	Outlays	188,787	16,424
International disaster assistance			
11 1035 0 1 151	Budget Authority	72,940	6,346
	Outlays	18,089	1,574
Housing and other credit guaranty programs			
72 4340 0 3 151	401(C) Authority - Off. Coll.	6,500	566
	Guaranteed Loan Limitation	151,573	13,187
	Outlays	6,351	553
Private sector revolving fund			
72 4341 0 3 151	Budget Authority	13,546	1,179
	Direct Loan Limitation	16,206	1,410
	Outlays	1,563	136
Trade and Development Program			
Trade and development program			
11 1001 0 1 151	Budget Authority	20,912	1,819
	Outlays	4,329	377
Peace Corps			
Peace Corps operating expenses			
11 0100 0 1 151	Budget Authority	147,457	12,829
	401(C) Authority - Off. Coll.	102	9
	Outlays	121,146	10,540
Overseas Private Investment Corporation			
Overseas Private Investment Corporation			
71 4030 0 3 151	401(C) Authority - Off. Coll.	10,600	922
	Direct Loan Limitation	23,966	2,085
	Guaranteed Loan Limitation	208,400	18,131
	Outlays	12,588	1,095
Inter-American Foundation			
Inter-American Foundation			
11 4031 0 3 151	Budget Authority	12,384	1,077
	401(C) Authority - Off. Coll.	14,888	1,295
	Outlays	9,970	867
African Development Foundation			
African Development Foundation			
11 0700 0 1 151	Budget Authority	6,861	597
	Outlays	4,117	358
Military Sales Programs			
Special defense acquisition fund			
11 4116 0 3 155	Obligation Limitation	329,084	28,630
	Outlays	3,291	286
Foreign military sales trust fund			
11 8242 0 7 155	401(C) Authority - Off. Coll.	340,000	29,580
	Outlays	316,200	27,509
TOTAL FOR Funds Appropriated to the President			
	Budget Authority	12,960,515	1,127,568
	401(C) Authority - Off. Coll.	372,090	32,372
	Direct Loan Limitation	4,603,113	400,471
	Guaranteed Loan Limitation	359,973	31,318
	Obligation Limitation	329,084	28,630
	Outlays	5,930,234	515,929
Department of Agriculture			
Office of the Secretary			
Office of the Secretary			
12 0115 0 1 352	Budget Authority	16,719	1,455
	Outlays	6,725	585
Departmental Administration			
Rental payments and building operations			
12 0117 0 1 352	Budget Authority	69,723	6,066
	Outlays	65,261	5,678
Advisory committees			
12 0118 0 1 352	Budget Authority	1,396	121
	Outlays	835	73
Departmental administration			
12 0120 0 1 352	Budget Authority	23,253	2,023
	Outlays	20,649	1,796
Working capital fund			
12 4609 0 4 352	Budget Authority	6,072	528
	Outlays	5,993	521

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of Governmental and Public Affairs			
Office of Governmental and Public Affairs			
12 0130 0 1 352	Budget Authority	8,915	776
	Outlays	7,043	613
Office of the Inspector General			
Office of the Inspector General			
12 0900 0 1 352	Budget Authority	48,450	4,215
	Outlays	41,473	3,608
Office of the General Counsel			
Office of the General Counsel			
12 2300 0 1 352	Budget Authority	18,834	1,639
	Outlays	18,664	1,624
Agricultural Research Service			
Agricultural Research Service			
12 1400 0 1 352	Budget Authority	549,802	47,832
	401(C) Authority - Off. Coll.	3,427	298
	Outlays	436,156	37,946
Buildings and facilities			
12 1401 0 1 352	Budget Authority	32,510	2,829
	Outlays	201	17
Cooperative State Research Service			
Cooperative State Research Service			
12 1500 0 1 352	Budget Authority	317,200	27,597
	401(C) Authority	9,170	798
	Outlays	177,514	15,444
Extension Service			
Extension Service			
12 0502 0 1 352	Budget Authority	346,954	30,185
	401(C) Authority - Off. Coll.	495	43
	Outlays	273,421	23,787
National Agricultural Library			
National Agricultural Library			
12 0300 0 1 352	Budget Authority	11,775	1,024
	Outlays	8,537	743
National Agricultural Statistics Service			
Salaries and expenses			
12 1801 0 1 352	Budget Authority	61,298	5,333
	401(C) Authority - Off. Coll.	1,075	94
	Outlays	50,972	4,435
Economic Research Service			
Salaries and expenses			
12 1701 0 1 352	Budget Authority	47,945	4,171
	Outlays	40,322	3,508
World Agricultural Outlook Board			
World agricultural outlook board			
12 2100 0 1 352	Budget Authority	1,757	153
	Outlays	1,339	116
Foreign Agricultural Service			
Foreign Agricultural Service			
12 2900 0 1 352	Budget Authority	88,006	7,656
	Outlays	47,851	4,163
Office of International Coopperation and Development			
Scientific activities overseas (foreign currency program)			
12 1404 0 1 352	Budget Authority	2,607	227
	Outlays	1,304	113
Salaries and expenses			
12 3200 0 1 352	Budget Authority	5,394	469
	Outlays	4,428	385
Foreign Assistance Programs			
Expenses, P.L. 480, foreign assistance programs--agriculture			
12 2274 0 1 151	Budget Authority	1,102,120	95,884
	Direct Loan Limitation	853,606	74,264
	Obligation Limitation	1,524,520	132,633
	Outlays	1,387,313	120,696
Agricultural Stabilization and Conservation Service			
Salaries and expenses			
12 3300 0 1 351	401(C) Authority - Off. Coll.	18,235	1,586
	Outlays	18,235	1,586
Dairy indemnity program			
12 3314 0 1 351	Budget Authority	675	59
	Outlays	675	59
Agricultural conservation program			
12 3315 0 1 302	Budget Authority	184,366	16,040
	Outlays	84,808	7,378

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Emergency conservation program			
12 3316 0 1 453	Budget Authority	10,420	907
	Outlays	2,657	231
Colorado river basin salinity control program			
12 3318 0 1 304	Budget Authority	3,964	345
	Outlays	1,982	172
Conservation reserve program			
12 3319 0 1 302	Budget Authority	560,700	48,781
	Outlays	560,700	48,781
Water Bank program			
12 3320 0 1 302	Budget Authority	8,723	759
	Outlays	1,300	113
Forestry incentives program			
12 3336 0 1 302	Budget Authority	12,390	1,078
	Outlays	4,783	416
Federal Crop Insurance Corporation			
Administrative and operating expenses			
12 2707 0 1 351	Budget Authority	220,141	19,152
	Outlays	124,600	10,840
Commodity Credit Corporation			
Temporary emergency food assistance program			
12 3635 0 1 351	Budget Authority	52,100	4,533
	Outlays	35,636	3,100
Commodity Credit Corporation Fund			
12 4336 0 3 351	401(C) Authority	16,360,000	1,423,320
	Direct Loan Limitation	15,500,000	1,348,500
	Guaranteed Loan Limitation	5,500,000	478,500
	Outlays	16,360,000	1,423,320
National Wool Act (special fund)			
12 5210 0 2 351	401(C) Authority	2,188	190
	401(C) Authority - Spec. Rules	4,100	4,100
	Outlays	6,288	4,290
Rural Electrification Administration			
Salaries and expenses			
12 3100 0 1 271	Budget Authority	32,181	2,800
	Outlays	29,317	2,551
Reimbursement to the Rural electrification and telephone revolving fund			
12 3101 0 1 271	Budget Authority	20,840	1,813
	Outlays	20,840	1,813
Purchase of Rural Telephone Bank capital stock			
12 3102 0 1 452	Budget Authority	29,916	2,603
	Outlays	29,916	2,603
Rural electrification and telephone revolving fund			
12 4230 0 3 271	Direct Loan Limitation	1,296,352	112,783
	Direct Loan Floor	897,475	78,080
	Guaranteed Loan Limitation	2,188,841	190,429
	Guaranteed Loan Floor	972,264	84,587
	Outlays	112,184	9,760
Rural telephone bank			
12 4231 0 3 452	Direct Loan Limitation	219,383	19,086
	Direct Loan Floor	184,481	16,050
Farmers Home Administration			
Salaries and expenses			
12 2001 0 1 452	Budget Authority	421,900	36,705
	Outlays	383,929	33,402
Rural housing for domestic farm labor			
12 2004 0 1 604	Budget Authority	9,913	862
	Outlays	397	35
Mutual and self-help housing			
12 2006 0 1 604	Budget Authority	8,336	725
	Outlays	667	58
Very low income housing repair grants			
12 2064 0 1 604	Budget Authority	13,025	1,133
	Outlays	12,374	1,077
Rural water and waste disposal grants			
12 2066 0 1 452	Budget Authority	113,990	9,917
	Outlays	2,280	198
Rural community fire protection grants			
12 2067 0 1 452	Budget Authority	3,221	280
	Outlays	1,449	126
Rural housing preservation grants			
12 2070 0 1 604	Budget Authority	19,944	1,735
	Outlays	4,986	434
Compensation for construction defects			
12 2071 0 1 371	Budget Authority	743	65
	Outlays	743	65

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Agricultural credit insurance fund			
12 4140 0 3 351	401(C) Authority - Off. Coll.	248,596	21,628
	Direct Loan Limitation	1,893,477	164,732
	Guaranteed Loan Limitation	2,602,916	226,454
	Outlays	1,581,259	137,570
Rural housing insurance fund			
12 4141 0 3 371	401(C) Authority - Off. Coll.	53,500	4,655
	Direct Loan Limitation	1,998,674	173,885
	Obligation Limitation	286,873	24,958
	Outlays	1,003,151	87,275
Rural development insurance fund			
12 4155 0 3 452	401(C) Authority - Off. Coll.	1,175	102
	Direct Loan Limitation	443,975	38,626
	Guaranteed Loan Limitation	119,663	10,411
	Outlays	15,961	1,389
Self-help housing land development fund			
12 4222 0 3 371	Direct Loan Limitation	500	44
	Outlays	340	30
Rural development loan fund			
12 4233 0 3 452	Direct Loan Limitation	3,000	261
	Outlays	3,000	261
Miscellaneous expiring appropriations (Area and regional development)			
12 9912 0 1 452	Budget Authority	3,126	272
	Outlays	782	68
Soil Conservation Service			
Conservation operations			
12 1000 0 1 302	Budget Authority	423,551	36,849
	401(C) Authority - Off. Coll.	11,173	972
	Outlays	369,554	32,151
Resource conservation and development			
12 1010 0 1 302	Budget Authority	26,985	2,348
	401(C) Authority - Off. Coll.	1,937	169
	Outlays	18,074	1,573
Watershed planning			
12 1066 0 1 301	Budget Authority	9,285	808
	401(C) Authority - Off. Coll.	600	52
	Outlays	8,641	752
River basin surveys and investigations			
12 1069 0 1 301	Budget Authority	12,930	1,125
	401(C) Authority - Off. Coll.	198	17
	Outlays	12,300	1,070
Watershed and flood prevention operations			
12 1072 0 1 301	Budget Authority	186,930	16,263
	401(C) Authority - Off. Coll.	17,595	1,531
	Outlays	135,969	11,830
Great Plains conservation program			
12 2268 0 1 302	Budget Authority	21,861	1,902
	Outlays	9,903	862
Miscellaneous contributed funds (Water resources)			
12 8210 0 7 301	401(C) Other - incl. ob. limit	489	43
	Outlays	489	43
Miscellaneous contributed funds (Conservation and land management)			
12 8210 0 7 302	401(C) Other - incl. ob. limit	110	10
Animal and Plant Health Inspection Service			
Salaries and expenses			
12 1600 0 1 352	Budget Authority	332,884	28,960
	401(C) Authority - Off. Coll.	9,568	832
	Outlays	288,464	25,096
Buildings and facilities			
12 1601 0 1 352	Budget Authority	2,340	204
Miscellaneous trust funds			
12 9971 0 7 352	401(C) Other - incl. ob. limit	2,325	202
	Outlays	1,517	132
Federal Grain Inspection Service			
Salaries and expenses			
12 2400 0 1 352	Budget Authority	7,266	632
	Outlays	6,067	528
Inspection and weighing services			
12 4050 0 3 352	401(C) Authority - Off. Coll.	36,829	3,204
	Outlays	36,829	3,204
Agricultural Marketing Service			
Marketing services			
12 2500 0 1 352	Budget Authority	33,679	2,930
	401(C) Authority - Off. Coll.	30,742	2,675
	Outlays	47,817	4,161

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Payments to states and possessions			
12 2501 0 1 352	Budget Authority	982	85
	Outlays	27	2
Perishable Agricultural Commodities Act fund			
12 5070 0 2 352	401(C) Authority	4,262	371
	Outlays	3,192	278
Funds for strengthening markets, income, and supply (section 32)			
12 5209 0 2 605	401(C) Authority	390,000	33,930
	Outlays	150,000	13,050
Milk market orders assessment fund			
12 8412 0 8 351	401(C) Authority - Off. Coll.	35,110	3,055
	Outlays	35,110	3,055
Miscellaneous trust funds			
12 9972 0 7 352	401(C) Authority	85,979	7,480
	Outlays	85,979	7,480
Office of Transportation			
Office of Transportation			
12 2800 0 1 352	Budget Authority	2,565	223
	Outlays	2,098	183
Food Safety and Inspection Service			
Salaries and expenses			
12 3700 0 1 554	Budget Authority	394,996	34,365
	401(C) Authority - Off. Coll.	42,050	3,658
	Outlays	411,371	35,789
Expenses and refunds, inspection and grading of farm products			
12 8137 0 7 352	401(C) Authority	878	76
	Outlays	826	72
Food and Nutrition Service			
Cash and commodities for selected groups			
12 3503 0 1 605	Budget Authority	201,720	17,550
	Outlays	163,393	14,215
Food stamp program			
12 3505 0 1 605	401(C) Authority	61,647	5,363
	Outlays	40,866	3,555
Food program administration			
12 3508 0 1 605	Budget Authority	90,249	7,852
	Outlays	83,029	7,224
Supplemental nutrition assistance for women, infants, and children (WIC)			
12 3510 0 1 605	Budget Authority	2,000	174
	Outlays	2,000	174
Child nutrition programs			
12 3539 0 1 605	401(C) Authority	3,418	297
	Outlays	3,418	297
Human Nutrition Information Service			
Salaries and expenses			
12 3501 0 1 352	Budget Authority	7,369	641
	Outlays	3,176	276
Packers and Stockyards Administration			
Packers and Stockyards Administration			
12 2600 0 1 352	Budget Authority	9,771	850
	Outlays	8,774	763
Agricultural Cooperative Service			
Salaries and expenses			
12 3000 0 1 352	Budget Authority	4,840	421
	Outlays	2,788	243
Forest Service			
Construction			
12 1103 0 1 302	Budget Authority	281,120	24,458
	401(C) Authority - Off. Coll.	2,061	179
	Outlays	165,498	14,398
Forest research			
12 1104 0 1 302	Budget Authority	134,626	11,713
	401(C) Authority - Off. Coll.	929	81
	Outlays	102,302	8,900
State and private forestry			
12 1105 0 1 302	Budget Authority	69,852	6,077
	401(C) Authority - Off. Coll.	135	12
	Outlays	47,513	4,134
National forest system			
12 1106 0 1 302	Budget Authority	1,252,041	108,927
	Outlays	1,103,490	96,003
Land acquisition			
12 5004 0 2 303	Budget Authority	54,331	4,727
	Outlays	21,732	1,891

