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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 663]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 663 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period December 11 through December 17, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such oranges during the period specified due to the marketing situation confronting the orange industry.

DATES: Regulation 663 (§ 907.963) is effective for the period December 11 through December 17, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2528–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR Part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that the small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel oranges marketing order, and approximately 4,065 producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

This action is consistent with the marketing policy for 1987–88 adopted by the Navel Orange Administrative Committee (Committee). The Committee met publicly on December 8, 1987, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, by a 6 to 4 vote, a quantity of navel oranges deemed advisable to be handled during the specified week. The Committee reports that the market for navel oranges is fair.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of prorate regulations, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. To effectuate the declared purposes of the Act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR Part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR Part 907 continues to read as follows:

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

2. Section 907.963 is added to read as follows:

§ 907.963 Navel Orange Regulation 663.

The quantity of navel oranges grown in California and Arizona which may be handled during the period December 11, 1987, through December 17, 1987, is established as follows:

(a) District 1: 1,656,000 cartons;
(b) District 2: 48,805 cartons;
(c) District 3: 108,000 cartons;
(d) District 4: 36,000 cartons.

Dated: December 9, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–28656 Filed 12–10–87; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 910

[Lemon Reg. 591]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 591 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 300,000 cartons during the period December 13 through December 19, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 591 (§ 910.891) is effective for the period December 13 through December 19, 1987.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on December 8, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 10 to 1 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons is good for smaller sizes, somewhat weaker for larger sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.891 is added to read as follows:

§ 910.891 Lemon Regulation 591.

The quantity of lemons grown in California and Arizona which may be handled during the period December 13 through December 19, 1987, is established at 300,000 cartons.

Dated: December 9, 1987.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–28655 Filed 12–10–87; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R–0615]

Agricultural Loan Loss Amortization; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule with a provision for public comment; extension of comment period.

SUMMARY: The Board is extending from December 3, 1987, to January 8, 1988, the period for receipt of public comment on this rule which was published in the **Federal Register** at 52 FR 42087 (November 3, 1987). The regulation implements Title VIII of the Competitive Equality Banking Act of 1987 ("CEBA") which permits state member agricultural banks to amortize losses on qualified agricultural loans. Title VIII of CEBA requires regulations implementing Title VIII to be issued not less than 90 days after enactment, that is, by November 9, 1987. Therefore, the Board published the rule as a final rule effective November 9, 1987, for the Call Report for December 31, 1987, but allowed interested parties to comment through December 3, 1987. After receiving several requests for an extension of the comment period, the Board acting through authority delegated to its Secretary (12 CFR 265.2(a)(4)) has decided to extend the closing date to January 8, 1988.

DATE: Comments must be received by January 8, 1988.

ADDRESSES: All comments should refer to Docket No. R–0615 and should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to Room B–2223, 20th Street and Constitution Avenue, NW., Washington, DC, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Rhoger H. Pugh, Manager (202) 728–5883, Stanley B. Rediger, Senior Financial Analyst (202) 452–2629, Division of Banking Supervision and Regulation (202) 728–5883; Helen Lewis (202) 452–3490, Economist, Financial Reports Section, Division of Research and Statistics; or John Harry Jorgenson, Senior Attorney (202) 452–3778, Legal Division; Board of Governors of the Federal Reserve System, Washington, DC 20551. For the hearing impaired ONLY, Telecommunications Device for

the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452–3544.

By order of the Board of Governors of the Federal Reserve System, December 7, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–28420 Filed 12–10–87; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–ASW–35; Amdt. 39–5796]

Airworthiness Directives; Aerospatiale (Societe Nationale Industrielle Aerospatiale) Model AS355 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Aerospatiale AS355 series helicopters by individual letters. The AD requires the installation of a placard on the instrument panel of these helicopters which sets forth new operating limitations associated with flight operations in certain atmospheric conditions. The AD also requires a revision to the corresponding helicopter flight manuals to specify the use of engine ice protection for operations in visible atmospheric moisture below +5 °C. The AD was needed to prevent engine failure and a subsequent emergency landing which could be hazardous.

DATES: *Effective Date:* January 27, 1988, as to all persons except those persons to whom it was made immediately effective by priority letter AD 86–24–02, issued November 21, 1986, which contained this amendment.

Compliance: Required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (214) 641–0000, or may be examined in the Regional Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Wilbur F. Wells, FAA, Southwest Region, Aircraft Certification Division, Fort Worth, Texas 76193–0111, telephone (817) 624–5123.

SUPPLEMENTARY INFORMATION: On November 21, 1986, priority letter AD 86–24–02 was issued and made effective immediately as to all known U.S. owners and operators of all Aerospatiale Model AS355 series helicopters. The AD required the installation of a placard on the instrument panel to prohibit flight operations in certain ambient conditions where ice formation and subsequent ingestion into the engines may cause engine flameout. The AD also required a change to the Rotorcraft Flight Manual (RFM) Operating Limitations to specify that the engine ice protection system must be operated for flight in visible moisture when outside air temperature (OAT) is below +5 °C.

The AD was prompted by a report of nine aircraft incidents or accidents involving engine failures (flameouts) in certain atmospheric conditions which were conducive to engine inlet icing. On February 2, 1985, four flameout events occurred in the Gulf of Mexico in moisture conditions near 0 °C OAT. Two days later, two dual-engine flameouts occurred with helicopters of this type operating in the same region under similar ambient conditions. Additionally, three engine failure events (flameouts), one of which involved both engines, occurred in the United Kingdom while operating in precipitation at near 0 °C ambient temperature.

Since issuance of AD 86–24–02, Aerospatiale has developed an automatic engine reignition system which has been shown to accomplish almost instantaneous restart of the engine(s) and effective restoration of power in event of the moisture-induced flameout mode of engine failure, thus preventing the need for an emergency landing. This system is factory installed on all AS355 series helicopters beginning with Serial Number (S/N) 5362 and is eligible for retrofit in earlier helicopters if installed in accordance with modification AMS 07.1823 or corresponding Aerospatiale Service Bulletin No. 80.02 approved July 8, 1987. Accordingly, the applicability of the AD is revised to exempt these helicopters. Certain rotorcraft flight manual data are required with these systems. Certain other systems for assuring that hazardous loss of power will not occur during flight operations in these same atmospheric conditions have been approved specifically as alternate means of compliance with paragraph (a) of AD 86–24–02. These approvals, which involve continuous ignition devices, remain valid.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letters issued November 21, 1986, to all known U.S. owners and operators of Aerospatiale Model AS355 series helicopters. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

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, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations 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); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Aerospatiale (Societe Nationale Idustrielle Aerospatiale) Applies to Aerospatiale Model AS355 series helicopters constructed prior to S/N 5362, fitted with debris guards, Part Numbers (P/N) 355A58-0519-0201 and 355A58-0519-0301, and certified in any category except those helicopters equipped with an automatic engine reignition system installed in accordance with Modification AMS 07.1823 or with corresponding Aerospatiale Service Bulletin No. 80.02 approved July 8, 1987, and with basic flight manual revisions and instrument flight rules (IFR) flight manual supplements (if IFR equipped), or later FAA-approved flight manual revisions, as follows:

For the Model AS355E, basic rotorcraft flight manual, Revision 4, Code Date 87-10.

For the Model AS355F, basic rotorcraft flight manual, Revision 3, Code Date 87-10 and IFR rotorcraft flight manual supplement 11.4, Revision 3, Code Date 87-12.

For the Model AS355F1, basic rotorcraft flight manual, Revision 2, Code Date 87-10 and IFR rotorcraft flight manual supplement 11.4, Revision 1, Code Date 87-12.