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Range betterment fund			
12 5207 0 2 302	Budget Authority	3,750	326
	Outlays	3,012	262
Acquisition of lands for national forests, special acts			
12 5208 0 2 302	Budget Authority	1,013	88
	Outlays	855	74
Acquisition of lands to complete land exchanges			
12 5216 0 2 302	Budget Authority	934	81
	Outlays	829	72
Operations and maintenance of quarters			
12 5219 0 2 302	401(C) Other - incl. ob. limit	5,545	482
	Outlays	4,453	387
Cooperative work trust fund			
12 8028 0 7 302	401(C) Other - incl. ob. limit	250,369	21,782
	Outlays	213,314	18,558
Highway Construction: Mount St. Helens National Monument			
12 8029 0 7 401	Budget Authority	10,394	904
Gifts, donations and bequests for forest and rangeland research			
12 8034 0 7 302	Budget Authority	94	8
	Outlays	94	8
Forest Service permanent appropriations			
12 9921 0 2 852	401(C) Other - incl. ob. limit	260,787	22,688
	Outlays	257,462	22,399
Forest Service permanent appropriations			
12 9922 0 2 302	401(C) Other - incl. ob. limit	139,689	12,153
	Outlays	108,285	9,420
Miscellaneous trust funds (conservation and land management)			
12 9973 0 7 302	401(C) Authority - Off. Coll.	1	0
	Outlays	1	0
Reforestation trust fund			
20 8046 0 7 302	401(C) Other - incl. ob. limit	30,000	2,610
	Outlays	24,000	2,088
TOTAL FOR Department of Agriculture			
	Budget Authority	8,071,702	702,238
	401(C) Authority	16,917,542	1,471,825
	401(C) Authority - Off. Coll.	515,431	44,843
	401(C) Other - incl. ob. limit	689,314	59,970
	401(C) Authority - Spec. Rules	4,100	4,100
	Direct Loan Limitation	22,208,967	1,932,181
	Direct Loan Floor	1,081,956	94,130
	Guaranteed Loan Limitation	10,411,420	905,794
	Guaranteed Loan Floor	972,264	84,587
	Obligation Limitation	1,811,393	157,591
	Outlays	26,985,751	2,351,504
Department of Commerce			
General Administration			
Salaries and expenses			
13 0120 0 1 376	Budget Authority	38,625	3,360
	Outlays	37,003	3,219
Grants and loans administration			
13 0125 0 1 452	Budget Authority	27,192	2,366
	Outlays	23,875	2,077
Economic development assistance programs			
13 2050 0 1 452	Budget Authority	199,584	17,364
	Guaranteed Loan Limitation	195,375	16,998
	Outlays	19,958	1,736
Bureau of the Census			
Salaries and expenses			
13 0401 0 1 376	Budget Authority	99,289	8,638
	401(C) Authority - Off. Coll.	8,000	696
	Outlays	96,367	8,384
Periodic censuses and programs			
13 0450 0 1 376	Budget Authority	184,848	16,082
	Outlays	125,697	10,936
Economic and Statistical Analysis			
Salaries and expenses			
13 1500 0 1 376	Budget Authority	32,793	2,853
	401(C) Authority - Off. Coll.	462	40
	Outlays	29,647	2,579
Information products and services			
13 8546 0 7 376	401(C) Other - incl. ob. limit	38,214	3,325
	Outlays	24,839	2,161
International Trade Administration			
Operations and administration			
13 1250 0 1 376	Budget Authority	215,601	18,758
	401(C) Authority - Off. Coll.	8,004	696
	Outlays	160,003	13,920

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Minority Business Development Agency			
Minority business development			
13 0201 0 1 376	Budget Authority	41,855	3,641
	Outlays	13,142	1,143
United States Travel and Tourism Administration			
Salaries and expenses			
13 0700 0 1 376	Budget Authority	12,225	1,064
	401(C) Authority - Off. Coll.	2,239	195
	Outlays	11,408	993
National Oceanic and Atmospheric Administration			
Operations, research, and facilities			
13 1450 0 1 306	Budget Authority	1,157,278	100,683
	401(C) Authority - Off. Coll.	14,952	1,301
	Outlays	803,005	69,861
Coastal energy impact fund			
13 4315 0 3 452	401(C) Authority - Off. Coll.	7,300	635
	Outlays	7,300	635
Federal ship financing fund, fishing vessels			
13 4417 0 3 376	401(C) Authority - Off. Coll.	1,160	101
	Guaranteed Loan Limitation	80,000	6,960
	Outlays	1,160	101
Fishermen's contingency fund			
13 5120 0 2 376	Budget Authority	784	68
	Outlays	746	65
Foreign fishing observer fund			
13 5122 0 2 376	Budget Authority	2,116	184
	Outlays	2,033	177
Promote and develop fishery products and research pertaining to American			
13 5139 0 2 376	401(C) Other - incl. ob. limit	4,850	422
	Outlays	2,667	232
Aviation weather services program			
13 8105 0 7 306	Budget Authority	30,218	2,629
	Outlays	30,218	2,629
Patent and Trademark Office			
Salaries and expenses			
13 1006 0 1 376	Budget Authority	105,607	9,188
	401(C) Authority - Off. Coll.	147,204	12,807
	Outlays	221,023	19,229
National Bureau of Standards			
Scientific and technical research and services			
13 0500 0 1 376	Budget Authority	129,661	11,281
	Outlays	100,099	8,709
Working capital fund			
13 4650 0 4 376	Budget Authority	2,285	199
	Outlays	1,104	96
National Telecommunications and Information Administration			
Salaries and expenses			
13 0550 0 1 376	Budget Authority	14,128	1,229
	Outlays	11,302	983
Public telecommunications facilities, planning and construction			
13 0551 0 1 503	Budget Authority	21,823	1,899
	Outlays	2,531	220
TOTAL FOR Department of Commerce			
	Budget Authority	2,315,912	201,486
	401(C) Authority - Off. Coll.	189,321	16,471
	401(C) Other - incl. ob. limit	43,064	3,747
	Guaranteed Loan Limitation	275,375	23,958
	Outlays	1,725,127	150,085
Department of Defense--Military			
Operation and Maintenance			
Operation and maintenance, Marine Corps			
17 1106 0 1 051	Budget Authority	1,902,939	197,906
	Outlays	1,547,917	160,983
Operation and maintenance, Marine Corps Reserve			
17 1107 0 1 051	Budget Authority	67,060	6,974
	Outlays	43,097	4,482
Operation and maintenance, Navy			
17 1804 0 1 051	Budget Authority	24,615,048	2,559,965
	Outlays	17,234,967	1,792,437
Operation and maintenance, Navy Reserve			
17 1806 0 1 051	Budget Authority	928,472	96,561
	Outlays	662,838	68,935
National Board for the Promotion of Rifle Practice, Army			
21 1705 0 1 051	Budget Authority	4,526	471
	Outlays	4,426	460

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Operation and maintenance, Army			
21 2020 0 1 051	Budget Authority	21,621,360	2,248,621
	Outlays	16,216,773	1,686,544
Operation and maintenance, Army National Guard			
21 2065 0 1 051	Budget Authority	1,857,188	193,148
	Outlays	1,643,135	170,886
Operation and maintenance, Army Reserve			
21 2080 0 1 051	Budget Authority	827,839	86,095
	Outlays	727,957	75,708
Operation and maintenance, Air Force			
57 3400 0 1 051	Budget Authority	19,904,586	2,070,077
	Outlays	14,928,831	1,552,598
Operation and maintenance, Air Force Reserve			
57 3740 0 1 051	Budget Authority	971,786	101,066
	Outlays	858,180	89,251
Operation and maintenance, Air National Guard			
57 3840 0 1 051	Budget Authority	1,874,180	194,915
	Outlays	1,728,057	179,718
Operation and maintenance, Defense agencies			
97 0100 0 1 051	Budget Authority	8,979,748	933,894
	Outlays	7,676,175	798,322
Court of Military Appeals, Defense			
97 0104 0 1 051	Budget Authority	3,473	361
	Outlays	2,977	310
Foreign currency fluctuations, Defense			
97 0801 0 1 051	Unobligated Balances - Defense	173,291	18,022
Environmental restoration, Defense			
97 0810 0 1 051	Budget Authority	1,032	107
	Outlays	310	32
Tenth International Pan American games			
97 0812 0 1 051	Budget Authority	15,630	1,626
	Outlays	14,117	1,468
Humanitarian assistance			
97 0819 0 1 051	Budget Authority	7,815	813
	Outlays	4,602	479
Procurement			
Coastal defense augmentation			
17 0380 0 1 051	Budget Authority	208,400	21,674
	Unobligated Balances - Defense	331,121	34,437
	Outlays	52,344	5,444
Procurement, Marine Corps			
17 1109 0 1 051	Budget Authority	1,526,754	158,782
	Unobligated Balances - Defense	476,953	49,603
	Outlays	128,164	13,329
Aircraft procurement, Navy			
17 1506 0 1 051	Budget Authority	10,396,307	1,081,216
	Unobligated Balances - Defense	2,900,683	301,671
	Outlays	1,117,000	116,168
Weapons procurement, Navy			
17 1507 0 1 051	Budget Authority	5,513,063	573,359
	Unobligated Balances - Defense	2,422,876	251,979
	Outlays	817,335	85,003
Shipbuilding and conversion, Navy			
17 1611 0 1 051	Budget Authority	10,639,851	1,106,545
	Unobligated Balances - Defense	11,380,409	1,183,563
	Outlays	1,071,715	111,458
Other procurement, Navy			
17 1810 0 1 051	Budget Authority	6,289,378	654,095
	Unobligated Balances - Defense	2,100,104	218,411
	Outlays	796,950	82,883
Aircraft procurement, Army			
21 2031 0 1 051	Budget Authority	2,897,542	301,344
	Unobligated Balances - Defense	779,397	81,057
	Outlays	525,767	54,679
Missile procurement, Army			
21 2032 0 1 051	Budget Authority	2,299,486	239,147
	Unobligated Balances - Defense	787,315	81,881
	Outlays	219,163	22,792
Procurement of weapons and tracked combat vehicles, Army			
21 2033 0 1 051	Budget Authority	3,964,646	412,323
	Unobligated Balances - Defense	1,257,398	130,769
	Outlays	224,534	23,352
Procurement of ammunition, Army			
21 2034 0 1 051	Budget Authority	2,174,943	226,194
	Unobligated Balances - Defense	389,565	40,515
	Outlays	600,191	62,420

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Other procurement, Army			
21 2035 0 1 051	Budget Authority	5,321,197	553,404
	Unobligated Balances - Defense	2,068,782	215,153
	Outlays	399,076	41,504
Aircraft procurement, Air Force			
57 3010 0 1 051	Budget Authority	17,980,628	1,869,985
	Unobligated Balances - Defense	7,971,967	829,085
	Outlays	1,591,193	165,484
Missile procurement, Air Force			
57 3020 0 1 051	Budget Authority	7,761,043	807,148
	Unobligated Balances - Defense	3,376,605	351,167
	Outlays	2,595,045	269,885
Other procurement, Air Force			
57 3080 0 1 051	Budget Authority	9,718,865	1,010,762
	Unobligated Balances - Defense	2,571,477	267,434
	Outlays	6,022,206	626,309
Procurement, Defense agencies			
97 0300 0 1 051	Budget Authority	1,586,106	164,955
	Unobligated Balances - Defense	500,268	52,028
	Outlays	427,690	44,479
National guard and reserve equipment			
97 0350 0 1 051	Budget Authority	580,394	60,361
	Unobligated Balances - Defense	414,279	43,085
	Outlays	55,564	5,779
Defense production act purchases			
97 0360 0 1 051	Budget Authority	13,546	1,409
	Unobligated Balances - Defense	24,792	2,578
NATO cooperative defense programs			
97 0370 0 1 051	Unobligated Balances - Defense	5,706	593
	Outlays	742	77
Chemical agents and munitions destruction, Defense			
97 0390 0 1 051	Budget Authority	123,685	12,863
	Unobligated Balances - Defense	10,802	1,123
	Outlays	70,496	7,332
Research, Development, Test, and Evaluation			
Research, development, test, and evaluation, Navy			
17 1319 0 1 051	Budget Authority	9,731,559	1,012,082
	Unobligated Balances - Defense	477,908	49,702
	Outlays	5,312,300	552,479
Research, development, test, and evaluation, Army			
21 2040 0 1 051	Budget Authority	4,808,375	500,071
	Unobligated Balances - Defense	423,193	44,012
	Outlays	2,772,747	288,366
Research, development, test, and evaluation, Air Force			
57 3600 0 1 051	Budget Authority	15,743,420	1,637,316
	Unobligated Balances - Defense	1,725,192	179,420
	Outlays	9,258,555	962,890
Research, development, test, and evaluation, Defense agencies			
97 0400 0 1 051	Budget Authority	7,051,675	733,374
	Unobligated Balances - Defense	524,904	54,590
	Outlays	3,899,998	405,600
Director of test and evaluation, Defense			
97 0450 0 1 051	Budget Authority	124,942	12,994
	Unobligated Balances - Defense	29,576	3,118
	Outlays	46,489	4,834
Director of operational test and evaluation, Defense			
97 0460 0 1 051	Budget Authority	11,775	1,225
	Unobligated Balances - Defense	1,130	118
	Outlays	5,626	585
Military Construction			
Military construction, Navy			
17 1205 0 1 051	Budget Authority	1,442,276	149,997
	Unobligated Balances - Defense	860,936	89,537
	Outlays	414,700	43,128
Military construction, Naval Reserve			
17 1235 0 1 051	Budget Authority	46,369	4,822
	Unobligated Balances - Defense	22,239	2,313
	Outlays	5,358	558
Military construction, Army			
21 2050 0 1 051	Budget Authority	1,334,668	138,805
	401(C) Authority	221,000	22,984
	Unobligated Balances - Defense	834,953	86,835
	Outlays	382,379	39,767
Military construction, Army National Guard			
21 2085 0 1 051	Budget Authority	146,796	15,267
	Unobligated Balances - Defense	15,729	1,636
	Outlays	9,789	1,018

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Military construction, Army Reserve			
21 2086 0 1 051	Budget Authority	90,545	9,417
	Unobligated Balances - Defense	17,246	1,794
	Outlays	5,377	559
Military construction, Air Force			
57 3300 0 1 051	Budget Authority	1,294,716	134,650
	Unobligated Balances - Defense	769,103	79,987
	Outlays	330,153	34,336
Military construction, Air Force Reserve			
57 3730 0 1 051	Budget Authority	61,374	6,383
	Unobligated Balances - Defense	20,504	2,132
	Outlays	9,247	962
Military construction, Air National Guard			
57 3830 0 1 051	Budget Authority	155,180	16,139
	Unobligated Balances - Defense	36,097	3,754
	Outlays	11,521	1,198
Military construction, Defense agencies			
97 0500 0 1 051	Budget Authority	552,333	57,443
	Unobligated Balances - Defense	326,662	33,973
	Outlays	70,339	7,316
North Atlantic Treaty Organization infrastructure			
97 0804 0 1 051	Budget Authority	241,744	25,141
	Unobligated Balances - Defense	62,182	6,467
	Outlays	3,035	316
Family Housing			
Family housing, Navy and Marine Corps			
17 0703 0 1 051	Budget Authority	729,483	75,866
	Unobligated Balances - Defense	73,942	7,690
	Outlays	418,295	43,502
Family housing, Army			
21 0702 0 1 051	Budget Authority	1,660,319	172,673
	Unobligated Balances - Defense	166,854	17,353
	Outlays	950,534	98,856
Family housing, Air Force			
57 0704 0 1 051	Budget Authority	842,468	87,617
	Unobligated Balances - Defense	163,360	16,989
	Outlays	523,743	54,469
Family housing, Defense agencies			
97 0706 0 1 051	Budget Authority	17,342	1,804
	Unobligated Balances - Defense	1,739	181
	Outlays	9,927	1,032
Special Foreign Currency Program			
Special foreign currency program			
97 0800 0 1 051	Budget Authority	3,647	379
	Unobligated Balances - Defense	1,925	200
	Outlays	774	81
Revolving and Management Funds			
Navy stock fund			
17 4911 0 4 051	Budget Authority	367,378	38,207
	Outlays	279,026	29,019
Marine Corps stock fund			
17 4913 0 4 051	Budget Authority	857	89
	Outlays	571	59
Army stock fund			
21 4991 0 4 051	Budget Authority	114,724	11,931
	Outlays	87,275	9,077
Air Force stock fund			
57 4921 0 4 051	Budget Authority	145,859	15,169
	Outlays	110,877	11,531
ADP equipment management fund			
97 3910 0 4 051	Unobligated Balances - Defense	75,145	7,815
	Outlays	12,173	1,266
Defense stock fund			
97 4961 0 4 051	Budget Authority	49,182	5,115
	Outlays	37,415	3,891
TOTAL FOR Department of Defense--Military			
	Budget Authority	219,347,522	22,812,142
	401(C) Authority	221,000	22,984
	Unobligated Balances - Defense	46,574,709	4,843,770
	Outlays	104,977,757	10,917,685
Department of Defense--Civil			
Cemeterial Expenses, Army			
Salaries and expenses			
21 1805 0 1 705	Budget Authority	16,696	1,453
	Outlays	5,393	469