Compliance is required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent ice accumulation in the engine inlets which could result in engine flameout, accomplish the following:

(a) Permanently attach a placard, stencil, or decal to the instrument panel in full view of the flightcrew which includes the following limitation statement: ALL FLIGHT OPERATIONS BELOW +5 °C IN ICE CRYSTALS, RAIN, MIST, DRIZZLE, CLOUDS, OR SLEET ARE PROHIBITED. FLIGHT OPERATIONS IN SNOW ABOVE −5 °C ARE PROHIBITED. IMC FLIGHTS BELOW +5 °C ARE PROHIBITED.

(b) Accomplish a pen-and-ink addition to the RFM Operating Limitations, Section 2.1, paragraph 1, to read as follows: ENGINE ANTI-ICE MUST BE OPERATED IN VISIBLE MOISTURE WHEN OAT IS BELOW +5 °C.

Upon request, an alternate means of compliance which provides an equivalent level of safety with the requirements of this AD may be used when approved by the Manager, FAA, Southwest Region, Aircraft Certification Division, ASW-100, Fort Worth, Texas 76193-0100.

This amendment becomes effective January 27, 1988, as to all persons except those persons to whom it was immediately effective by priority letter AD 86-24-02, issued November 21, 1987, which contained this amendment.

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

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-28447 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-77-AD; Admt. 39-5803]

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 Model 737 series airplanes, which requires certain modifications to improve the Instrument Landing System (ILS) immunity to electromagnetic interference (EMI). This amendment is prompted by reports of several airplane models in which EMI generated by various digital electronic equipment has been shown to be a source of false localizer signals, which can cause apparently normal operation of the localizer deviation bars when no ILS signal is present. This condition, if not corrected, could lead to erroneous ILS deviation displayed to the flight crew and abnormal operation of the autopilot.

EFFECTIVE DATE: February 1, 1988.

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 the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth J. Schroer, Aerospace Engineer, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1943. 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 the replacement of the weather radar receiver-transmitters, replacement of certain model VHF Navigation Receivers, and modification of the airplane wire bundle on certain Model 737 airplanes, was published in the **Federal Register** on July 2, 1987 (52 FR 25024).

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

The commenter requested that the compliance period be extended from twelve months for total compliance to twelve months for aircraft modifications, and to twenty-four months for the required Line Replaceable Unit modifications. The commenter stated that this change would allow operators to maintain existing interchangeability of parts among an airline's entire fleet of aircraft and not just those affected by this AD. The FAA does not concur. The FAA appreciates the concern an operator may have in wanting to modify not only the airplanes affected by this AD action, but to modify affected spare parts and similar units installed on other airplane models in its fleet. However, the FAA has identified an unsafe condition affecting those Model 737 airplanes in service, listed in the applicability statement of this AD. The FAA has determined that 12 months is an adequate time to obtain required modification kits and accomplish the modification of the affected airplanes without compromising the safety of flight. Individual operators who decide to modify all the units to maintain interchangeability of parts in its fleet should first establish appropriate procedures to modify those planes affected by this AD within the 12-month compliance period; any further modification of its fleet or spares can be accomplished outside of this compliance period, if necessary.

In addition, the commenter pointed out that Boeing Service Bulletin 737-34A1208, Revision 1, describes the attenuator installation on non-EFIS equipped airplanes as optional. Therefore, the commenter requested that the FAA not include the installation of attenuators as part of the proposed rule for those aircraft in which such installation is listed as optional in the service bulletin. The FAA does not concur. The FAA has determined it is necessary to install a coaxial attenuator in the affected airplanes. Even thought the accomplishment instructions in the service bulletin do not reference the attenuator for each airplane group, the attenuator is part of each airplane installation. Boeing has been delivering these airplanes over a period of time in various states of modification while the final solution was being developed. Many of those airplanes were delivered with the attenuator already installed. The determination for the need for attenuators in all affected airplanes was the result of ground tests, which indicated the margin between detecting interference and being interference-free was minimal, and the confidence of interference-free operation under all

possible conditions without attenuator installation was low.

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

It is estimated that 230 airplanes of U.S. registry will be affected by this AD. For 228 of the affected airplanes, it is estimated that an average of 4 manhours per airplane will be necessary to accomplish the required actions. For the remaining 2 affected airplanes, it is estimated that 74 manhours per airplane will be necessary to accomplish the required actions. The average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,400.

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, Boeing Model 737 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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, specified in Boeing Service Bulletin 737–34A1208, Revision 1, dated May 14, 1987, certificated in any category. Compliance required within the next year after the effective date of this AD, unless previously accomplished.

To minimize the possibility of misleading localizer deviation indication to the flight crew caused by electromagnetic interference, accomplish the following:

A. Replace the existing weather radar receiver-transmitters with modified receiver-transmitters; install; 10 db attenuators in line with the localizer coaxial cables; if Benedix VHF navigation receivers are installed, replace with modified receivers; and, for Model 737–300 airplanes equipped with electronic flight instrument system (EFIS), modify specific wire bundles and their routing, in accordance with Boeing Service Bulletin 737–34A1208, Revision 1, dated May 14, 1987, or later FAA-approved revision.

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, 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 for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents 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.

This amendment becomes effective February 1, 1988.

Issued in Seattle, Washington, on November 30, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–28461 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–86–AD; Amdt. 39–5804]

Airworthiness Directives; British Aerospace Model BAe–146 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 BAe–146 series airplanes, which requires modification of the Direct Current (DC) electrical distribution control system. This amendment is prompted by reports of an unanticipated failure mode of the DC busbar system, which resulted in the discharge of the battery without warning, and subsequent loss of both the Essential DC and Emergency DC busbars.

EFFECTIVE DATE: February 1, 1988.

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 the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires modification of the DC power distribution by deleting 2 wires and adding 3 wires to the auto cutout control on certain British Aerospace Model BAe–146 series airplanes, was published in the **Federal Register** on July 29, 1987 (52 FR 28276).

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

Both commenters agreed with the proposal, but one stated that the compliance time should be shortened from 6 months, as proposed, to 30 days. The FAA disagrees, and has determined that a 6-month compliance time is appropriate when consideration is given to the nature and history of the unsafe condition and to orderly accomplishment of the modification.

Paragraph B of the final rule has been revised to require the concurrence of the FAA Principal Maintenance Inspector in requests by operators for use of alternate means of compliance. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the 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 as proposed, with the change previously mentioned.

It is estimated that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost

will be $40 per manhour. The estimated cost for parts is $75 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,725.

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 of the minimal cost of compliance per airplane ($115). 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 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 (BAe): Applies to Model BAe–146 series airplanes listed in BAe Service Bulletin 24–30–00757A, Revision 1, dated September 5, 1986, certificated in any category. Compliance is required within 6 months after the effective date of this AD, unless previously accomplished.

To prevent battery depletion and subsequent loss of Essential DC and Emergency DC busbars accomplish the following:

A. Modify the DC power distribution in accordance with British Aerospace BAe–146 Aircraft Modification Service Bulletin 24–30–00757A, Revision 1, dated September 5, 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 the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This document 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.

This amendment become effective February 1, 1988.

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

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–28460 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–112–AD; Amdt. 39–5806]

Airworthiness Directives; British Aerospace Model H.S. 748 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 H.S. 748 airplanes, which requires initial and repetitive inspections for fatigue cracks of the hydraulic accumulators and for proper function. This amendment is prompted by reports of hydraulic accumulators cracking in service. This condition, if not corrected, could lead to structural damage to the airplane.

EFFECTIVE DATE: February 1, 1988.

ADDRESSES: The applicable service information may be obtained from British Aerospace Group, Weybridge Division Greengate, Middleton, Manchester M24 1SAf, England; and Dunlop Limited, Aviation Division, Dunlop House, Ryder Street, St. Jame's, London, SW1Y.6PX, England. 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, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. David Herron, Systems and Equipment Branch, ANM–130S; telephone (206) 431–1949. Mailing address: Federal Aviation Administration, 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 initial and repetitive inspections for fatigue cracks of the hydraulic accumulators on British Aerospace Model H.S. 748 airplanes, was published in the **Federal Register** on September 23, 1987 (52 FR 35725).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

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

It is estimated that 2 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1.25 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 the AD on U.S. operators is estimated to be $100 a year. This figure applies to the visual and non-destructive test (NDT) inspections only.

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 of the minimal cost of compliance per airplane ($50). 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 proposes to amend § 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 (BAe): Applies to all Model H.S. 748 series airplanes, pre-modification 7205, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural damage to the airplane due to fatigue cracking of the hydraulic accumulators, accomplish the following:

A. Within 300 hours time-in-service after the effective date of this AD, conduct the inspections of the hydraulic brake accumulator, as specified in Paragraph 2.B(1) of BAe H.S. 748 Service Bulletin 29/42, dated February 10, 1986. Any discrepancies detected must be corrected prior to further flight.

B. Within 1,000 hours time-in-service or one year after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 1,000 hours time-in-service or one year, whichever occurs first, conduct the inspections of the hydraulic brake accumulator as specified in Paragraph 2.B(2) of BAe H.S. 748 Service Bulletin 29/42 dated February 10, 1986. Any system defects found must be corrected prior to further flight.

C. Within 2,500 hours time-in-service, or two years after the effective date of this AD, whichever comes first, and thereafter at intervals not to exceed 2,500 hours time-in-service or two years, whichever occurs first, conduct the inspections of the hydraulic accumulator as specified in Dunlop Service Bulletin 29/175, dated February 4, 1986. Replace, prior to further flight, any units that do not meet the limits specified in the service bulletin.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, 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 to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace Group, Weybridge Division Greengate, Middleton, Manchester M24 1SA, England; and Dunlop Limited, Aviation Division, Dunlop House, Ryder Street, St. James's, London SW1Y.6PX, England. These documents 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, Seattle, Washington.

This amendment becomes effective February 1, 1988.

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

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-28458 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-122-AD; Amdt. 39-5807]

Airworthiness Directives; British Aerospace Model H.S. 748 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to British Aerospace (BAe) Model H.S. 748 series airplanes, which requires modifying the overwing escape hatch locking mechanism. This amendment is prompted by reports of hatches not being properly closed and locked or the hatch locking mechanisms being strained by mishandling. This condition, if not corrected, could lead to escape hatches opening and becoming detached from the airplane during flight.

EFFECTIVE DATE: February 1, 1988.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires modifying the overwing escape latch locking mechanism on British Aerospace Model H.S. 748 series airplanes, was published in the **Federal Register** on September 28, 1987 (52 FR 36275).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

After careful review of the available date, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 33 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $2,640.

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 of the minimal cost of compliance per airplane ($1,320). 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 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 H.S. 748 series airplanes, as listed in British Aerospace Service Bulletin 52/127, dated May 29, 1985, certificated in any category. Compliance required within 5 months after the effective date of this AD, unless previously accomplished:

To prevent the loss of the overwing escape hatch during flight, due to improper locking, accomplish the following:

A. Replace the escape hatch locking mechanism with P/N 10D14062 locking mechanism assembly, in accordance with the instructions in British Aerospace Service Bulletin No. 52/127, dated May 29, 1985.

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 document from the manufacturer may obtain copies upon request to British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This document 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.

This amendment becomes effective February 1, 1988.

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

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-28457 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-99-AD; Amdt. 39-5805]

Airworthiness Directives; Fokker B.V. Model F28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Fokker B.V. Model F28 series airplanes, which requires inspection for cracks, and replacement, if necessary, of all cargo door fuselage mounted hinge lugs. This amendment is prompted by several reports that cracks have been discovered in the hinge lugs. This condition, if not corrected, could result in sudden decompression and loss of the cargo door.

EFFECTIVE DATE: February 1, 1988.

ADDRESSES: The applicable service information may be obtained from Fokker Aircraft, 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires an inspection, and replacement if necessary, of all cargo door fuselage mounted hinge lugs on Model Fokker F28 series airplanes, was published in the **Federal Register** on September 18, 1987 (52 FR 35273).

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

The commenter, the Air Transport Association (ATA) of America, stated that its one affected member operator had already inspected 45 airplanes and that, if the FAA can determine that the remaining 6 airplanes in the U.S. have been inspected in accordance with the Fokker service bulletin, the proposed rule should be withdrawn. The FAA does not concur. In the event that additional Model F-28 series airplanes are imported to the U.S. in the future, an AD is necessary to ensure that the required inspection will be accomplished.

Paragraph B of the final rule has been revised to require the concurrence of an FAA Principal Maintenance Inspector in requests by operators for use of alternate means of compliance. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

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

It is estimated that 51 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $3,060.

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 of the minimal cost of compliance per airplane ($60). 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 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:

Fokker B.V.: Applies to Model F-28 series airplanes, as listed in Fokker B.V. Service Bulletin F28/52-a/100, Revision 1, dated June 19, 1987, certificated in any category. Compliance required within 120 flight hours after the effective date of this AD, unless previously accomplished.

To prevent sudden decompression of the airplane as a result of failure of a cargo hinge lug, accomplish the following:

A. Visually or dye penetrant inspect the cargo door hinge lugs for cracks, in accordance with Fokker Service Bulletin F28/52-a/100, Revision 1, dated June 19, 1987. Any lugs found to be cracked must be replaced with a serviceable part prior to further flight, in accordance with limitations set forth in the service bulletin.

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 the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Fokker Aircraft, 1199 North Fairfax Street, Alexandria, Virginia 22314. This document 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.

This amendment becomes effective February 1, 1988.

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

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-28459 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-ASW-39, Amdt. 39-5795]

Airworthiness Directives; Messerschmitt-Bolkow-Blohm GmbH (MBB) Model BO-105 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and repair or replacement, as necessary, of main rotor pitch links on MBB Model BO-105 helicopters. The AD is prompted by a report of a structural fatigue crack which could cause main rotor pitch link failure and possible loss of control of the helicopter.

DATES: *Effective Date:* December 31, 1987. *Compliance:* As indicated in the body of the AD.

ADDRESSES: The applicable service information (Alert Service Bulletin No. ASB-BO-105-10-103) may be obtained from the MBB Helicopter Corporation, P.O. Box 2349, West Chester, Pennsylvania 19380. These documents may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John Varoli, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667, telephone number 513.38.30; or R.T. Weaver, Rotorcraft Standards Staff, ASW-110, Federal Aviation Administration, Fort Worth, Texas 76193-0111, telephone (817) 624-5122.

SUPPLEMENTARY INFORMATION: The FAA has determined that there has been a report of fatigue cracking in a main rotor rotating control rod (pitch link) on an MBB Model BO-105 helicopter which could result in pitch link fatigue and cause loss of the helicopter. 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 inspection of the main rotor pitch links for freedom of bearing operation and for cracks, and repair or replacement, as necessary, on MBB Model BO-105 series helicopters.

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, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVE

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:

Messerschmitt-Bolkow-Blohm (MBB): Applies to Model BO-105 series helicopters, certificated in any category, equipped with main rotor blade rotating control rod ends, P/N's 105-13141.01 and 105-13142.01.

Compliance is required as indicated unless already accomplished.

To detect and prevent fatigue cracks in the threads of the main rotor pitch links rod ends, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD, check the main rotor control rods for binding of the spherical bearings as follows:

(1) Check the bearings on each control rod by rotating the rod about its longitudinal axis by hand.

(2) Inspect and rework control rods containing a binding bearing in accordance with paragraphs (b)(1) through (b)(7) before further use.

(b) Within the next 50 hours' time in service after the effective date of this AD, conduct the following main rotor control rod inspection for cracks and spherical bearing torque determination:

(1) Remove the control rods from the helicopter.

(2) Remove the rod ends from the control rods.

(3) Measure the force required to rotate the inner race of the rod end bearings in the circumferential direction around a bolt centerline (ref. figure No. 1).