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Corps of Engineers--Civil			
Inland waterways trust fund			
20 8861 0 7 301	Budget Authority	27,092	2,357
	Outlays	17,772	1,546
Flood control, Mississippi River and tributaries			
96 3112 0 1 301	Budget Authority	330,073	28,716
	401(C) Authority - Off. Coll.	1,000	87
	Outlays	271,660	23,634
General investigations			
96 3121 0 1 301	Budget Authority	146,996	12,788
	401(C) Authority - Off. Coll.	18	2
	Outlays	102,033	8,877
Construction, general			
96 3122 0 1 301	Budget Authority	1,185,965	103,179
	401(C) Authority - Off. Coll.	225	20
	Outlays	782,962	68,118
Operation and maintenance, general (Water resources)			
96 3123 0 1 301	Budget Authority	1,316,335	114,521
	401(C) Authority - Off. Coll.	3,803	331
	Outlays	1,070,610	93,143
Operation and maintenance, general (recreational resources)			
96 3123 0 1 303	Budget Authority	13,025	1,133
	Outlays	10,160	884
General expenses			
96 3124 0 1 301	Budget Authority	125,294	10,901
	Outlays	100,235	8,720
Flood control and coastal emergencies			
96 3125 0 1 301	Budget Authority	10,500	914
Revolving fund			
96 4902 0 4 301	Budget Authority	12,509	1,088
	Outlays	2,089	182
Rivers and harbors contributed funds			
96 8862 0 7 301	401(C) Other - incl. ob. limit	209,780	18,251
	Outlays	120,000	10,440
Harbor maintenance trust fund			
96 8867 0 7 301	Budget Authority	151,000	13,137
	Outlays	125,330	10,904
Permanent appropriations (Water resources)			
96 9921 0 2 301	401(C) Other - incl. ob. limit	3,148	274
	Outlays	2,027	176
Permanent appropriations (Other general purpose fiscal assistance)			
96 9921 0 2 852	401(C) Other - incl. ob. limit	6,000	522
Education Benefits			
Payment to the Henry M. Jackson Foundation			
97 0825 0 1 502	Budget Authority	10,420	907
Soldiers' and Airmen's Home			
Operation and maintenance			
84 8931 0 7 705	Budget Authority	37,072	3,225
	401(C) Authority - Off. Coll.	144	13
	Outlays	32,582	2,835
Capital outlays			
84 8932 0 7 705	Budget Authority	16,923	1,472
	Outlays	338	29
Forest and Wildlife Conservation, Military Reservations			
Forest products program			
21 5285 0 2 302	401(C) Authority	1,500	131
	Outlays	1,500	131
Wildlife conservation			
97 5095 0 2 303	401(C) Other - incl. ob. limit	2,020	176
	Outlays	2,020	176
TOTAL FOR Department of Defense--Civil			
	Budget Authority	3,399,900	295,791
	401(C) Authority	1,500	131
	401(C) Authority - Off. Coll.	5,190	453
	401(C) Other - incl. ob. limit	220,948	19,223
	Outlays	2,646,711	230,264
Department of Health and Human Services, except Social Security			
Food and Drug Administration			
Program expenses			
75 0600 0 1 554	Budget Authority	474,969	41,322
	Outlays	413,224	35,950
Buildings and facilities			
75 0603 0 1 554	Budget Authority	1,958	170
	Outlays	613	53

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Revolving fund for certification and other services			
75 4309 0 3 554	401(C) Authority - Off. Coll.	2,799	244
	Outlays	2,799	244
Health Resources and Services Administration			
Health resources and services (Health care services)			
75 0350 0 1 551	Budget Authority	923,871	80,376
	Budget Authority - Spec. Rules	9,329	9,329
	401(C) Authority - Off. Coll.	375	33
	Direct Loan Limitation	1,042	91
	Outlays	524,008	50,358
Health resources and services (Education and training of health care wor			
75 0350 0 1 553	Budget Authority	211,754	18,423
	Outlays	63,526	5,527
Indian health			
75 0390 0 1 551	Budget Authority	69,495	6,046
	Budget Authority - Spec. Rules	16,926	16,926
	401(C) Authority - Spec. Rules	749	749
	Outlays	68,133	18,643
Indian health facilities			
75 0391 0 1 551	Budget Authority - Spec. Rules	1,484	1,484
	Outlays	371	371
Centers for Disease Control			
Disease control, research, and training (Health care services)			
75 0943 0 1 551	Budget Authority	546,330	47,530
	401(C) Authority - Off. Coll.	767	67
	Outlays	362,399	31,529
Disease control, research, and training (Health research)			
75 0943 0 1 552	Budget Authority	74,028	6,440
	Outlays	48,858	4,251
National Institutes of Health			
National Library of Medicine (Health research)			
75 0807 0 1 552	Budget Authority	20,457	1,780
	Outlays	13,092	1,139
National Library of Medicine (Education and training of health care work			
75 0807 0 1 553	Budget Authority	45,333	3,944
	Outlays	29,013	2,524
John E. Fogarty International Center			
75 0819 0 1 552	Budget Authority	12,043	1,048
	Outlays	6,865	597
Buildings and facilities			
75 0838 0 1 552	Budget Authority	33,240	2,892
	Outlays	9,307	810
National Institute on Aging (Health research)			
75 0843 0 1 552	Budget Authority	178,214	15,504
	Outlays	83,760	7,287
National Institute on Aging (Education and training of health care work			
75 0843 0 1 553	Budget Authority	7,900	687
	Outlays	3,713	323
National Institute of Child Health and Human Development (Health researc			
75 0844 0 1 552	Budget Authority	367,340	31,959
	Outlays	161,630	14,062
National Institute of Child Health and Human Development (Education and			
75 0844 0 1 553	Budget Authority	16,323	1,420
	Outlays	1,632	142
Office of the Director (Health research)			
75 0846 0 1 552	Budget Authority	57,921	5,039
	Outlays	44,020	3,830
Office of the Director (Education and training of health care work force			
75 0846 0 1 553	Budget Authority	2,517	219
	Outlays	2,391	208
Research resources (Health research)			
75 0848 0 1 552	Budget Authority	335,369	29,177
	Outlays	184,453	16,047
Research resources (Education and training of health care work force)			
75 0848 0 1 553	Budget Authority	1,324	115
	Outlays	66	6
National Cancer Institute (Health research)			
75 0849 0 1 552	Budget Authority	1,433,953	124,754
	401(C) Authority - Off. Coll.	10	1
	Outlays	716,987	62,378
National Cancer Institute (Education and training of health care work fo			
75 0849 0 1 553	Budget Authority	34,642	3,014
	Outlays	693	60
National Institute of General Medical Sciences (Health research)			
75 0851 0 1 552	Budget Authority	526,438	45,800
	Outlays	257,955	22,442

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Institute of General Medical Sciences (Education and training o			
75 0851 0 1 553	Budget Authority	68,902	5,994
	Outlays	7,579	659
National Institute of Environmental Health Sciences (Health research)			
75 0862 0 1 552	Budget Authority	210,130	18,281
	Outlays	119,774	10,420
National Institute of Environmental Health Sciences (Education and train			
75 0862 0 1 553	Budget Authority	9,736	847
	Outlays	2,337	203
National Heart, Lung and Blood Institute (Health research)			
75 0872 0 1 552	Budget Authority	928,797	80,805
	Outlays	399,383	34,746
National Heart, Lung and Blood Institute (Education and training of heal			
75 0872 0 1 553	Budget Authority	42,682	3,713
	Outlays	1,707	149
National Institute of Dental Research (Health research)			
75 0873 0 1 552	Budget Authority	118,047	10,270
	Outlays	64,926	5,649
National Institute of Dental Research (Education and training of health			
75 0873 0 1 553	Budget Authority	5,803	505
	Outlays	3,192	278
National Institute of Diabetes and Digestive and Kidney Diseases (Health			
75 0884 0 1 552	Budget Authority	511,844	44,530
	Outlays	225,211	19,593
National Institute of Diabetes and Digestive and Kidney Diseases (Educat			
75 0884 0 1 553	Budget Authority	22,774	1,981
	Outlays	4,555	396
National Institute of Allergy and Infectious Diseases (Health research)			
75 0885 0 1 552	Budget Authority	559,612	48,686
	Outlays	268,614	23,369
National Institute of Allergy and Infectious Diseases (Education and tra			
75 0885 0 1 553	Budget Authority	11,021	959
	Outlays	1,543	134
National Institute of Neurological and Communicative Disorders and Strok			
75 0886 0 1 552	Budget Authority	497,664	43,297
	401(C) Authority - Off. Coll.	12	1
	Outlays	209,031	18,186
National Institute of Neurological and Communicative Disorders and Strok			
75 0886 0 1 553	Budget Authority	15,262	1,328
	Outlays	4,426	385
National Eye Institute (Health research)			
75 0887 0 1 552	Budget Authority	220,210	19,158
	Outlays	96,892	8,430
National Eye Institute (Education and training of health care work force			
75 0887 0 1 553	Budget Authority	6,202	540
	Outlays	1,551	135
National Institute of Arthritis and Musculoskeletal and Skin Diseases (H			
75 0888 0 1 552	Budget Authority	137,932	12,000
	Outlays	60,690	5,280
National Institute of Arthritis and Musculoskeletal and Skin Diseases (E			
75 0888 0 1 553	Budget Authority	6,905	601
	Outlays	1,381	120
National Center for Nursing Research (Health research)			
75 0889 0 1 552	Budget Authority	18,715	1,628
	Outlays	8,422	733
National Center for Nursing Research (Education and training of health c			
75 0889 0 1 553	Budget Authority	2,174	189
	Outlays	978	85
Alcohol, Drug Abuse, and Mental Health Administration			
Federal subsidy for Saint Elizabeths Hospital			
75 1300 0 1 551	Budget Authority	39,832	3,465
	401(C) Authority - Off. Coll.	49,189	4,279
	Outlays	89,021	7,744
Alcohol, drug abuse, and mental health (Health care services)			
75 1361 0 1 551	Budget Authority	782,098	68,042
	Outlays	625,679	54,434
Alcohol, drug abuse, and mental health (Health research)			
75 1361 0 1 552	Budget Authority	604,423	52,585
	Outlays	386,831	33,654
Alcohol, drug abuse, and mental health (Education and training of health			
75 1361 0 1 553	Budget Authority	40,521	3,525
	Outlays	10,941	952
Office of Assistant Secretary for Health			
Public health service management (Health care services)			
75 1101 0 1 551	Budget Authority	49,211	4,281
	401(C) Authority - Off. Coll.	25	2
	Outlays	25,615	2,228

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Public health service management (Health research)			
75 1101 0 1 552	Budget Authority	75,617	6,579
	Outlays	40,833	3,552
Public health emergency fund			
75 1104 0 1 551	Budget Authority	31,260	2,720
	Outlays	17,506	1,523
Health Care Financing Administration			
Federal supplementary medical insurance trust fund			
20 8004 0 7 571	401(C) Other - incl. ob. limit	72,627	6,319
	401(C) Authority - Spec. Rules	410,000	410,000
	Obligation Limitation	1,021,300	88,853
	Outlays	1,371,139	493,619
Federal hospital insurance trust fund			
20 8005 0 7 571	401(C) Other - incl. ob. limit	343,276	29,865
	401(C) Authority - Spec. Rules	980,000	980,000
	Obligation Limitation	842,845	73,328
	Outlays	1,782,333	1,049,804
Program management (Health care services)			
75 0511 0 1 551	Budget Authority	84,914	7,388
	Outlays	72,177	6,279
Program management (Health research)			
75 0511 0 1 552	Budget Authority	10,496	913
	Outlays	8,397	731
Social Security Administration			
Supplemental security income program			
75 0406 0 1 609	401(C) Authority	823,283	71,626
	Outlays	591,965	51,501
Special benefits for disabled coal miners			
75 0409 0 1 601	401(C) Authority	6,437	560
	Outlays	6,437	560
Family Support Administration			
Program administration			
75 1500 0 1 609	Budget Authority	100,051	8,704
	401(C) Authority - Off. Coll.	95	8
	Outlays	78,070	6,792
Family support payments to states			
75 1501 0 1 609	401(C) Authority	990,000	86,130
	Outlays	990,000	86,130
Low income home energy assistance			
75 1502 0 1 609	Budget Authority	1,898,800	165,196
	Outlays	1,708,920	148,676
Refugee and entrant assistance			
75 1503 0 1 609	Budget Authority	353,860	30,786
	Outlays	225,763	19,641
Community services block grant			
75 1504 0 1 506	Budget Authority	422,048	36,718
	Outlays	302,333	26,303
Work incentives			
75 1505 0 1 504	Budget Authority	131,292	11,422
	Outlays	116,719	10,155
Interim assistance to States for legalization			
75 1508 0 1 506	401(C) Authority	930,000	80,910
	401(C) Other - incl. ob. limit	121,000	10,527
	Outlays	121,000	10,527
Payments to states from receipts for child support			
75 5734 0 2 609	401(C) Other - incl. ob. limit	450	39
	Outlays	337	29
Human Development Services			
Social services block grant			
75 1634 0 1 506	401(C) Authority	2,700,000	234,900
	Outlays	2,590,380	225,363
Human development services			
75 1636 0 1 506	Budget Authority	2,190,467	190,571
	Outlays	1,226,141	106,674
Family social services			
75 1645 0 1 506	Budget Authority	252,855	21,998
	401(C) Authority	45,000	3,915
	401(C) Authority - Spec. Rules	11,611	11,611
	Outlays	217,329	27,011
Departmental Management			
General Departmental management			
75 0120 0 1 609	Budget Authority	131,766	11,464
	Outlays	119,907	10,432
Policy research			
75 0122 0 1 609	Budget Authority	8,563	745
	Outlays	3,939	343