(4) If the bearing torque (force X moment arm) required to rotate the bearing inner race is more than 1.5 NM (13.3 in-lbs), accomplish either of the following—

(i) Replace the affected bearing and repeat the step in paragraph (b)(3); or

(ii) Reduce the bearing friction by installing a bolt through the bearing inner race and tighten with a nut. Then, using a drill, spin the bearing at 60 to 100 RPM for 1- or 2-minute periods until friction torque is reduced to 1.5 NM (13.3 in-lbs) or below. Monitor temperature constantly to avoid overheating. (Bearing axial and radial play is not allowed.)

(5) Inspect the rod end threads as follows:

(i) Wrap the spherical bearing and rod in suitable adhesive tape to prevent cleaning solvent and wet developer from entering the bearing (ref. figure No. 2).

(ii) Remove residual sealing compound, grease, and dirt from the threaded area of the rod ends.

(iii) Visually inspect the threaded area of the rod ends for corrosion.

(iv) Inspect the threaded area of the rod ends for cracks by fluorescent magnetic particle or fluorescent dye penetrant inspection methods.

(6) Replace before further flight any rod ends found to be cracked or corroded. Install serviceable parts.

Note: Operators are asked to submit rod ends removed as a result of this AD to MBB, Department LV52, together with the helicopter serial number, flight hours, and service time, if known.

(7) Install serviceable main rotor control rods in accordance with the applicable maintenance manual instructions.

Note: MBB ASB No. BO-105-10-103 dated October 28, 1987, pertains to this inspection and rework.

(c) Repeat the inspections of paragraphs (b)(3) through (b)(6) after each rod end bearing replacement.

(d) Report pitch link cracks found by the inspections of paragraph (b) of this AD to the Manager, Aircraft Certification Division, Federal Aviation Administration, Fort Worth, Texas 76193-0100 within 10 days of the inspection. Provide aircraft serial numbers, total time, and time since the last pitch link rework, if any. [Reporting is approved by the

Office of Management and Budget under OMB No. 2120–1156.]

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Manager, Aircraft Certification Division, Federal Aviation Administration, Southwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period if the request contains substantiating data to justify the increase for that operator.

(f) An alternate method of compliance which provides an equivalent level of safety with the requirements of this AD may be used when approved by the Manager, Aircraft Certification Division, Federal Aviation Administration, Fort Worth, Texas 76193–0100 or by the Manager, Aircraft Certification Staff, AEU–100, Federal Aviation Administration, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO NY 09667.

(g) In accordance with FAR 21.197 and 21.199, flight is permitted to a base where the inspections required by this AD may be accomplished.

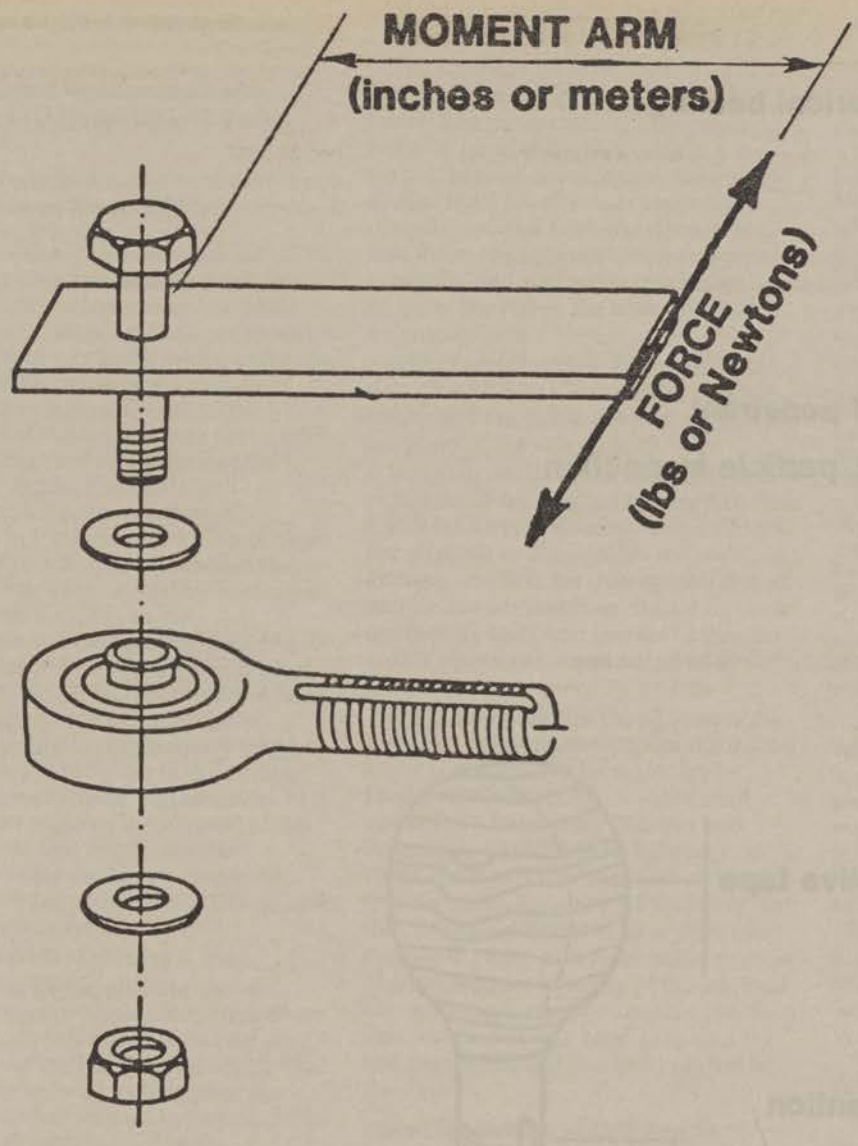
This amendment becomes effective December 31, 1987.

Issued in Fort Worth, Texas, on November 24, 1987.

Don P. Watson,

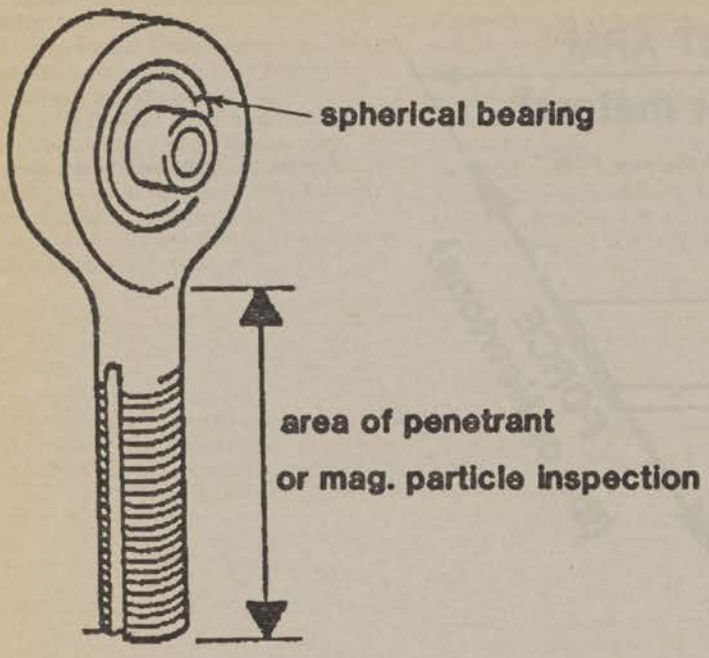
Acting Director, Southwest Region.