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Office of the Inspector General			
75 0128 0 1 609	Budget Authority	32,765	2,851
	Outlays	28,178	2,451
Office for Civil Rights			
75 0135 0 1 751	Budget Authority	16,751	1,457
	Outlays	14,741	1,282
Office of Consumer Affairs			
75 0137 0 1 506	Budget Authority	1,881	164
	Outlays	1,749	152
TOTAL FOR Department of Health and Human Services, except So			
	Budget Authority	16,029,302	1,394,545
	Budget Authority - Spec. Rules	27,739	27,739
	401(C) Authority	5,494,720	478,041
	401(C) Authority - Off. Coll.	53,272	4,635
	401(C) Other - incl. ob. limit	537,353	46,750
	401(C) Authority - Spec. Rules	1,402,360	1,402,360
	Direct Loan Limitation	1,042	91
	Obligation Limitation	1,864,145	162,181
	Outlays	17,256,080	2,796,273
Department of the Interior			
Bureau of Land Management			
Management of lands and resources			
14 1109 0 1 302	Budget Authority	527,120	45,859
	401(C) Authority - Off. Coll.	2,000	174
	Outlays	482,043	41,938
Construction and access			
14 1110 0 1 302	Budget Authority	2,991	260
	Outlays	748	65
Payments in lieu of taxes			
14 1114 0 1 852	Budget Authority	109,410	9,519
	Outlays	109,410	9,519
Oregon and California grant lands			
14 1116 0 1 302	Budget Authority	58,965	5,130
	Outlays	43,634	3,796
Special acquisition of lands and minerals			
14 1117 0 1 302	401(C) Authority	1,300	113
Service charges, deposits, and forfeitures			
14 5017 0 2 302	Budget Authority	7,195	626
	Outlays	5,095	443
Land acquisition			
14 5033 0 2 302	Budget Authority	6,482	564
	Outlays	3,215	280
Operation and maintenance of quarters			
14 5048 0 2 302	401(C) Authority	266	23
	Outlays	221	19
Range improvements			
14 5132 0 2 302	Budget Authority	9,253	805
	Outlays	5,848	509
Miscellaneous permanent appropriations (Conservation and land management			
14 9921 0 2 302	401(C) Other - incl. ob. limit	6,046	526
	Outlays	5,828	507
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9921 0 2 852	401(C) Other - incl. ob. limit	80,287	6,985
Miscellaneous trust funds			
14 9971 0 7 302	401(C) Other - incl. ob. limit	764	66
	Outlays	385	34
Minerals Management Service			
Minerals and royalty management			
14 1917 0 1 302	Budget Authority	173,739	15,115
	Outlays	113,017	9,832
Payments to States from receipts under Mineral Leasing Act			
14 5003 0 2 852	401(C) Other - incl. ob. limit	435,528	37,891
	Outlays	431,664	37,555
Office of Surface Mining Reclamation and Enforcement			
Regulation and technology			
14 1801 0 1 302	Budget Authority	106,205	9,240
	Outlays	61,918	5,387
Abandoned mine reclamation fund			
14 5015 0 2 302	Budget Authority	213,203	18,549
	Outlays	59,057	5,138
Bureau of Reclamation			
Loan program			
14 0667 0 1 301	Budget Authority	39,108	3,402
	Direct Loan Limitation	45,646	3,971
	Outlays	19,021	1,655

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Construction program			
14 0684 0 1 301	Budget Authority	635,694	55,305
	Outlays	534,963	46,542
Lower Colorado River Basin development fund			
14 4079 0 3 301	401(C) Authority - Off. Coll.	100,798	8,769
	Outlays	100,798	8,769
Upper Colorado River Basin fund			
14 4081 0 3 301	401(C) Authority - Off. Coll.	41,485	3,609
	Outlays	41,485	3,609
Working capital fund			
14 4524 0 4 301	Budget Authority	6,400	557
	Outlays	4,480	390
Emergency fund			
14 5043 0 2 301	Budget Authority	1,042	91
	Outlays	630	55
General investigations			
14 5060 0 2 301	Budget Authority	31,546	2,745
	401(C) Authority - Off. Coll.	50	4
	Outlays	20,366	1,771
Operation and maintenance			
14 5064 0 2 301	Budget Authority	150,457	13,090
	401(C) Authority - Off. Coll.	8,000	696
	Outlays	91,353	7,948
General administrative expenses			
14 5065 0 2 301	Budget Authority	55,414	4,821
	Outlays	49,873	4,339
Colorado River dam fund, Boulder Canyon project			
14 5656 0 2 301	401(C) Other - incl. ob. limit	55,814	4,856
	Outlays	40,970	3,564
Reclamation trust funds			
14 8070 0 7 301	401(C) Other - incl. ob. limit	32,085	2,791
	Outlays	30,288	2,635
Miscellaneous permanent appropriations (Other general purpose fiscal ass			
14 9922 0 2 852	401(C) Other - incl. ob. limit	379	33
	Outlays	170	15
Geological Survey			
Surveys, investigations, and research			
14 0804 0 1 306	Budget Authority	457,082	39,766
	401(C) Authority - Off. Coll.	73,333	6,380
	Outlays	447,483	38,931
Bureau of Mines			
Mines and minerals			
14 0959 0 1 306	Budget Authority	148,939	12,958
	Outlays	101,278	8,811
Helium fund			
14 4053 0 3 306	401(C) Authority - Off. Coll.	3,674	320
	Outlays	3,674	320
United States Fish and Wildlife Service			
Resource management			
14 1611 0 1 303	Budget Authority	343,375	29,874
	401(C) Authority - Off. Coll.	2,392	208
	Outlays	277,764	24,165
Construction			
14 1612 0 1 303	Budget Authority	43,339	3,770
	Outlays	6,316	549
Land acquisition			
14 5020 0 2 303	Budget Authority	50,366	4,382
	Outlays	26,008	2,263
Operation and maintenance of quarters			
14 5050 0 2 303	401(C) Other - incl. ob. limit	1,662	145
	Outlays	1,163	101
National wildlife refuge fund			
14 5091 0 2 852	Budget Authority	5,882	512
	401(C) Other - incl. ob. limit	7,040	612
	Outlays	8,078	703
Migratory bird conservation account			
14 5137 0 2 303	Budget Authority	7,372	641
	401(C) Other - incl. ob. limit	31,878	2,773
	Outlays	29,687	2,582
Sport fish restoration			
14 8151 0 7 303	401(C) Other - incl. ob. limit	174,000	15,138
	Outlays	69,600	6,055
Contributed funds			
14 8216 0 7 303	401(C) Other - incl. ob. limit	140	12
	Outlays	140	12

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Miscellaneous permanent appropriations			
14 9923 0 2 303	401(C) Other - incl. ob. limit	114,200	9,935
	Outlays	57,100	4,968
National Park Service			
Operation of the national park system			
14 1036 0 1 303	Budget Authority	758,567	65,995
	401(C) Authority - Off. Coll.	2,214	193
	Outlays	605,822	52,706
John F. Kennedy Center for the Performing Arts			
14 1038 0 1 303	Budget Authority	5,101	444
	Outlays	3,826	333
Construction			
14 1039 0 1 303	Budget Authority	92,819	8,076
	401(C) Authority - Off. Coll.	8,500	740
	Outlays	22,423	1,951
National recreation and preservation			
14 1042 0 1 303	Budget Authority	11,664	1,015
	Outlays	10,498	913
Illinois and Michigan Canal National Heritage-Corridor Commission			
14 1043 0 1 303	Budget Authority	266	23
	Outlays	133	12
Jefferson National Expansion Memorial Commission			
14 1044 0 1 303	Budget Authority	81	7
	Outlays	31	3
Planning, development, operation of recreation facilities			
14 5006 0 2 303	Budget Authority	0	0
Land acquisition			
14 5035 0 2 303	Budget Authority	115,201	10,022
	401(C) Authority	30,000	2,610
	401(C) Authority - Off. Coll.	500	44
	Outlays	56,431	4,910
Operation and maintenance of quarters			
14 5049 0 2 303	401(C) Other - incl. ob. limit	8,722	759
	Outlays	5,844	508
National park system visitor facilities fund			
14 5078 0 2 303	Budget Authority	0	0
Historic preservation fund			
14 5140 0 2 303	Budget Authority	25,269	2,198
	Outlays	13,014	1,132
Miscellaneous permanent appropriations			
14 9924 0 2 303	401(C) Other - incl. ob. limit	1,045	91
	Outlays	418	36
Bureau of Indian Affairs			
Operation of Indian programs (Conservation and land management)			
14 2100 0 1 302	Budget Authority	151,799	13,207
	Outlays	130,643	11,365
Operation of Indian programs (Area and regional development)			
14 2100 0 1 452	Budget Authority	542,263	47,177
	401(C) Authority - Off. Coll.	3,000	261
	Outlays	441,999	38,454
Operation of Indian programs (Elementary, secondary, and vocational educ			
14 2100 0 1 501	Budget Authority	295,661	25,723
	Outlays	240,964	20,964
Payment to the White Earth economic development and tribal government fu			
14 2204 0 1 452	Budget Authority	6,877	598
	Outlays	6,877	598
Construction			
14 2301 0 1 452	Budget Authority	92,668	8,062
	Outlays	21,314	1,854
Road construction			
14 2364 0 1 452	401(C) Authority - Off. Coll.	1,000	87
	Outlays	1,000	87
Revolving fund for loans			
14 4409 0 3 452	Direct Loan Limitation	17,005	1,479
	Outlays	13,026	1,133
Indian loan guaranty and insurance fund			
14 4410 0 3 452	Budget Authority	2,555	222
	Direct Loan Limitation	100	9
	Guaranteed Loan Limitation	33,500	2,915
	Outlays	1,303	113
Operation and maintenance of quarters			
14 5051 0 2 452	401(C) Other - incl. ob. limit	8,636	751
	Outlays	1,848	161
Miscellaneous permanent appropriations (Area and regional development)			
14 9925 0 2 452	401(C) Other - incl. ob. limit	64,000	5,568
	Outlays	36,608	3,185

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Miscellaneous permanent appropriations (Other general government)			
14 9925 0 2 806	401(C) Authority	2,000	174
	Outlays	1,976	172
Territorial and International Affairs			
Administration of territories			
14 0412 0 1 806	Budget Authority	81,637	7,102
	Outlays	55,758	4,851
Trust Territory of the Pacific Islands			
14 0414 0 1 806	Budget Authority	70,217	6,109
	Outlays	62,493	5,437
Compact of free association			
14 0415 0 1 806	401(C) Authority	27,920	2,429
	Outlays	27,920	2,429
Office of the Secretary			
Salaries and expenses			
14 0102 0 1 306	Budget Authority	46,373	4,034
	Outlays	39,417	3,429
Construction management			
14 0103 0 1 306	Budget Authority	745	65
	Outlays	671	58
Operation and maintenance of quarters			
14 5052 0 2 306	401(C) Authority	74	6
	Outlays	66	6
Office of the Solicitor			
Office of the Solicitor			
14 0107 0 1 306	Budget Authority	22,806	1,984
	Outlays	20,525	1,786
Office of Inspector General			
Office of Inspector General			
14 0104 0 1 306	Budget Authority	17,788	1,548
	Outlays	16,009	1,393
TOTAL FOR Department of the Interior			
	Budget Authority	5,530,936	481,192
	401(C) Authority	61,560	5,355
	401(C) Authority - Off. Coll.	246,946	21,485
	401(C) Other - incl. ob. limit	1,022,226	88,932
	Direct Loan Limitation	62,751	5,459
	Guaranteed Loan Limitation	33,500	2,915
	Outlays	5,123,628	445,753
Department of Justice			
General Administration			
Salaries and expenses			
15 0129 0 1 751	Budget Authority	80,696	7,020
	Outlays	72,627	6,319
United States Parole Commission			
Salaries and expenses			
15 1061 0 1 751	Budget Authority	11,174	972
	Outlays	9,610	836
Legal Activities			
Salaries and expenses, Foreign Claims Settlement Commission			
15 0100 0 1 153	Budget Authority	613	53
	Outlays	443	39
Salaries and expenses, General Legal Activities			
15 0128 0 1 752	Budget Authority	234,642	20,414
	Outlays	200,854	17,474
Fees and expenses of witnesses			
15 0311 0 1 752	Budget Authority	54,379	4,731
	Outlays	38,120	3,316
Salaries and expenses, Antitrust Division			
15 0319 0 1 752	Budget Authority	46,705	4,064
	Outlays	38,298	3,332
Salaries and expenses, United States Attorneys			
15 0322 0 1 752	Budget Authority	381,393	33,181
	Outlays	333,719	29,034
Salaries and expenses, United States Marshals Service			
15 0324 0 1 752	Budget Authority	172,478	15,006
	401(C) Authority - Off. Coll.	660	57
	Outlays	155,890	13,562
Salaries and expenses, Community Relations Service			
15 0500 0 1 752	Budget Authority	31,213	2,716
	Outlays	26,531	2,308
Support of United States prisoners			
15 1020 0 1 752	Budget Authority	72,623	6,318
	Outlays	43,573	3,791

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Assets forfeiture fund			
15 5042 0 2 752	Budget Authority	116,828	10,164
	Outlays	46,731	4,066
United States trustees system fund			
15 5073 0 2 752	Budget Authority	25,145	2,188
	Outlays	23,888	2,078
Federal Bureau of Investigation			
Salaries and expenses			
15 0200 0 1 751	Budget Authority	1,370,509	119,235
	401(C) Authority - Off. Coll.	45,311	3,942
	Outlays	1,141,718	99,329
Drug Enforcement Administration			
Salaries and expenses			
15 1100 0 1 751	Budget Authority	515,837	44,878
	401(C) Authority - Off. Coll.	850	74
	Outlays	445,597	38,767
Immigration and Naturalization Service			
Salaries and expenses			
15 1217 0 1 751	Budget Authority	787,892	68,547
	401(C) Authority - Off. Coll.	3,686	321
	Outlays	697,031	60,642
Immigration legalization			
15 5086 0 2 751	401(C) Authority	180,692	15,720
	Outlays	168,668	14,674
Immigration user fee			
15 5087 0 2 751	401(C) Authority	74,000	6,438
	Outlays	74,000	6,438
Federal Prison System			
Buildings and facilities			
15 1003 0 1 753	Budget Authority	228,423	19,873
	Outlays	44,771	3,895
National Institute of Corrections			
15 1004 0 1 754	Budget Authority	9,494	826
	Outlays	3,798	330
Salaries and expenses			
15 1060 0 1 753	Budget Authority	676,682	58,871
	401(C) Authority - Off. Coll.	12,671	1,102
	Outlays	640,632	55,735
Federal Prison Industries, Incorporated			
15 4500 0 4 753	Obligation Limitation	2,551	222
	Outlays	2,551	222
Office of Justice Programs			
Justice assistance			
15 0401 0 1 754	Budget Authority	434,026	37,760
	Outlays	119,357	10,384
Crime victims fund			
15 5041 0 2 754	401(C) Other - incl. ob. limit	70,000	6,090
	Obligation Limitation	66,688	5,802
	Outlays	19,430	1,690
TOTAL FOR Department of Justice			
	Budget Authority	5,250,752	456,817
	401(C) Authority	254,692	22,158
	401(C) Authority - Off. Coll.	63,178	5,496
	401(C) Other - incl. ob. limit	70,000	6,090
	Obligation Limitation	69,239	6,024
	Outlays	4,347,837	378,261
Department of Labor			
Employment and Training Administration			
Program administration			
16 0172 0 1 504	Budget Authority	73,095	6,359
	Outlays	62,496	5,437
Training and employment services			
16 0174 0 1 504	Budget Authority	3,864,693	336,229
	Outlays	100,211	8,719
Community service employment for older Americans			
16 0175 0 1 504	Budget Authority	350,112	30,460
	Outlays	70,022	6,092
State unemployment insurance and employment service operations (Training			
16 0179 0 1 504	Budget Authority	24,383	2,121
	Outlays	5,462	475
Federal unemployment benefits and allowances			
16 0326 0 1 603	401(C) Authority	137,000	11,919
	Outlays	137,000	11,919
Unemployment trust fund (Training and employment)			
20 8042 0 7 504	Obligation Limitation	361,157	31,421
	Outlays	361,157	31,421

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Unemployment trust fund (Unemployment compensation)			
20 8042 0 7 603	401(C) Other - incl. ob. limit	191,000	16,617
	Obligation Limitation	1,773,492	154,294
	Outlays	1,964,492	170,911
Labor-Management Services			
Salaries and expenses			
16 0104 0 1 505	Budget Authority	67,481	5,871
	Outlays	58,776	5,114
Pension Benefit Guaranty Corporation			
Pension Benefit Guaranty Corporation fund			
16 4204 0 3 601	Obligation Limitation	39,684	3,453
	Outlays	39,684	3,453
Employment Standards Administration			
Salaries and expenses			
16 0105 0 1 505	Budget Authority	211,076	18,364
	Outlays	181,943	15,829
Special workers' compensation expenses			
16 9971 0 7 601	401(C) Authority	2,920	254
	Obligation Limitation	460	40
	Outlays	3,380	294
Black lung disability trust fund			
20 8144 0 7 601	401(C) Authority	49,809	4,333
	Outlays	49,809	4,333
Occupational Safety and Health Administration			
Salaries and expenses			
16 0400 0 1 554	Budget Authority	241,078	20,974
	Outlays	210,702	18,331
Mine Safety and Health Administration			
Salaries and expenses			
16 1200 0 1 554	Budget Authority	170,559	14,839
	Outlays	154,356	13,429
Bureau of Labor Statistics			
Salaries and expenses			
16 0200 0 1 505	Budget Authority	179,038	15,576
	401(C) Authority - Off. Coll.	626	54
	Outlays	160,507	13,964
Departmental Management			
Office of the Inspector General			
16 0106 0 1 505	Budget Authority	37,593	3,271
	Outlays	29,022	2,525
Special foreign currency program			
16 0151 0 1 505	Budget Authority	49	4
	Outlays	49	4
Salaries and expenses			
16 0165 0 1 505	Budget Authority	115,750	10,070
	Outlays	105,796	9,204
TOTAL FOR Department of Labor			
	Budget Authority	5,334,907	464,138
	401(C) Authority	189,729	16,506
	401(C) Authority - Off. Coll.	626	54
	401(C) Other - incl. ob. limit	191,000	16,617
	Obligation Limitation	2,174,793	189,208
	Outlays	3,694,869	321,454
Department of State			
Administration of Foreign Affairs			
Salaries and expenses			
19 0113 0 1 153	Budget Authority	1,692,551	147,252
	Outlays	1,337,115	116,329
Protection of foreign missions and officials			
19 0520 0 1 153	Budget Authority	9,482	825
	Outlays	3,793	330
Emergencies in the diplomatic and consular service			
19 0522 0 1 153	Budget Authority	4,168	363
	Direct Loan Limitation	729	63
	Outlays	2,859	249
Payment to the American Institute in Taiwan			
19 0523 0 1 153	Budget Authority	9,773	850
	Outlays	8,229	716
Acquisition and maintenance of buildings abroad			
19 0535 0 1 153	Budget Authority	469,381	40,836
	401(C) Authority - Off. Coll.	4,000	348
	Outlays	90,367	7,862
Representation allowances			
19 0545 0 1 153	Budget Authority	4,647	404
	Outlays	3,992	347

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
International Organizations and Conferences			
Contributions for international peacekeeping activities			
19 1124 0 1 153	Budget Authority	30,635	2,665
	Outlays	27,572	2,399
International conferences and contingencies			
19 1125 0 1 153	Budget Authority	5,696	496
	Outlays	3,873	337
Contributions to international organizations			
19 1126 0 1 153	Budget Authority	401,450	34,926
	401(C) Authority - Off. Coll.	3,950	344
	Outlays	385,329	33,524
International Commissions			
Salaries and expenses, IBWC			
19 1069 0 1 301	Budget Authority	11,735	1,021
	401(C) Authority - Off. Coll.	72	6
	Outlays	10,164	884
Construction, IBWC			
19 1078 0 1 301	Budget Authority	4,086	355
	Outlays	817	71
American sections, international commissions			
19 1082 0 1 301	Budget Authority	4,489	390
	Outlays	3,035	264
International fisheries commissions			
19 1087 0 1 302	Budget Authority	11,254	979
	Outlays	11,243	978
Other			
U.S. emergency refugee and migration assistance fund			
11 0040 0 1 151	Budget Authority	14,588	1,269
International narcotics control			
11 1022 0 1 151	Budget Authority	123,666	10,759
	Outlays	43,283	3,766
Anti-terrorism assistance			
19 0114 0 1 152	Budget Authority	10,253	892
	Outlays	4,614	401
Soviet-East European research and training			
19 0118 0 1 153	Budget Authority	4,793	417
	Outlays	2,876	250
Payment to the Asia Foundation			
19 0525 0 1 153	Budget Authority	9,170	798
	Outlays	7,795	678
Migration and refugee assistance			
19 1143 0 1 151	Budget Authority	361,785	31,475
	Outlays	242,396	21,088
U.S. bilateral science and technology agreements			
19 1151 0 1 153	Budget Authority	1,980	172
	Outlays	1,980	172
Fishermen's guaranty fund			
19 5121 0 2 376	Budget Authority	1,877	163
	Outlays	1,408	122
International Center, Washington, D.C.			
19 5151 0 2 153	401(C) Authority	945	82
	Outlays	945	82
TOTAL FOR Department of State			
	Budget Authority	3,187,459	277,307
	401(C) Authority	945	82
	401(C) Authority - Off. Coll.	8,022	698
	Direct Loan Limitation	729	63
	Outlays	2,193,685	190,849
Department of the Treasury			
Departmental Offices			
Salaries and expenses			
20 0101 0 1 803	Budget Authority	62,338	5,423
	401(C) Authority - Off. Coll.	4,342	378
	Outlays	47,931	4,170
International affairs			
20 0171 0 1 803	Budget Authority	24,355	2,119
	Outlays	18,583	1,617
Office of Revenue Sharing			
Salaries and expenses			
20 0107 0 1 851	Budget Authority	6,018	524
	Outlays	6,018	524
Federal Law Enforcement Training Center			
Salaries and expenses			
20 0104 0 1 751	Budget Authority	31,526	2,743
	Outlays	28,373	2,468

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Financial Management Service			
Salaries and expenses			
20 1801 0 1 803	Budget Authority	256,681	22,331
	Outlays	223,127	19,412
St Lawrence Seaway toll rebate program			
20 8865 0 7 806	Budget Authority	6,522	567
	Outlays	6,522	567
Federal Financing Bank			
Federal Financing Bank			
20 4521 0 4 803	401(C) Authority - Off. Coll.	2,000	174
	Outlays	2,000	174
Bureau of Alcohol, Tobacco and Firearms			
Salaries and expenses			
20 1000 0 1 751	Budget Authority	215,067	18,710
	Outlays	193,560	16,840
United States Customs Service			
Salaries and expenses			
20 0602 0 1 751	Budget Authority	902,432	78,512
	401(C) Authority	72,950	6,347
	Outlays	889,651	77,400
Operation and maintenance, air interdiction program			
20 0604 0 1 751	Budget Authority	173,837	15,124
	Outlays	78,227	6,806
Payments to the Government of Puerto Rico			
20 0606 0 1 751	Budget Authority	8,128	707
	Outlays	8,128	707
Customs forfeiture fund			
20 5693 0 2 803	Budget Authority	18,928	1,647
	Outlays	18,928	1,647
Customs services at small airports			
20 5694 0 2 806	Budget Authority	398	35
	Outlays	398	35
Refunds, transfers and expenses, unclaimed, abandoned and seized goods			
20 8789 0 7 803	401(C) Authority	7,861	684
	Outlays	7,861	684
Bureau of Engraving and Printing			
Bureau of Engraving and Printing fund			
20 4502 0 4 803	401(C) Authority - Off. Coll.	36,491	3,175
	Outlays	36,491	3,175
United States Mint			
Salaries and expenses			
20 1616 0 1 803	Budget Authority	46,194	4,019
	401(C) Authority - Off. Coll.	111,793	9,726
	Outlays	151,058	13,142
Expansion and improvements			
20 9911 0 1 803	Budget Authority	723	63
Bureau of the Public Debt			
Administering the public debt			
20 0560 0 1 803	Budget Authority	211,073	18,363
	Outlays	168,858	14,691
Internal Revenue Service			
Salaries and expenses			
20 0911 0 1 803	Budget Authority	96,381	8,385
	Outlays	75,177	6,540
Processing tax returns			
20 0912 0 1 803	Budget Authority	1,493,634	129,946
	Outlays	1,205,596	104,887
Examinations and appeals			
20 0913 0 1 803	Budget Authority	1,798,319	156,453
	Outlays	1,654,986	143,984
Investigation, collection and taxpayer service			
20 0914 0 1 803	Budget Authority	1,311,893	114,135
	Outlays	1,182,157	102,847
Federal tax lien revolving fund			
20 4413 0 3 803	401(C) Authority - Off. Coll.	6,780	590
	Outlays	6,780	590
United States Secret Service			
Contribution for annuity benefits			
20 1407 0 1 751	401(C) Authority	15,000	1,305
	Outlays	15,000	1,305
Salaries and expenses			
20 1408 0 1 751	Budget Authority	354,814	30,869
	Outlays	283,851	24,695

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
TOTAL FOR Department of the Treasury			
	Budget Authority	7,019,261	610,675
	401(C) Authority	95,811	8,336
	401(C) Authority - Off. Coll.	161,406	14,043
	Outlays	6,309,261	548,907
Department of Health and Human Services, Social Security			
Social Security			
Federal old-age and survivors insurance trust fund			
20 8006 0 7 651	Obligation Limitation	1,799,944	156,595
	Outlays	1,398,636	121,681
Federal disability insurance trust fund			
20 8007 0 7 651	Obligation Limitation	536,398	46,666
	Outlays	422,103	36,722
TOTAL FOR Department of Health and Human Services, Social Se			
	Obligation Limitation	2,336,342	203,261
	Outlays	1,820,739	158,403
Department of Education			
Office of Elementary and Secondary Education			
Indian education			
91 0101 0 1 501	Budget Authority	66,842	5,815
	Outlays	29,410	2,559
Impact aid			
91 0102 0 1 501	Budget Authority	747,635	65,044
	Outlays	580,912	50,539
Reappropriation of contingent obligations			
91 0220 0 1 501	Budget Authority	86,486	7,524
Compensatory education for the disadvantaged			
91 0900 0 1 501	Budget Authority	4,117,633	358,234
	Outlays	205,882	17,912
Special programs			
91 1000 0 1 501	Budget Authority	978,948	85,168
	Outlays	92,928	8,084
Office of Bilingual Education and Minority Languages Affairs			
Bilingual education			
91 1300 0 1 501	Budget Authority	180,365	15,692
	Outlays	6,313	549
Immigrant and refugee education			
91 1600 0 1 501	Budget Authority	16,553	1,440
	Outlays	10,594	922
Office of Special Education and Rehabilitative Services			
Education for the handicapped			
91 0300 0 1 501	Budget Authority	1,815,060	157,910
	Outlays	85,308	7,422
Rehabilitation services and handicapped research			
91 0301 0 1 506	Budget Authority	212,316	18,471
	401(C) Authority - Spec. Rules	20,112	20,112
	Outlays	178,969	29,709
Payments to institutions for the handicapped (Elementary, secondary, and			
91 0600 0 1 501	Budget Authority	5,731	499
	Outlays	5,731	499
Payments to institutions for the handicapped (Higher education)			
91 0601 0 1 502	Budget Authority	33,344	2,901
	Outlays	33,344	2,901
Payments to institutions for the handicapped (Higher education)			
91 0602 0 1 502	Budget Authority	64,604	5,621
	Outlays	64,604	5,621
Promotion of education for the blind			
91 8893 0 7 501	401(C) Authority	10	1
Office of Vocational and Adult Education			
Vocational and adult education			
91 0400 0 1 501	Budget Authority	1,029,184	89,539
	401(C) Authority	7,148	622
	Outlays	21,302	1,853
Office of Postsecondary Education			
Student financial assistance			
91 0200 0 1 502	Budget Authority	5,713,286	497,056
	Outlays	1,066,858	92,817
Higher education			
91 0201 0 1 502	Budget Authority	502,690	43,734
	Outlays	87,713	7,631
Guaranteed student loans			
91 0230 0 1 502	401(C) Authority - Spec. Rules	39,230	39,230
	Outlays	24,910	24,910
Higher education facilities loans and insurance			
91 0240 0 1 502	Budget Authority	1,076	94
	Outlays	1,074	93

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Howard University			
91 0603 0 1 502	Budget Authority	177,380	15,432
	Outlays	170,285	14,815
College housing loans			
91 4250 0 3 502	401(C) Authority - Off. Coll.	1,926	168
	Direct Loan Limitation	62,520	5,439
	Outlays	1,922	167
Office of Educational Research and Improvement			
Libraries			
91 0104 0 1 503	Budget Authority	138,065	12,012
	Outlays	33,826	2,943
Education research and statistics			
91 1100 0 1 503	Budget Authority	66,248	5,764
	Outlays	37,099	3,228
Departmental Management			
Salaries and expenses (Research and general education aids)			
91 0800 0 1 503	Budget Authority	253,595	22,063
	Outlays	210,484	18,312
Salaries and expenses (Federal law enforcement activities)			
91 0800 0 1 751	Budget Authority	64,870	5,644
	Outlays	52,674	4,583
TOTAL FOR Department of Education			
	Budget Authority	16,271,911	1,415,657
	401(C) Authority	7,158	623
	401(C) Authority - Off. Coll.	1,926	168
	401(C) Authority - Spec. Rules	59,342	59,342
	Direct Loan Limitation	62,520	5,439
	Outlays	3,002,142	298,069
Department of Energy			
Atomic Energy Defense Activities			
Atomic energy defense activities			
89 0220 0 1 053	Budget Authority	7,799,939	811,194
	Unobligated Balances - Defense	500,000	52,000
	Outlays	5,386,967	560,245
Energy Programs			
Geothermal resources development fund			
89 0206 0 1 271	Budget Authority	80	7
	Outlays	80	7
Federal Energy Regulatory Commission			
89 0212 0 1 276	Budget Authority	107,581	9,360
	Outlays	91,659	7,974
Fossil energy research and development			
89 0213 0 1 271	Budget Authority	310,523	27,016
	Outlays	124,209	10,806
Energy conservation			
89 0215 0 1 272	Budget Authority	244,259	21,251
	Outlays	48,852	4,250
Energy information administration			
89 0216 0 1 276	Budget Authority	64,182	5,584
	Outlays	48,137	4,188
Economic regulation			
89 0217 0 1 276	Budget Authority	25,350	2,205
	Outlays	15,971	1,389
Strategic petroleum reserve			
89 0218 0 1 274	Budget Authority	153,961	13,395
	Outlays	84,679	7,367
Naval petroleum and oil shale reserves			
89 0219 0 1 271	Budget Authority	127,531	11,095
	Outlays	70,142	6,102
General science and research activities			
89 0222 0 1 251	Budget Authority	738,337	64,235
	Outlays	550,799	47,920
Energy supply, R&D activities			
89 0224 0 1 271	Budget Authority	1,405,725	122,298
	Outlays	702,863	61,149
Uranium supply and enrichment activities			
89 0226 0 1 271	Budget Authority	1,261,552	109,755
	Outlays	856,594	74,524
Emergency preparedness			
89 0234 0 1 274	Budget Authority	6,553	570
	Outlays	5,242	456
Payments to states under Federal Power Act			
89 5105 0 2 852	401(C) Other - incl. ob. limit	727	63
	Outlays	727	63