BILLING CODE 4910–13–M

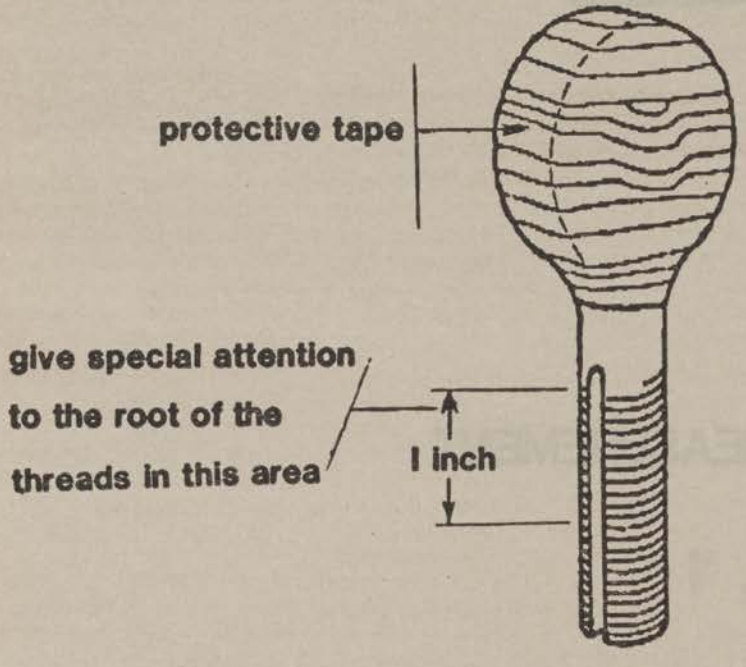


BEARING FRICTION MEASUREMENT

FIGURE NO. 1



ROD END



ROD END WITH BEARING TAPED

FIGURE NO. 2

[FR Doc. 87-28446 Filed 12-10-87; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 87-NM-116-AD; Amdt. 39-5802]

Airworthiness Directives; Short Brothers LTD Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to the Short Brothers Model SD3-60 series airplanes, which currently requires an increase of the threshold temperatures from 4°C to 10°C for activation of the ice and rain protection systems. That action was prompted by reports of engine flameouts or uncommanded power reduction occurring in icing conditions. Since then, the manufacturer has determined that the incidents were caused by excessive water in the fuel, due to the configuration of the fuel low pressure (LP) booster in the forward and aft fuel collector tanks. A modification has been developed which will improve the system's ability to continuously purge water from the collector tanks without degradation of engine performance. This amendment requires installation of the modification and eliminates the requirement for the higher threshold temperature for activation of the ice and rain protection system.

EFFECTIVE DATE: February 1, 1988.

ADDRESSES: The applicable service information may be obtained from Short Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires modification of the fuel low pressure (LP) booster pumps in the forward and aft fuel collector tanks on Short Brothers LTD Model SD3-60 series airplanes, was published in the **Federal Register** on September 23, 1987 (52 FR 35726).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the proposal.

The final has been revised to update the format to conform with present formatting requirements. Paragraph B. has also been changed to reflect the correct contact point for submission of applications for alternate means of compliance. The FAA has determined that these changes are merely editorial in nature, and will not increase the scope of the AD or the economic burden on any operator.

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

It is estimated that 55 airplanes of U.S. registry will be affected by this AD, that it will take approximately 21 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $46,200.

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 futher 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 of the minimal cost of compliance per airplane ($840). 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 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 amending AD 84-24-52, Amendment 39-4992 (50 FR 3885; January 29, 1985), to add a new paragraph C., as follows:

Short Brothers, Ltd.: Applies to all Model SD3-60 airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To reduce the potential for engine flameouts, accomplish the following:

A. Before further flight, incorporate the following information into the Airplane Flight Manual and provide this information to flight crews. This may be accomplished by including a copy of this AD in the Airplane Flight Manual and Operating Manual:

"Increase the threshold temperatures from 4°C to 10°C on Page 37, Section 4, Systems Operation, Ice and Rain Protection Systems (as fitted)."

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Within one year after the effective date of this amendment, modify the fuel low pressure booster pumps in accordance with Parts B and C of Short Brothers Service Bulletin SD350-28-17, dated November 1985. Accomplishment of these modifications constitute terminating action for the increased temperature threshold required by paragraph A., above.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Short Brothers Aircraft, 1725 Jefferson Davis Highway, Arlington, Virginia 22202. 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.

This amendment becomes effective February 1, 1988.

Issued in Seattle, Washington, on November 30, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-28456 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-25]

Amendment of Transition Area; Eagle, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Eagle, Colorado, 1,200 foot transition are to provide controlled airspace for a new approach procedure and associated holding pattern at the Eagle County Airport.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-536, Federal Aviation Administration, Docket No. 87-ANM-25, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2536.

SUPPLEMENTARY INFORMATION:

History

On October 30, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Eagle, Colorado, transition area to provide controlled airspace for aircraft executing a new approach procedure to Eagle County Airport, Colorado (52 FR 41732).

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Eagle, Colorado, 1,200 foot transition area. A new approach procedure required additional controlled airspace to encompass the new procedure.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Eagle, Colorado (Amended)

After lat. 40°21'00" N., long 106°42'00" W.; add the following: "to lat. 40°00'00" N., long. 106°42'00" W.; to lat. 40°00'00" N., long. 106°00'00" W.; to lat. 39°19'00" N., long. 106°42'00" W.; to the point of beginning excluding all controlled airspace which overlaps this airspace."

Issued in Seattle, Washington, on December 1, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-28448 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ASW-29]

Amendment of Transition Area; Chickasha, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule will amend the transition area located at Chickasha, OK. The relocation of the Oklahoma City VORTAC and the subsequent cancellation of the VOR/DME RWY 17 Standard Instrument Approach Procedures (SIAP) to the Chickasha Municipal Airport necessitated this amendment. The intended effect of this amendment is to return that controlled airspace no longer required for the VOR/DME RWY 17 SIAP, due to its cancellation. A new VOR/DME-A SIAP, to the airport has been published, and this amendment will provide adequate controlled airspace for all SIAP's now serving the Chickasha Municipal Airport.

EFFECTIVE DATE: 0901 UTC, March 10, 1988.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530, Telephone (817) 624-5561.

SUPPLEMENTARY INFORMATION:

History

On June 30, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the transition area located at Chickasha, OK (52 FR 27224).

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will amend the transition area located at Chickasha, OK. The cancellation of the VOR/DME RWY 17 SIAP, to the Chickasha Municipal Airport due to the relocation of the Oklahoma City VORTAC has necessitated this amendment. The intended effect of this amendment will revise the existing 700-foot transition area by eliminating that area beyond 6.5 miles northeast of the airport. This amendment will provide adequate controlled airspace for all SIAP's now serving the Chickasha 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 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 areas.

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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Chickasha, OK [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Chickasha Municipal Airport (latitude 35°05'47" N., longitude 97°58'08" W.), and within 2.5 miles each side of the 180° bearing from the airport extending from the 6.5-mile radius to 7.5 miles south of the airport.

Issued in Fort Worth, TX, on November 30, 1987.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87–28444 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AWA–18]

Alteration of VOR Federal Airways; Expanded East Coast Plan, Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of Federal Airway V–374 as published in the **Federal Register** on November 4, 1987. The description of V–374 that was published inadvertently omitted the Deer Park 308° radial. This action corrects that mistake.

EFFECTIVE DATE: 0901 UTC, December 9, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

The correction to final rule was published in Docket 87–AWA–18 on November 4, 1987, to correct the description of V–374 as originally published. Inadvertently, the description of V–374 omitted the Deer Park 308° radial. This action corrects the description to include that portion.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, the correction to final rule published on November 4, 1987, page 42272 in the **Federal Register** is corrected to read as follows:

PART 71—[CORRECTED]

§ 71.123 [Amended]

V–374 [Amended]

By removing the words "Madison." and by substituting the words "to Madison. From Carmel, NY; INT Carmel 254° and Deer Park, NY, 308° radials; INT Deer Park 308° and Binghamton, NY, 119° radials; Binghamton."

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.)

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

Shelomo Wugalter,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–28449 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 41

[DoD Directive 1332.14]

Enlisted Administrative Separations

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This amendment permits Services to dispense with summarized records of proceedings when Administrative Discharge Boards recommend retention. This applies only to that portion of the proceedings involving actual conduct of the board (i.e., summarized transcript of testimony). Commander's recommendation, convening orders, documentary evidence, allied papers, and verbatim findings and recommendations remain required in all cases. Individual Services may still require summarized records of proceedings. Summarized records will continue to be required in all cases when the Separation Authority forwards a case to the Secretary concerned recommending separation contrary to the Board's recommendation.

EFFECTIVE DATE: September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Lt. Colonel S. Strobridge, Office of the Assistant Secretary of Defense (Force Management and Personnel), Pentagon, Washington, DC 20301, telephone (202) 695–6312.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 41

Armed forces reserves, Military personnel.

Accordingly, Title 32 CFR Part 41 is amended to read as follows:

PART 41—CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 10 U.S.C. 1162, 1163, 1169, 1170, 1172, and 1173.

2. Appendix A-Part 3, is amended by revising paragraph C.5.d. to read as follows:

PART 3—PROCEDURES FOR SEPARATION

C. * * *

5. * * *

d. *Record of proceedings.* In cases where the Board recommends separation, the record of the proceedings shall be kept in summarized form unless a verbatim record is required by the Secretary concerned. In cases where the Board recommends retention, a record of the proceedings is optional unless required by the Secretary concerned. However, a summarized or verbatim record shall be prepared in any cases where the board recommends retention and the Separation Authority elects to forward the matter to the Secretary concerned under subparagraph C.6.d.(2)(6). The Board reporter shall retain all materials necessary to prepare a transcript should the Separation Authority elect to forward the case to the Secretary. In

all cases, the findings and recommendations of the Board shall be in verbatim form.

* * * * *

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
December 8, 1987.

[FR Doc. 87-28530 Filed 12-10-87; 8:45 am]
BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Parts 224, 225, 226, 227, 228, and 229

Miscellaneous Organizational Changes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the functional statements of the various Headquarters and field groups, divisions, and offices to reflect the reorganization and realignment of functions resulting from (1) the creation of a senior level position at Headquarters, that of Associate Postmaster General, and (2) a realigned management structure both at Headquarters and in the field.

EFFECTIVE DATE: December 11, 1987.

FOR FURTHER INFORMATION CONTACT: Richard W. Peterson, (202) 268-4183.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Parts 224, 225, 226, 227, 228, and 229

Organization and functions (Government agencies), Postal Service.

1. Part 224 is revised to read as follows:

PART 224—GROUPS AND DEPARTMENTS REPORTING DIRECTLY TO THE POSTMASTER GENERAL

Sec.
224.1 General.
224.2 Finance and Planning Group.
224.3 Inspection Service Department.
224.4 General Counsel.

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404, and 409.

§ 224.1 General.

The Postmaster General is the chief executive officer of the Postal Service and serves as a member of the Board of Governors.

§ 224.2 Finance and Planning Group.

(a) *General.* The Finance and Planning Group is headed by a Senior Assistant Postmaster General (SAPMG). The group consists of three departments, each headed by an Assistant Postmaster General, and the Office of the Treasurer, the USPS Records Officer, the Capital Investment Division, and the Management Analysis Division.

(b) *Planning Department.* The Planning Department is responsible for:

(1) Assisting departments and groups in developing and coordinating comprehensive, effective plans and programs.

(2) Identifying and forecasting economic, demographic, political, social, technical, and market trends and events affecting the Postal Service.

(3) Formulating alternative business strategies and projecting long-range business targets as a basis for setting goals and objectives.

(4) Management of the process to develop the five-year Strategic Plan.

(c) *Rates and Classification Department.* The Rates and Classification Department is responsible for:

(1) Designing and maintaining the rate and mail classification structure.

(2) Developing and administering standards and procedures related to cost analysis and attribution.

(3) Forecasting mail volume.

(4) Developing and litigating rate recommendations to the Postal Rate Commission.

(5) Developing policies, regulations, systems, and procedures for the management and control of the admissibility, classification, and application of rates and fees for domestic or international mail of all classes and the collection of revenue from bulk mailers and special service users.

(d) *Controller Department.* The Controller Department is responsible for:

(1) Developing financing policy and forecasting long-term financing, capital requirements, and borrowing needs.

(2) Establishing a comprehensive controllership program for financial management.

(3) Maintaining control of the financial activities.

(4) Developing accounting policy and procedures and operating the financial reporting programs and controls.

(5) Establishing budgeting, economic and cost benefit functions, payroll systems, policies, and procedures.

(6) Directing the formulation and presentation of a national budget to the Corporate Executive Committee, Board of Governors, Office of Management and Budget, and Congress.

(e) *Office of the Treasurer.* The Treasurer is responsible for:

(1) Operating a nationwide network of primary and concentration banks to gather revenue.

(2) Developing cash management initiatives to speed cash flow.

(3) Implementing debt management strategies to meet long-term capital and short-term borrowing needs.

(4) Planning investment strategies to ensure liquidity and to earn a competitive rate of return.

(5) Managing the investment of excess cash.

§ 224.3 Inspection Service Department.

(a) The Inspection Service Department is headed by the Chief Postal Inspector.

(b) The Inspection Service is responsible for:

(1) Protecting mail matter.

(2) Enforcing postal laws governing facilities and employees.

(3) Carrying out investigations and presenting evidence to the Department of Justice and U.S. Attorneys in investigations of a criminal nature.

(4) Performing internal audits of postal operations.

(5) Providing liaison with law enforcement agencies and all levels of government on all activities related to security and defense coordination.

§ 224.4 General Counsel.

(a) *General.* The General Counsel heads the Law Department; the Government Relations Department reports to the General Counsel.

(b) *Law Department.* The Law Department is responsible for:

(1) Serving as legal advisor to the entire Postal Service and interpreting laws as they relate to the Postal Service.

(2) Making rulings, giving advisory opinions, drafting or approving legal instruments, instituting and maintaining administrative proceedings, representing the Postal Service in administrative proceedings, and in judicial proceedings, as authorized.

(3) Preparing the legislative program of the Postal Service and publishing regulations in the **Federal Register.**

(4) Administering activities under the Tort Claims Act, and other personal injury and physical loss claims.

(5) Acting as agent for the receipt of legal process on behalf of the Postal Service and the Postmaster General and other officials resulting from the performance of their official functions.

(6) Administering the Ethical Conduct Program.

(c) *Government Relations Department.* The Government Relations Department is responsible for:

(1) Maintaining cooperative relationships among Congress, Federal agencies within the Executive Branch, the White House, and state and local government officials.

(2) Advising postal officials on legislative or other policy matters in public areas involving congressional committees or individual members of Congress.

(3) Maintaining liaison with members of Congress and their staffs to exchange information on specific legislation and Postal Service policies and operations.

2. Part 225 is revised to read as follows:

PART 225—GROUP REPORTING DIRECTLY TO THE DEPUTY POSTMASTER GENERAL

Sec.
225.1 General.
225.2 Operations Support Group.

Authority: 39 U.S.C. 203, 204, 401(2) 402, 403, 404, and 409.

§ 225.1 General.

The Deputy Postmaster General is the Chief Operating Officer of the Postal Service and serves as a member of the Board of Governors.

§ 225.2 Operations Support Group.

(a) *General.* The Operations Support Group is headed by an SAPMG. The group consists of three departments, each headed by an Assistant Postmaster General.

(b) *Delivery Service Department.* The Delivery Service Department is responsible for:

(1) Establishing policy and procedure for the delivery of mail by letter carriers or through post office boxes.

(2) Developing, testing and implementing all vehicle operations and maintenance programs and procedures.

(3) Developing policies and procedures for holding mail at the point of delivery.

(4) Developing, implementing, and evaluating policies and procedures relating to address changes and maintenance management.