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Nuclear waste disposal fund			
89 5227 0 2 271	Budget Authority	520,931	45,321
	Outlays	260,466	22,661
Power Marketing Administration			
Operation and maintenance, Southeastern Power Administration			
89 0302 0 1 271	Budget Authority	901	78
	Outlays	793	69
Operation and maintenance, Southwestern Power Administration			
89 0303 0 1 271	Budget Authority	3,585	312
	Outlays	3,155	274
Operation and maintenance, Alaska Power Administration			
89 0304 0 1 271	Budget Authority	776	68
	Outlays	683	59
Bonneville Power Administration fund			
89 4045 0 3 271	401(C) Authority - Off. Coll.	47,600	4,141
	Outlays	41,900	3,645
Colorado river basins power marketing fund, Western Area Power Administr			
89 4452 0 3 271	401(C) Authority - Off. Coll.	8,434	734
	Outlays	7,422	646
Construction, rehabilitation, O&M, Western Area Power Administration			
89 5068 0 2 271	Budget Authority	35,856	3,119
	Outlays	31,553	2,745
Departmental Administration			
Departmental administration			
89 0228 0 1 276	Budget Authority	421,530	36,673
	Outlays	252,918	22,004
TOTAL FOR Department of Energy			
	Budget Authority	13,229,152	1,283,536
	401(C) Authority - Off. Coll.	56,034	4,875
	401(C) Other - incl. ob. limit	727	63
	Unobligated Balances - Defense	500,000	52,000
	Outlays	8,585,811	838,543
Environmental Protection Agency			
Environmental Protection Agency			
Hazardous substance superfund			
20 8145 0 7 304	Budget Authority	1,479,198	128,690
	401(C) Authority - Off. Coll.	40,000	3,480
	Obligation Limitation	147,506	12,833
	Outlays	335,840	29,218
Leaking underground storage tank trust fund			
20 8153 0 7 304	Budget Authority	52,536	4,571
	Outlays	7,880	686
Construction grants			
68 0103 0 1 304	Budget Authority	2,460,162	214,034
	Outlays	15,675	1,364
Research and development (Energy supply)			
68 0107 0 1 271	Budget Authority	56,426	4,909
	Outlays	22,570	1,964
Research and development (pollution control and abatement)			
68 0107 0 1 304	Budget Authority	154,579	13,448
	Outlays	44,828	3,900
Abatement, control, and compliance			
68 0108 0 1 304	Budget Authority	635,292	55,271
	Direct Loan Limitation	37,357	3,250
	Outlays	280,789	24,428
Buildings and facilities			
68 0110 0 1 304	Budget Authority	7,815	680
	Outlays	2,032	177
Salaries and expenses			
68 0200 0 1 304	Budget Authority	774,623	67,392
	401(C) Authority - Off. Coll.	1,800	157
	Outlays	660,008	57,421
Revolving fund for certification and other services			
68 4311 0 3 304	401(C) Authority - Off. Coll.	1,500	131
	Outlays	1,500	131
TOTAL FOR Environmental Protection Agency			
	Budget Authority	5,620,631	488,995
	401(C) Authority - Off. Coll.	43,300	3,768
	Direct Loan Limitation	37,357	3,250
	Obligation Limitation	147,506	12,833
	Outlays	1,371,122	119,289
Department of Transportation			
Federal Highway Administration			
Access highways to public recreation areas on certain lakes			
69 0503 0 1 401	Budget Authority	5,210	453
	Outlays	875	76

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Motor carrier safety			
69 0552 0 1 401	Budget Authority	21,173	1,842
	Outlays	17,997	1,566
Railroad-highway crossings demonstration projects			
69 0557 0 1 401	Budget Authority	4,082	355
	Outlays	408	35
Waste isolation pilot project			
69 0562 0 1 401	Budget Authority	10,420	907
	Outlays	1,761	153
Expressway gap closing demonstration project			
69 0563 0 1 401	Budget Authority	6,460	562
	Outlays	1,092	95
Trust fund share of other highway programs			
69 8009 0 7 401	Budget Authority	8,162	710
	Outlays	816	71
Baltimore-Washington Parkway			
69 8014 0 7 401	Budget Authority	10,420	906
	Outlays	1,763	154
Highway safety research and development			
69 8017 0 7 401	Budget Authority	7,294	635
	Outlays	1,240	108
Highway-related safety grants			
69 8019 0 7 401	401(C) Authority	10,000	870
	401(C) Other - incl. ob. limit	10,000	870
	Outlays	2,000	174
Motor carrier safety grants			
69 8027 0 7 401	Budget Authority	280	25
	401(C) Authority	50,000	4,350
	Outlays	17,598	1,531
Federal-aid highways			
69 8083 0 7 401	401(C) Authority	13,704,000	1,192,248
	401(C) Authority - Off. Coll.	21,082	1,834
	401(C) Other - incl. ob. limit	12,350,000	1,074,450
	Outlays	2,254,082	196,105
Right-of-way revolving fund (trust revolving fund)			
69 8402 0 8 401	Direct Loan Limitation	49,860	4,338
	Outlays	49,860	4,338
Miscellaneous appropriations			
69 9911 0 1 401	Budget Authority	1,966	171
	Outlays	334	29
Miscellaneous trust funds--Highway			
69 9972 0 7 401	Budget Authority	52,934	4,605
	Outlays	8,999	783
National Highway Traffic Safety Administration			
Operations and research			
69 0650 0 1 401	Budget Authority	58,518	5,091
	Outlays	38,037	3,309
Trust fund share of operations and research			
69 8016 0 7 401	Budget Authority	36,099	3,141
	Outlays	23,465	2,041
Highway traffic safety grants			
69 8020 0 7 401	401(C) Authority	126,000	10,962
	401(C) Other - incl. ob. limit	126,000	10,962
	Obligation Limitation	16,828	1,464
	Outlays	57,131	4,971
Federal Railroad Administration			
Northeast corridor improvement program			
69 0123 0 1 401	Budget Authority	17,674	1,538
	Outlays	1,767	154
Office of the Administrator			
69 0700 0 1 401	Budget Authority	24,719	2,151
	Outlays	17,667	1,537
Railroad safety			
69 0702 0 1 401	Budget Authority	39,308	3,419
	Outlays	29,391	2,557
Grants to National Railroad Passenger Corporation			
69 0704 0 1 401	Budget Authority	619,772	53,920
	Outlays	588,783	51,224
Settlements of railroad litigation			
69 0708 0 1 401	401(C) Authority	5,437	473
Commuter rail service			
69 0747 0 1 401	Budget Authority	5,210	453
	Outlays	1,042	91
Railroad rehabilitation and improvement financing funds			
69 4411 0 3 401	Budget Authority	8,329	724
	Direct Loan Limitation	6,773	589
	Outlays	339	29

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Urban Mass Transportation Administration			
Administrative expenses			
69 1120 0 1 401	Budget Authority	33,723	2,934
	Outlays	30,351	2,641
Research, training, and human resources			
69 1121 0 1 401	Budget Authority	18,131	1,577
	Outlays	5,439	473
Interstate transfer grants-transit			
69 1127 0 1 401	Budget Authority	208,400	18,131
	Outlays	31,260	2,720
Washington metro			
69 1128 0 1 401	Budget Authority	209,567	18,232
	Outlays	10,478	912
Formula grants			
69 1129 0 1 401	Budget Authority	2,084,000	181,308
	Outlays	631,468	54,938
Discretionary grants			
69 8191 0 7 401	401(C) Authority	1,200,000	104,400
	Obligation Limitation	1,044,605	90,881
	Outlays	93,480	8,133
Federal Aviation Administration			
Operations			
69 1301 0 1 402	Budget Authority	2,423,621	210,855
	401(C) Authority - Off. Coll.	9,100	792
	Outlays	2,183,138	189,934
Headquarters administration			
69 1302 0 1 402	Budget Authority	37,617	3,273
	Outlays	31,974	2,782
Operation and maintenance, Metropolitan Washington Airports			
69 1332 0 1 402	Budget Authority	25,342	2,204
	Outlays	21,541	1,874
Construction, Metropolitan Washington Airports			
69 1333 0 1 402	Budget Authority	0	1
	Outlays	0	0
Aircraft purchase loan guarantee program			
69 1399 0 1 402	Budget Authority	1,799	157
	Outlays	1,799	157
Trust fund share of FAA operations			
69 8104 0 7 402	Budget Authority	677,073	58,905
	Outlays	677,073	58,905
Grants-in-aid for airports (Airport and airway trust fund)			
69 8106 0 7 402	401(C) Authority	1,017,200	88,496
	Obligation Limitation	1,068,050	92,920
	Outlays	160,208	13,938
Facilities and equipment (Airport and airway trust fund)			
69 8107 0 7 402	Budget Authority	841,096	73,175
	401(C) Authority - Off. Coll.	3,600	313
	Outlays	70,888	6,167
Research, engineering and development (Airport and airway trust fund)			
69 8108 0 7 402	Budget Authority	149,466	13,004
	401(C) Authority - Off. Coll.	600	52
	Outlays	97,753	8,504
Coast Guard			
Operating expenses			
69 0201 0 1 403	Budget Authority	1,935,703	168,407
	401(C) Authority - Off. Coll.	4,000	348
	Outlays	1,633,848	142,145
Acquisition, construction, and improvements			
69 0240 0 1 403	Budget Authority	311,659	27,114
	Outlays	42,064	3,660
Retired pay			
69 0241 0 1 403	401(C) Authority	34,980	3,043
	Outlays	34,980	3,043
Reserve training			
69 0242 0 1 403	Budget Authority	70,583	6,141
	Outlays	61,125	5,318
Research, development, test, and evaluation			
69 0243 0 1 403	Budget Authority	21,307	1,854
	Outlays	7,159	623
Offshore oil pollution compensation fund			
69 5167 0 2 304	Budget Authority	1,042	91
	Obligation Limitation	60,000	5,220
	Outlays	104	9
Pollution fund			
69 5168 0 2 304	401(C) Authority	5,300	461
	Outlays	2,099	183

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Deepwater port liability fund			
69 5170 0 2 304	Budget Authority	1,042	91
	Obligation Limitation	50,000	4,350
Boat safety			
69 8149 0 7 403	Budget Authority	15,630	1,360
	401(C) Authority	15,973	1,390
	Obligation Limitation	30,000	2,610
	Outlays	30,630	2,665
Maritime Administration			
Research and development			
69 1716 0 1 403	Budget Authority	3,647	317
	Outlays	2,188	190
Operations and training			
69 1750 0 1 403	Budget Authority	68,652	5,973
	Outlays	61,787	5,375
Federal ship financing fund			
69 4301 0 3 403	401(C) Authority - Off. Coll.	3,000	261
	Outlays	3,000	261
Saint Lawrence Seaway Development Corporation			
Saint Lawrence Seaway Development Corporation			
69 4089 0 3 403	Budget Authority	2,136	186
	401(C) Authority - Off. Coll.	800	70
	Obligation Limitation	1,985	173
	Outlays	4,844	422
Operations and maintenance			
69 8003 0 7 403	Budget Authority	4,168	363
	Outlays	4,168	363
Office of the Inspector General			
Salaries and expenses			
69 0130 0 1 407	Budget Authority	29,652	2,580
	Outlays	25,619	2,229
Research and Special Programs Administration			
Research and special programs			
69 0104 0 1 407	Budget Authority	21,303	1,653
	Outlays	14,060	1,223
Office of the Secretary			
Salaries and expenses			
69 0102 0 1 407	Budget Authority	55,340	4,815
	Outlays	49,806	4,333
Transportation, planning, research and development			
69 0142 0 1 407	Budget Authority	3,578	311
	Outlays	1,420	124
Payments to air carriers, DOT			
69 0150 0 1 402	Budget Authority	31,260	2,720
	Outlays	25,008	2,176
TOTAL FOR Department of Transportation			
	Budget Authority	10,224,567	889,540
	401(C) Authority	16,168,890	1,406,693
	401(C) Authority - Off. Coll.	42,182	3,670
	401(C) Other - incl. ob. limit	12,486,000	1,086,282
	Direct Loan Limitation	56,633	4,927
	Obligation Limitation	2,271,468	197,618
	Outlays	9,167,206	797,551
General Services Administration			
Real Property Activities			
Federal buildings fund			
47 4542 0 4 804	401(C) Authority - Off. Coll.	13,254	1,153
	Outlays	13,254	1,153
Personal Property Activities			
Federal supply service			
47 0116 0 1 804	Budget Authority	176,173	15,327
	Outlays	170,888	14,867
Expenses of transportation audit contracts			
47 5246 0 2 804	401(C) Other - incl. ob. limit	13,040	1,134
	Outlays	8,252	718
Information Resources Management Service			
Operating expenses, information resources management service			
47 0900 0 1 804	Budget Authority	31,193	2,714
	Outlays	26,514	2,307
Federal Property Resources Activities			
Operating expenses, federal property resources service (Defense-related			
47 0533 0 1 054	Budget Authority	30,250	3,146
	Outlays	25,038	2,604
Operating expenses, federal property resources service (General property			
47 0533 0 1 804	Budget Authority	11,462	997
	Outlays	7,278	633

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National defense stockpile transaction fund			
47 4550 0 3 054	Budget Authority	10,420	1,084
	Unobligated Balances - Defense	598,660	62,261
	Outlays	24,277	2,525
Expenses, disposal of surplus real and related personal property			
47 5254 0 2 804	401(C) Other - incl. ob. limit	3,800	331
	Outlays	2,280	198
General Activities			
Allowances and office staff for former Presidents			
47 0105 0 1 802	Budget Authority	956	83
	Outlays	860	75
Office of Inspector General			
47 0108 0 1 804	Budget Authority	23,348	2,031
	Outlays	21,247	1,848
General management and administration, salaries and expenses			
47 0110 0 1 804	Budget Authority	128,108	11,145
	Outlays	102,486	8,916
Consumer information center fund			
47 4549 0 3 376	Budget Authority	1,339	116
	401(C) Authority - Off. Coll.	392	34
	Obligation Limitation	1,678	146
	Outlays	1,082	94
TOTAL FOR General Services Administration			
	Budget Authority	413,249	36,643
	401(C) Authority - Off. Coll.	13,646	1,187
	401(C) Other - incl. ob. limit	16,840	1,465
	Obligation Limitation	1,678	146
	Unobligated Balances - Defense	598,660	62,261
	Outlays	403,456	35,938
Department of Housing and Urban Development			
Housing Programs			
Housing counseling assistance			
86 0156 0 1 506	Budget Authority	3,647	317
Subsidized housing programs (Community development)			
86 0164 0 1 451	Budget Authority	332,971	28,969
	Outlays	43,764	3,807
Subsidized housing programs (Housing assistance)			
86 0164 0 1 604	Budget Authority	7,857,847	683,633
	Outlays	15,643	1,361
Congregate services program			
86 0178 0 1 604	Budget Authority	3,543	308
Shelter programs			
86 0181 0 1 604	Budget Authority	166,720	14,505
	Outlays	60,389	5,253
Rental housing assistance fund			
86 4041 0 3 604	401(C) Authority - Off. Coll.	51,000	4,437
	Outlays	51,000	4,437
Nonprofit sponsor assistance			
86 4042 0 3 604	Direct Loan Limitation	1,000	87
	Outlays	236	21
Federal Housing Administration fund			
86 4070 0 3 371	401(C) Authority - Off. Coll.	382,896	33,312
	Direct Loan Limitation	73,800	6,421
	Guaranteed Loan Limitation	100,000,000	8,700,000
	Obligation Limitation	306,962	26,706
	Outlays	698,197	60,743
Housing for the elderly or handicapped fund			
86 4115 0 3 371	Budget Authority	3,907	340
	Direct Loan Limitation	621,700	54,088
	Outlays	3,907	340
Interstate land sales			
86 5270 0 2 376	401(C) Authority	814	71
	Outlays	749	65
Manufactured home inspection and monitoring			
86 5271 0 2 376	401(C) Authority	5,967	519
	Outlays	2,984	260
Public and Indian Housing Programs			
Payments for operation of low income housing projects			
86 0163 0 1 604	Budget Authority	1,406,700	122,383
	Outlays	703,350	61,191
Government National Mortgage Association			
Payment of participation sales insufficiencies			
86 0145 0 1 371	Budget Authority	1,124	98
Guarantees of mortgage-backed securities			
86 4238 0 3 371	401(C) Authority - Off. Coll.	18,785	1,634
	Guaranteed Loan Limitation	150,000,000	13,050,000
	Outlays	16,363	1,424