(c) *Mail Processing Department.* The Mail Processing Department is responsible for:

(1) The distribution, processing and transportation of mail throughout the United States and to foreign countries.

(2) Planning and developing a national routing and transportation system and monitoring its performance.

(3) Controlling the inventory of equipment used to move mail between facilities.

(4) Managing all mail transportation contracting.

(5) Developing operating guidelines for the implementation of use of automated mail processing equipment.

(d) *Engineering and Technical Support Department.* The Engineering and Technical Support Department is responsible for:

(1) Planning and approving all operating requirements and standards for mechanized and automated facilities.

(2) Developing engineering and quality control policy, programs, and guidance to improve productivity, reduce costs, and determine distribution and delivery quality and performance.

(3) Developing and implementing mail processing, delivery services and retail methods improvements and production control systems and procedures.

(4) Establishing national policy and programs for the maintenance of facilities and mail processing, customer services, and delivery services related mechanization.

(5) Maintaining a technical and field support capacity for new and modified equipment and providing for the overhaul of major mail processing equipment.

3. Part 226 is revised to read as follows:

PART 226—GROUPS REPORTING DIRECTLY TO THE ASSOCIATE POSTMASTER GENERAL

Sec.
226.1 General.
226.2 Facilities and Supply Group.
226.3 Human Resources Group.
226.4 Management Information and Research Technology Group.
226.5 Marketing and Communications Group.

Authority: 39 U.S.C. 203, 204, 401(2), 402, 403, 404, and 409.

§ 226.1 General.

The Associate Postmaster General is responsible for managing four groups, headed by an SAPMG, which make up the support functions of the Postal Service.

§ 226.2 Facilities and Supply Group.

(a) *General.* The Facilities and Supply Group is headed by an SAPMG. The group consists of two Departments, each headed by an Assistant Postmaster General, and one office headed by the Judicial Officer.

(b) *Facilities Department.* The Facilities Department is responsible for:

(1) Designing, constructing, modifying, and repairing facilities.

(2) Leasing, purchasing, managing, and disposing of real estate.

(3) Developing policies, procedures, and new technology in support of facilities programs.

(4) Maximizing the use of real estate assets.

(c) *Procurement and Supply Department.* The Procurement and Supply Department is responsible for:

(1) Developing, implementing, and reviewing procurement and contracting policies and procedures.

(2) Developing, implementing, and reviewing warehousing and inventory of equipment and supplies.

(3) Directing the day-to-day maintenance and repair of the headquarters building.

(d) *Judicial Officer.*

(1) The Judicial Officer is responsible for:

(i) The performance of quasi-judicial duties and the issuance of final decisions and orders.

(ii) Serving as the agency for the purposes of the requirements of the Administrative Procedure Act.

(iii) Presiding at the reception of evidence as provided in rules of practice.

(iv) Revising or amending the rules governing eligibility to practice before the Postal Service, revising or amending Postal Service rules of practice governing proceedings conducted under the Administrative Procedure Act, and issuing and revising rules of practice for other proceedings.

(v) Serving as Chairman of the Board of Contract Appeals and performing the functions of the agency head under the Contract Disputes Act of 1978, as amended.

(vi) Administratively supervising Administrative Law Judges and hearing appeals from their decisions.

(2) Board of Contract Appeals is responsible for processing, hearing and issuing final agency decisions in connection with contract disputes.

(3) Office of Administrative Law Judges. Administrative Law Judges are responsible for presiding at administrative hearings as delegated by the Judicial Officer.

§ 226.3 Human Resources Group.

(a) *General.* The Human Resources Group is headed by an SAPMG. The group consists of three Departments, each headed by an Assistant Postmaster General.

(b) *Employee Relations Department.* The Employee Relations Department is responsible for:

(1) Managing programs and policies for new and revised organization structures, staffing patterns, and job descriptions.

(2) Establishing outside recruitment and selection and internal promotion procedures.

(3) Managing all employee compensation and benefits programs and policies.

(4) Administering all equal employment opportunity and affirmative action programs.

(5) Managing medical, safety, and injury compensation programs and policies.

(c) *Labor Relations Department.* The Labor Relations Department is responsible for:

(1) Negotiating and interpreting collective bargaining agreements.

(2) Coordinating programs that affect bargaining unit employees.

(3) Developing policies and procedures for administering the national grievance and arbitration programs.

(d) *Training and Development Department.* The Training and Development Department is responsible for:

(1) Developing all course materials for craft, supervisory, and management employees training.

(2) Providing training for employees at the Technical Training Center and the William F. Bolger Management Academy, and at other training centers.

(3) Designing in-service employee development programs.

§ 226.4 Management Information and Research Technology Group.

(a) *General.* The Management Information and Research Technology Group is headed by an SAPMG. The group consists of two departments, each headed by an Assistant Postmaster General.

(b) *Information Resource Management Department.* The Information Resource Management Department is responsible for:

(1) Providing data processing support services including systems analysis and programming.

(2) Establishing policy and procedures on the use of computers and telecommunications.

(3) Guiding the development of information systems.

(4) Managing a national data and voice communications system.

(5) Providing payroll processing and distribution services and general accounting services.

(6) Providing technical solutions to information requirements.

(c) *Technology Resource Department.* The Technology Resource Department is responsible for:

(1) Developing long-term technology development plans to meet changing technological trends and developments.

(2) Managing applies research and development directed to the application of new concepts to Postal Service functions.

(3) Monitoring the technological interaction between the Postal Service and the outside environment.

§ 226.5 Marketing and Communications Group.

(a) *General.* The Marketing and Communications Group is headed by an SAPMG. The group consists of four Departments, each headed by an Assistant Postmaster General.

(b) *Marketing Department.* The Marketing Department is responsible for:

(1) Market research, market analysis, customer feedback, and marketing management information system support.

(2) Product analysis, planning, development, and program management activities, including the development of advertising and sales promotion support.

(3) Development and management of sales and sales promotion programs that support implementation by the field marketing organization of programs designed for principal customer segments of national, key, major, and local accounts.

(c) *Communications Department.* The Communications Department is responsible for:

(1) Planning, approving, and managing public affairs programs.

(2) Providing information to employees through in-house publication of newsletters, posters, films, videotapes, and other periodicals.

(3) Providing senior management with assistance in the development and production of presentations and speeches.

(d) *International Postal Affairs Department.* The International Postal Affairs Department is responsible for:

(1) Representing the United States in the Universal Postal Union (UPU) and the Postal Union of the Americas and Spain (PUAS).

(2) Providing liasion with all foreign postal administrations.

(3) Negotiating bilaterial and multilateral postal treaties and agreements with foreign governments.

(4) Providing policy guidance on all aspects of international postal affairs.

(e) *Philatelic and Retail Services Department.*

(1) The Philatelic and Retail Services Department is responsible for:

(i) Designing, manufacturing, and distributing postage stamps and stationery items.

(ii) Establishing and implementing philatelic marketing programs.

(iii) Managing mail order services for philatelic products.

(iv) Resolving issues affecting the individual consumer.

(v) Managing special programs to promote philately and philatelic products and services.

(vi) Establishing policy, business strategy, and procedures for the retail sale of postal services, products, and postage and the acceptance of mail at retail outlets.

(2) Consumer Advocate. The Consumer Advocate is responsible for:

(i) Responding to customer inquiries and complaints regarding postal products and services.

(ii) Developing, with the Communications Department, programs to inform the public on mailing programs, procedures, and policies.

(iii) Tracking service problems and identifying trends to resolve operating programs.

4. Part 227 is added as follows:

PART 227—ADMINISTRATIVE SUPPORT FACILITIES

Sec.
227.1 General.
227.2 Inspection Service.
227.3 Procurement and Supply Department.
227.4 Engineering and Technical Support Department.
227.5 Human Resources Group.
227.6 Information Resource Management Department.