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Solar Energy and Energy Conservation Bank			
Assistance for solar and conservation improvements			
86 0179 0 1 272	Budget Authority	625	54
Community Planning and Development			
Community development grants			
86 0162 0 1 451	Budget Authority	3,126,000	271,962
	Guaranteed Loan Limitation	156,300	13,598
	Outlays	62,520	5,439
Urban development action grants			
86 0170 0 1 451	Budget Authority	234,450	20,397
	Outlays	11,723	1,020
Urban homesteading			
86 0171 0 1 451	Budget Authority	12,504	1,088
	Outlays	8,753	762
Rehabilitation loan fund			
86 4036 0 3 451	401(C) Authority - Off. Coll.	23,791	2,070
	Direct Loan Limitation	80,000	6,960
	Outlays	63,791	5,550
Policy Development and Research			
Research and technology			
86 0108 0 1 451	Budget Authority	17,714	1,541
	Outlays	5,314	462
Fair Housing and Equal Opportunity			
Fair housing assistance			
86 0144 0 1 751	Budget Authority	6,607	575
Management and Administration			
Salaries and expenses, Including transfer of funds (Community developmen			
86 0143 0 1 451	Budget Authority	184,030	16,011
	Outlays	153,665	13,369
Salaries and expenses, Including transfer of funds (Housing assistance)			
86 0143 0 1 604	Budget Authority	157,616	13,713
	Outlays	130,683	11,369
Salaries and expenses, Including transfer of funds (Federal law enforcem			
86 0143 0 1 751	Budget Authority	14,543	1,265
	Outlays	12,143	1,056
TOTAL FOR Department of Housing and Urban Development			
	Budget Authority	13,530,548	1,177,159
	401(C) Authority	6,781	590
	401(C) Authority - Off. Coll.	476,472	41,453
	Direct Loan Limitation	776,500	67,556
	Guaranteed Loan Limitation	250,156,300	21,763,598
	Obligation Limitation	306,962	26,706
	Outlays	2,045,174	177,929
National Aeronautics and Space Administration			
National Aeronautics and Space Administration			
Research and program management, offsetting collections			
80 0103 0 1 250	401(C) Authority - Off. Coll.	5,378	468
	Outlays	5,378	468
Research and program management (Space flight)			
80 0103 0 1 253	Budget Authority	705,076	61,342
	Outlays	647,965	56,373
Research and program management (Space science, applications, and techno			
80 0103 0 1 254	Budget Authority	496,031	43,155
	Outlays	451,388	39,271
Research and program management (Supporting space activities)			
80 0103 0 1 255	Budget Authority	60,837	5,293
	Outlays	54,753	4,764
Research and program management (Air transportation)			
80 0103 0 1 402	Budget Authority	286,447	24,921
	Outlays	259,807	22,603
Space flight, control, and data communications			
80 0105 0 1 250	401(C) Authority - Off. Coll.	123,977	10,786
	Outlays	123,977	10,786
Space flight, control, and data communications (Space flight)			
80 0105 0 1 253	Budget Authority	5,472,688	476,123
	Outlays	2,219,517	193,098
Space flight, control, and data communications (Supporting space activit			
80 0105 0 1 255	Budget Authority	899,142	78,225
	Outlays	543,981	47,326
Construction of facilities (Space flight)			
80 0107 0 1 253	Budget Authority	16,985	1,478
	Outlays	1,189	103
Construction of facilities (Space science, applications, and technology)			
80 0107 0 1 254	Budget Authority	9,795	852
	Outlays	686	60

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Construction of facilities (Supporting space activities)			
80 0107 0 1 255	Budget Authority	116,079	10,099
	Outlays	8,126	707
Construction of facilities (Air transportation)			
80 0107 0 1 402	Budget Authority	33,552	2,919
	Outlays	2,349	204
Research and development, offsetting collections			
80 0108 0 1 250	401(C) Authority - Off. Coll.	17,249	1,501
	Outlays	17,249	1,501
Research and development (Space flight)			
80 0108 0 1 253	Budget Authority	953,951	82,994
	Outlays	511,318	44,485
Research and development (Space science, applications, and technology)			
80 0108 0 1 254	Budget Authority	1,911,653	166,314
	Outlays	996,051	86,657
Research and development (Supporting space activities)			
80 0108 0 1 255	Budget Authority	17,818	1,550
	Outlays	10,780	938
Research and development (Air transportation)			
80 0108 0 1 402	Budget Authority	415,237	36,126
	Outlays	251,218	21,856
TOTAL FOR National Aeronautics and Space Administration			
	Budget Authority	11,395,291	991,391
	401(C) Authority - Off. Coll.	146,604	12,755
	Outlays	6,105,732	531,200
Office of Personnel Management			
Office of Personnel Management			
Salaries and expenses			
24 0100 0 1 805	Budget Authority	107,650	9,366
	Outlays	91,503	7,961
Government payment for annuitants, employees health benefits			
24 0206 0 1 551	401(C) Authority	1,788,931	155,637
Revolving fund			
24 4571 0 4 805	401(C) Authority - Off. Coll.	1,051	91
	Outlays	1,051	91
Civil service retirement and disability fund			
24 8135 0 7 602	Obligation Limitation	56,510	4,917
	Outlays	52,465	4,565
Employees life insurance fund			
24 8424 0 8 602	Obligation Limitation	1,215	106
	Outlays	1,215	106
Employees health benefits fund			
24 8440 0 8 551	Obligation Limitation	9,657	840
	Outlays	9,657	840
Retired employees health benefits fund			
24 8445 0 8 551	Obligation Limitation	146	13
	Outlays	146	13
TOTAL FOR Office of Personnel Management			
	Budget Authority	107,650	9,366
	401(C) Authority	1,788,931	155,637
	401(C) Authority - Off. Coll.	1,051	91
	Obligation Limitation	67,528	5,876
	Outlays	156,037	13,576
Small Business Administration			
Small Business Administration			
Salaries and expenses			
73 0100 0 1 376	Budget Authority	212,278	18,468
	Outlays	172,073	14,970
Pollution control equipment contract guarantee revolving fund			
73 4147 0 3 376	Guaranteed Loan Limitation	50,000	4,350
Disaster loan fund			
73 4153 0 3 453	Direct Loan Limitation	364,000	31,668
	Outlays	189,000	16,443
Business loan and investment fund			
73 4154 0 3 376	Budget Authority	114,203	9,936
	Direct Loan Limitation	101,074	8,793
	Guaranteed Loan Limitation	3,741,000	325,467
	Outlays	77,772	6,766
Surety bond guarantees revolving fund			
73 4156 0 3 376	Guaranteed Loan Limitation	1,142,000	99,354
TOTAL FOR Small Business Administration			
	Budget Authority	326,481	28,404
	Direct Loan Limitation	465,074	40,461
	Guaranteed Loan Limitation	4,933,000	429,171
	Outlays	438,845	38,179

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Veterans Administration			
Veterans Administration			
Veterans job training			
36 0103 0 1 702	Budget Authority	31,260	2,720
	Outlays	1,844	160
Construction, major projects			
36 0110 0 1 703	Budget Authority	398,856	34,700
	Outlays	12,763	1,110
Construction, minor projects			
36 0111 0 1 703	Budget Authority	85,571	7,444
	Outlays	41,054	3,572
Readjustment benefits			
36 0137 0 1 702	401(C) Authority	587,432	51,107
	Outlays	559,483	48,675
Grants to the Republic of the Philippines			
36 0144 0 1 703	Budget Authority	521	45
	Outlays	82	7
General operating expenses			
36 0151 0 1 705	Budget Authority	825,957	71,858
	Outlays	759,880	66,110
Medical administration and miscellaneous operating expenses			
36 0152 0 1 703	Budget Authority	44,793	3,897
	Outlays	33,595	2,923
Burial benefits and miscellaneous assistance			
36 0155 0 1 701	401(C) Authority	121,400	10,562
	Outlays	121,220	10,546
Medical care			
36 0160 0 1 703	Budget Authority	805,143	70,047
	Budget Authority - Spec. Rules	188,455	188,455
	401(C) Authority - Spec. Rules	618	618
	Outlays	915,106	224,116
Medical and prosthetic research			
36 0161 0 1 703	Budget Authority	227,819	19,820
	Outlays	185,900	16,173
Grants for construction of state extended care facilities			
36 0181 0 1 703	Budget Authority	44,181	3,844
Direct loan revolving fund			
36 4024 0 3 704	Direct Loan Limitation	1,000	87
	Outlays	230	20
Loan guaranty revolving fund			
36 4025 0 3 704	Guaranteed Loan Limitation	31,622,000	2,751,114
	Outlays	0	0
Vocational rehabilitation revolving fund			
36 4114 0 3 702	Direct Loan Limitation	900	78
	Outlays	884	77
Education loan fund			
36 4118 0 3 702	Direct Loan Limitation	40	3
	Outlays	40	3
Parking garage revolving fund			
36 4538 0 3 703	Budget Authority	27,092	2,357
	401(C) Authority - Off. Coll.	200	17
	Outlays	931	81
TOTAL FOR Veterans Administration			
	Budget Authority	2,491,193	216,732
	Budget Authority - Spec. Rules	188,455	188,455
	401(C) Authority	708,832	61,669
	401(C) Authority - Off. Coll.	200	17
	401(C) Authority - Spec. Rules	618	618
	Direct Loan Limitation	1,940	168
	Guaranteed Loan Limitation	31,622,000	2,751,114
	Outlays	2,633,012	373,573
Other Independent Agencies			
Other Independent Agencies			
Aviation Safety Commission			
48 0053 0 1 402	Budget Authority	2,104	183
	Outlays	1,368	119
Eisenhower Centennial Commission			
76 1700 0 1 801	Budget Authority	52	5
	Outlays	50	4
ACTION			
Operating expenses			
44 0103 0 1 506	Budget Authority	164,090	14,276
	Outlays	99,439	8,651

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Administrative Conference of the United States			
Salaries and expenses			
95 1700 0 1 751	Budget Authority	1,594	139
	Outlays	1,275	111
Advisory Committee on Federal Pay			
Salaries and expenses			
95 1800 0 1 805	Budget Authority	219	19
	Outlays	175	15
Advisory Council on Historic Preservation			
Salaries and expenses			
95 2300 0 1 303	Budget Authority	1,669	145
	Outlays	1,369	119
American Battle Monuments Commission			
Salaries and expenses			
74 0100 0 1 705	Budget Authority	15,973	1,390
	Outlays	10,782	938
Architectural and Transportation Barriers Compliance Board			
Salaries and expenses			
95 3200 0 1 751	Budget Authority	2,046	178
	Outlays	1,485	129
Arms Control and Disarmament Agency			
Arms control and disarmament activities			
94 0100 0 1 153	Budget Authority	31,074	2,703
	Outlays	20,602	1,792
Barry Goldwater Scholarship and Excellence in Education Foundation			
Payment to the Barry Goldwater Scholarship and Excellence in Education F			
95 0500 0 1 502	Budget Authority	41,680	3,626
Barry Goldwater Scholarship and Excellence in Education Foundation			
95 8281 0 7 502	401(C) Other - incl. ob. limit	1,085	94
	Outlays	987	86
Board for International Broadcasting			
Grants and expenses			
95 1145 0 1 154	Budget Authority	180,505	15,704
	Outlays	162,454	14,133
Commission of Fine Arts			
Salaries and expenses			
95 2600 0 1 451	Budget Authority	488	42
	Outlays	448	39
Commission on Civil Rights			
Salaries and expenses			
95 1900 0 1 751	Budget Authority	8,097	704
	Outlays	6,882	599
Committee for Purchase from the Blind and other Severely Handicapped			
Salaries and expenses			
95 2000 0 1 505	Budget Authority	844	73
	Outlays	802	70
Commodity Futures Trading Commission			
Commodity Futures Trading Commission			
95 1400 0 1 376	Budget Authority	32,396	2,818
	Outlays	28,185	2,452
Consumer Product Safety Commission			
Salaries and expenses			
61 0100 0 1 554	Budget Authority	37,002	3,219
	401(C) Authority - Off. Coll.	5	0
	Outlays	31,457	2,736
District of Columbia			
Federal payment to the District of Columbia			
20 1700 0 1 852	Budget Authority	603,916	52,541
	Outlays	603,916	52,541
Equal Employment Opportunity Commission			
Salaries and expenses			
45 0100 0 1 751	Budget Authority	179,234	15,593
	Outlays	155,934	13,566
Export-Import Bank of the United States			
Export-Import Bank of the United States			
83 4027 0 3 155	Budget Authority	104,200	9,065
	Direct Loan Limitation	708,560	61,645
	Guaranteed Loan Limitation	11,831,910	1,029,376
	Obligation Limitation	20,020	1,742
	Outlays	126,360	10,993
Farm Credit Administration			
Revolving fund for administrative expenses			
78 4131 0 3 351	Obligation Limitation	39,420	3,430
	Outlays	39,420	3,430

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Federal Communications Commission			
Salaries and expenses			
27 0100 0 1 376	Budget Authority	108,590	9,447
	401(C) Authority - Off. Coll.	50	4
	Outlays	96,994	8,438
Federal Election Commission			
Salaries and expenses			
95 1600 0 1 806	Budget Authority	13,912	1,210
	Outlays	12,521	1,089
Federal Emergency Management Agency			
Salaries and expenses (defense-related activities)			
58 0100 0 1 054	Budget Authority	76,180	6,628
	Outlays	72,088	6,272
Salaries and expenses (Disaster relief and insurance)			
58 0100 0 1 453	Budget Authority	56,279	4,896
	Outlays	48,963	4,260
Emergency mgmt. planning and assistance (defense-related activities)			
58 0101 0 1 054	Budget Authority	246,137	21,414
	Outlays	188,541	16,403
Emergency management planning and assistance (Disaster relief and insura			
58 0101 0 1 453	Budget Authority	26,867	2,337
	Outlays	14,777	1,286
Emergency food distribution and shelter program			
58 0103 0 1 605	Budget Authority	130,250	11,332
	Outlays	130,250	11,332
National insurance development fund			
58 4235 0 3 451	401(C) Authority	220	19
	Outlays	220	19
Federal Labor Relations Authority			
Salaries and expenses			
54 0100 0 1 805	Budget Authority	17,834	1,552
	Outlays	16,407	1,427
Federal Maritime Commission			
Salaries and expenses			
65 0100 0 1 403	Budget Authority	12,672	1,102
	Outlays	11,405	992
Federal Mediation and Conciliation Service			
Salaries and expenses			
93 0100 0 1 505	Budget Authority	25,650	2,232
	Outlays	23,521	2,046
Federal Mine Safety and Health Review Commission			
Salaries and expenses			
95 2800 0 1 554	Budget Authority	4,128	359
	Outlays	3,868	337
Federal Trade Commission			
Salaries and expenses			
29 0100 0 1 376	Budget Authority	70,844	6,163
	Outlays	64,822	5,640
TOTAL FOR Other Independent Agencies			
	Budget Authority	2,196,526	191,095
	401(C) Authority	220	19
	401(C) Authority - Off. Coll.	55	4
	401(C) Other - incl. ob. limit	1,085	94
	Direct Loan Limitation	708,560	61,645
	Guaranteed Loan Limitation	11,831,910	1,029,376
	Obligation Limitation	59,440	5,172
	Outlays	1,977,767	172,064
Other Independent Agencies			
Harry S Truman Scholarship Foundation			
Harry S Truman memorial scholarship trust fund			
95 8296 0 7 502	401(C) Other - incl. ob. limit	2,113	184
	Outlays	2,113	184
Christopher Columbus Quincentennary Jubilee Commission			
Salaries and expenses			
76 0800 0 1 376	Budget Authority	236	21
	Outlays	212	18
Commission on the Bicentennial of the U.S. Constitution			
Salaries and expenses			
76 0054 0 1 806	Budget Authority	13,967	1,215
Franklin Delano Roosevelt Memorial Commission			
Salaries and expenses			
76 0700 0 1 806	Budget Authority	5	0
	Outlays	5	0

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Intelligence Community Staff			
Intelligence community staff			
95 0400 0 1 054	Budget Authority	23,490	2,443
	Outlays	21,177	2,202
Advisory Commission on Intergovernmental Relations			
Salaries and expenses			
55 0100 0 1 806	Budget Authority	1,878	163
	Outlays	1,596	139
Appalachian Regional Commission			
Appalachian regional development programs			
46 0200 0 1 452	Budget Authority	109,540	9,530
	Outlays	7,632	663
Delaware River Basin Commission			
Salaries and expenses			
46 0100 0 1 301	Budget Authority	202	18
	Outlays	188	16
Contribution to Delaware River Basin Commission			
46 0102 0 1 301	Budget Authority	208	18
	Outlays	208	18
Interstate Commission on the Potomac River Basin			
Contribution to Interstate Commission on the Potomac River Basin			
46 0446 0 1 304	Budget Authority	82	7
	Outlays	82	7
Susquehanna River Basin Commission			
Salaries and expenses			
46 0500 0 1 301	Budget Authority	195	17
	Outlays	184	16
Contribution to Susquehanna River Basin Commission			
46 0501 0 1 301	Budget Authority	250	22
	Outlays	250	22
International Trade Commission			
Salaries and expenses			
34 0100 0 1 153	Budget Authority	36,681	3,191
	Outlays	31,582	2,748
Interstate Commerce Commission			
Salaries and expenses			
30 0100 0 1 401	Budget Authority	51,101	4,446
	Outlays	45,991	4,001
James Madison Memorial Fellowship Foundation			
James Madison Memorial Fellowship Foundation			
95 0200 0 1 502	401(C) Authority	13,754	1,197
	Outlays	13,754	1,197
James Madison Memorial Fellowship Trust Fund			
95 8282 0 7 502	401(C) Other - incl. ob. limit	450	39
	Outlays	405	35
Japan-United States Friendship Commission			
Japan-United States friendship trust fund			
95 8025 0 7 154	Budget Authority	1,476	128
	Outlays	1,476	128
Legal Services Corporation			
Payment to the Legal Services Corporation			
20 0501 0 1 752	Budget Authority	318,331	27,695
	Outlays	277,266	24,122
Marine Mammal Commission			
Salaries and expenses			
95 2200 0 1 302	Budget Authority	978	85
	Outlays	868	76
Merit Systems Protection Board			
Salaries and expenses			
41 0100 0 1 805	Budget Authority	20,861	1,815
	Outlays	17,732	1,543
Office of the Special Counsel			
41 0101 0 1 805	Budget Authority	4,801	418
	Outlays	4,412	384
National Archives and Records Administration			
Operating expenses			
88 0300 0 1 804	Budget Authority	108,443	9,434
	Outlays	86,448	7,521
National archives trust fund			
88 8436 0 8 804	401(C) Authority - Off. Coll.	4,343	378
	Outlays	4,343	378
National Capital Planning Commission			
Salaries and expenses			
95 2500 0 1 451	Budget Authority	2,931	255
	Outlays	2,697	235

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
National Afro-American History and Culture Commission			
National Center for the Study of Afro-American History and Culture			
95 3800 0 1 503	Budget Authority	145	13
	Outlays	94	8
National Commission on Libraries and Information Science			
Salaries and expenses			
95 2700 0 1 503	Budget Authority	717	62
	Outlays	645	56
National Council on the Handicapped			
Salaries and expenses			
95 3500 0 1 506	Budget Authority	915	80
	Outlays	659	57
National Endowment for the Arts			
National endowment for the arts: Grants and administration			
59 0100 0 1 503	Budget Authority	172,637	15,019
	Outlays	54,726	4,761
National Endowment for the Humanities			
National endowment for the humanities: Grants and administration			
59 0200 0 1 503	Budget Authority	149,077	12,970
	Outlays	74,539	6,485
Institute of Museum Services			
Institute of Museum Services: Grants and administration			
59 0300 0 1 503	Budget Authority	22,174	1,929
	Outlays	5,566	484
National Institute of Building Sciences			
National Institute of Building Sciences trust fund			
95 8222 0 7 376	401(C) Other - incl. ob. limit	500	44
	Outlays	500	44
National Labor Relations Board			
Salaries and expenses			
63 0100 0 1 505	Budget Authority	142,058	12,359
	Outlays	133,677	11,630
National Mediation Board			
Salaries and expenses			
95 2400 0 1 505	Budget Authority	6,999	609
	Outlays	5,571	485
National Science Foundation			
Research and related activities			
49 0100 0 1 251	Budget Authority	1,468,773	127,783
	Outlays	731,449	63,636
Scientific activities overseas (special foreign currency program)			
49 0102 0 1 251	Budget Authority	729	63
	Outlays	109	9
Science and engineering education activities			
49 0106 0 1 251	Budget Authority	103,158	8,975
	Outlays	15,371	1,337
U.S. Antarctic program			
49 0200 0 1 251	Budget Authority	121,914	10,607
	Outlays	45,474	3,956
National Transportation Safety Board			
Salaries and expenses			
95 0310 0 1 407	Budget Authority	24,208	2,106
	Outlays	21,787	1,895
Neighborhood Reinvestment Corporation			
Payment to the Neighborhood Reinvestment Corporation			
82 1300 0 1 451	Budget Authority	19,798	1,722
	Outlays	19,798	1,722
Nuclear Regulatory Commission			
Salaries and expenses			
31 0200 0 1 276	Budget Authority	428,998	37,323
	Outlays	321,749	27,992
TOTAL FOR Other Independent Agencies			
	Budget Authority	3,357,956	292,541
	401(C) Authority	13,754	1,197
	401(C) Authority - Off. Coll.	4,343	378
	401(C) Other - incl. ob. limit	3,063	267
	Outlays	1,952,335	170,210
Other Independent Agencies			
Occupational Safety and Health Review Commission			
Salaries and expenses			
95 2100 0 1 554	Budget Authority	6,275	546
	Outlays	5,842	508
Pennsylvania Avenue Development Corporation			
Salaries and expenses			
42 0100 0 1 451	Budget Authority	2,599	226
	Outlays	2,105	183

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Public development			
42 0102 0 1 451	Budget Authority	4,089	356
	Outlays	3,067	267
Land acquisition and development fund			
42 4084 0 3 451	401(C) Authority - Off. Coll.	14,000	1,218
	Outlays	14,000	1,218
Postal Service			
Payment to the Postal Service fund			
18 1001 0 1 372	Budget Authority	677,300	58,925
	Outlays	677,300	58,925
Postal Service			
18 4020 0 3 372	401(C) Authority	1,059,426	92,170
Railroad Retirement Board			
Railroad social security equivalent benefit account			
60 8010 0 7 601	Obligation Limitation	30,314	2,637
	Outlays	30,314	2,637
Rail Industry Pension Fund			
60 8011 0 7 601	Obligation Limitation	30,880	2,687
	Outlays	30,880	2,687
Supplemental Annuity Pension Fund			
60 8012 0 7 601	Obligation Limitation	2,165	188
	Outlays	2,165	188
Securities and Exchange Commission			
Salaries and expenses			
50 0100 0 1 376	Budget Authority	120,391	10,474
	Outlays	109,556	9,531
Selective Service System			
Salaries and expenses			
90 0400 0 1 054	Budget Authority	28,303	2,944
	Outlays	23,387	2,432
Smithsonian Institution			
Salaries and expenses			
33 0100 0 1 503	Budget Authority	200,361	17,432
	Outlays	176,411	15,348
Construction and improvements, National Zoological Park			
33 0129 0 1 503	Budget Authority	2,605	227
	Outlays	1,172	102
Restoration and renovation of buildings			
33 0132 0 1 503	Budget Authority	13,520	1,176
	Outlays	5,408	470
Construction			
33 0133 0 1 503	Budget Authority	6,351	553
	Outlays	2,540	221
Salaries and expenses, National Gallery of Art			
33 0200 0 1 503	Budget Authority	37,475	3,260
	Outlays	32,116	2,794
Repair, restoration, and renovation of buildings			
33 0201 0 1 503	Budget Authority	2,503	218
Salaries and expenses, Woodrow Wilson International Center for Scholars			
33 0400 0 1 503	Budget Authority	3,547	309
	Outlays	2,178	189
Endowment challenge fund			
33 8188 0 7 503	401(C) Authority	175	15
	Outlays	150	13
Canal Zone biological area fund			
33 8190 0 7 503	401(C) Authority	125	11
	Outlays	120	10
TOTAL FOR Other Independent Agencies			
	Budget Authority	1,105,319	96,646
	401(C) Authority	1,059,726	92,196
	401(C) Authority - Off. Coll.	14,000	1,218
	Obligation Limitation	63,359	5,512
	Outlays	1,118,711	97,723
Other Independent Agencies			
Other Temporary Commissions			
State Justice Institute: Salaries and expenses			
48 0052 0 1 752	Budget Authority	7,520	654
	Outlays	6,768	589
Commission on Education of the Deaf: Salaries and expenses			
48 0200 0 1 503	Budget Authority	801	70
	Outlays	374	33
Navajo and Hopi Indian Relocation Commission: Salaries and expenses			
48 1100 0 1 806	Budget Authority	23,402	2,036
	Outlays	14,743	1,283

AGENCY, BUREAU AND ACCOUNT TITLE		BASE	SEQUESTER
Commission for study of migration and cooperative economic development			
48 1400 0 1 153	Budget Authority	226	20
	Outlays	217	19
National Council on Public Works Improvement			
48 1900 0 1 806	Budget Authority	1,853	161
Tennessee Valley Authority			
Tennessee Valley Authority fund (Energy supply)			
64 4110 0 3 271	401(C) Authority - Off. Coll.	94,900	8,256
	Outlays	83,512	7,266
Tennessee Valley Authority fund (Area and regional development)			
64 4110 0 3 452	Budget Authority	105,559	9,184
	Outlays	25,968	2,259
United States Holocaust Memorial Council			
Holocaust Memorial Council			
95 3300 0 1 806	Budget Authority	2,185	190
	Outlays	1,728	150
United States Information Agency			
Salaries and expenses			
67 0201 0 1 154	Budget Authority	623,655	54,258
	Outlays	492,064	42,810
East-West Center			
67 0202 0 1 154	Budget Authority	20,840	1,813
	Outlays	19,715	1,715
Radio construction			
67 0204 0 1 154	Budget Authority	47,938	4,171
	Outlays	7,670	667
Radio broadcasting to Cuba			
67 0208 0 1 154	Budget Authority	13,154	1,145
	Outlays	10,524	915
Educational and cultural exchange programs			
67 0209 0 1 154	Budget Authority	151,090	13,145
	Outlays	68,746	5,981
National Endowment for Democracy			
67 0210 0 1 154	Budget Authority	15,630	1,360
	Outlays	7,815	680
United States Institute of Peace			
United States Institute of Peace			
95 1300 0 1 153	Budget Authority	683	59
	Outlays	410	36
United States Sentencing Commission			
Salaries and expenses			
10 0938 0 1 752	Budget Authority	6,208	540
	Outlays	5,581	486
TOTAL FOR Other Independent Agencies			
	Budget Authority	1,020,744	88,806
	401(C) Authority - Off. Coll.	94,900	8,256
	Outlays	745,835	64,889
REPORT TOTAL			
	Budget Authority	372,912,055	36,306,433
	Budget Authority - Spec. Rules	216,194	216,194
	401(C) Authority	42,994,570	3,744,284
	401(C) Authority - Off. Coll.	2,552,051	222,031
	401(C) Other - incl. ob. limit	15,281,966	1,329,530
	401(C) Authority - Spec. Rules	1,466,420	1,466,420
	Direct Loan Limitation	28,985,186	2,521,711
	Direct Loan Floor	1,081,956	94,130
	Guaranteed Loan Limitation	309,623,478	26,937,244
	Guaranteed Loan Floor	972,264	84,587
	Obligation Limitation	11,502,937	1,000,758
	Unobligated Balances - Defense	47,673,369	4,958,031
	Outlays	225,589,220	22,984,169

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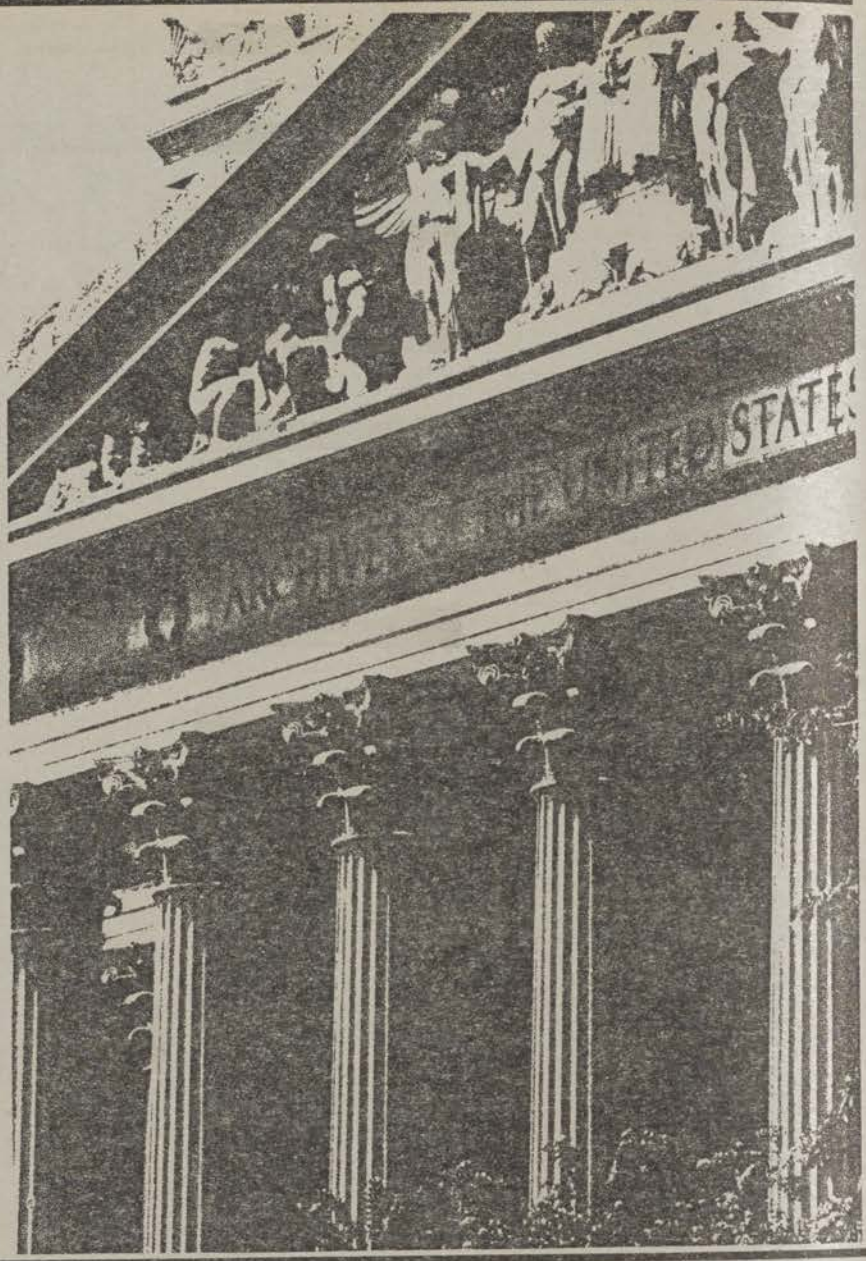

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