Authority: 39 U.S.C. 401, 402, 403, and 404.

§ 227.1 General.

Administrative Support Facilities are typically single function organizations that report directly to Headquarters and serve the entire Postal Service.

§ 227.2 Inspection Service.

(a) *General.* The Inspection Service is divided into regional and divisional entities. The region is headed by a Regional Chief Postal Inspector who reports to the Chief Postal Inspector and the divisions are headed by Inspectors in Charge who report to Regional Chief Postal Inspectors.

(b) *Inspection Service—Region.* The Inspection Service at the regional level is responsible for:

(1) Protecting the mails, enforcement of Postal laws, facility and employee security, and internal auditing.

(2) Managing the accomplishment of national programs and policies.

(3) Coordinating with other law enforcement organizations on security, audit, and other law enforcement matters.

(c) *Inspection Service—Division.* The Inspection Service at the division level is responsible for all inspection and investigation activities within the division area served.

§ 227.3 Procurement and Supply Department.

(a) *Area Supply Centers.*

(1) Area supply centers are headed by Field Directors who report to the Director, Office of Materiel Management, at Headquarters. There are two area supply centers, the Eastern Area Supply Center (EASC) in Somerville, New Jersey, and the Western Area Supply Center (WESC) in Topeka, Kansas.

(2) Area Supply Centers are responsible for:

(i) Procuring, storing, and issuing basic supplies for use in all postal facilities.

(ii) Arranging for the transportation of supplies to facilities.

(iii) Printing and issuing pressure-sensitive labels used in postal facilities.

(b) *Mail Equipment Shop.*

(1) The Mail Equipment Shop is located in Washington, DC, and is headed by a Field Manager who reports to the Director, Office of Materiel Management, at Headquarters.

(2) The Mail Equipment Shop is responsible for:

(i) Manufacturing mail bags, sacks, and pouches.

(ii) Manufacturing locks and keys.

(iii) Manufacturing hardware items used for mail security and for customer service lobby equipment.

§ 227.4 Engineering and Technical Support Department.

(a) *Maintenance Technical Support Center (MTSC).* The Maintenance Technical Support Center is located in Norman, OK, and is headed by a Field Director who reports to the Director, Office of Maintenance Management.

(b) *Responsibilities.* The Maintenance Technical Support Center is responsible for:

(1) Developing policies, programs, methods, and standards for the maintenance of mail processing equipment.

§ 227.5 Human Resources Group.

(a) *National Test Administration Center (NTAC).*

(1) The National Test Administration Center, located in Alexandria, VA, is headed by a Field Manager who reports to the Director, Office of Selection and Evaluation.

(2) The National Test Administration Center is responsible for:

(i) Receipt and processing of requests to give examinations.

(ii) Preparing and distributing registers of eligible applicants and notices of ratings.

(b) *Technical Training Center.*

(1) The Technical Training Center, located in Norman, OK, is headed by a Field Director and reports to the Director, Office of Training and Development.

(2) The Technical Training Center is responsible for:

(i) Developing training materials for craft employees in maintenance and related crafts.

(ii) Performing training for technical employees.

(c) *William F. Bolger Management Academy.*

(1) The William F. Bolger Management Academy, located in Potomac, MD, is headed by a Field Director who reports to the Director, Office of Training and Development.

(2) The William F. Bolger Management Academy is responsible for:

(i) Developing training materials for supervisors, postmasters and other managerial employees.

(ii) Performing training for managerial employees.

§ 227.6 Information Resource Management Department.

(a) *National Information Systems Development Center.* (1) The National Information Systems Development Center, located in Raleigh, NC, is headed by a Field Director who reports to the Director, Office of Data Processing, Information Resources Management Department.

(2) The National Information Systems Development Center is responsible for:

(i) Designing new large-scale automated systems and writing the supporting program code.

(ii) Managing the nationwide voice and data communications system.

(b) *Postal Data Centers.* (1) The Postal Data Centers located in Minneapolis, MN; New York, NY; St. Louis, MO; San Mateo, CA; and Wilkes-Barre, PA, are headed by Field Directors who report to the Director, Office of Data Processing, at Headquarters.

(2) Postal Data Centers are responsible for:

(i) Systems analysis, computer programming, and other systems development activities.

(ii) Accounting, accounts payable, payroll, money order disbursing, claims and loss settlement, and other financial services.

(iii) Data processing and related computer services.

5. Part 228 is added as follows:

PART 228—SERVICE CENTERS

Sec.

228.1 General.
228.2 Engineering and Technical Support Department—Maintenance Overhaul Centers.
228.3 Mail Processing Department—Transportation Management Service Centers (TMSC).
228.4 Facilities Department—Facilities Services Centers.
228.5 Procurement and Supply Department—Procurement and Materiel Management Service Centers.

Authority: 39 U.S.C. 401, 402, 403, and 404.

§ 228.1 General.

Service Centers typically serve a regional area only and report to headquarters, providing technical guidance and support to field division employees and carrying out the day-to-day responsibilities of a function.

§ 228.2 Engineering and Technical Support Department—Maintenance Overhaul Centers.

(a) Maintenance Overhaul Centers are headed by General Managers who report to the Director, Office of Maintenance Management.

(b) Maintenance Overhaul Centers are responsible for:

(1) Refurbishing mail processing equipment such as letter sorting machines, facer cancellers, and related equipment.

(2) Providing technical advice and guidance to field maintenance employees on procedures and practices to follow.

§ 228.3 Mail Processing Department—Transportation Management Service Centers (TMSC).

(a) Transportation Management Service Centers are headed by managers who report to the General Manager, Transportation Administration and Procurement Division, at Headquarters. There are 23 TMSCs located across the country.

(b) Transportation Management Service Centers are responsible for:

(1) Procuring mail transportation services between mail processing centers.

(2) Controlling the inventory of empty mail equipment.

(3) Coordinating the movement of mail between mail processing centers, bulk mail centers (BMCs), Management Sectional Center (MSCs), and Divisions.

§ 228.4 Facilities Department—Facilities Service Centers.

(a) Facilities Service Centers are headed by a Director, who reports to the Assistant Postmaster General, Facilities Department.

(b) Facilities Service Centers are responsible for:

(1) Developing functional design specifications for new or altered facilities.

(2) Investigating and evaluating sites for proposed postal facilities.

(3) Purchasing, leasing, disposing of, and managing real estate and facilities.

(4) Contracting for the design and construction of facilities.

§ 228.5 Procurement and Supply Department—Procurement and Materiel Management Service Centers.

(a) There are five Procurement and Materiel Management Service Centers, each headed by a Director who reports to the APMG, Procurement and Supply Department.

(b) Procurement and Materiel Management Service Centers are responsible for:

(1) Contracting for supplies, services and equipment;

(2) Maintaining systems for inventorying equipment and supplies.

6. Part 229 is added as follows:

PART 229—FIELD

Sec.

229.1 Regions.
229.2 Divisions.
229.3 Management Sectional Centers (MSCs).
229.4 Other Field Organizations.

Authority: 39 U.S.C. 401, 402, 403, and 404.

§ 229.1 Regions.

(a) *Region responsibilities.* The Regions are responsible for monitoring the performance of postal operations; assessing long-term solutions to operating problems; and performing long-range operational planning.

(b) *Functional division.* Each region is headed by a Regional Postmaster General who reports to the Deputy Postmaster General. Each region is organized into five functions: Finance, Human Resources, Marketing and Communications, Operations Support, and Planning, as follows:

(1) Finance is responsible for all accounting, budgeting, financial analysis, and management information programs.

(2) Human Resources is responsible for all employee and labor relations programs.

(3) Marketing and Communications is responsible for commercial accounts and merchandising programs, market and product analysis, and for providing information to the public and employees.

(4) Operations Support is responsible for operations planning and monitoring the performance of the mail processing network.

(5) Planning is responsible for long-range planning for the region and for support services to the regional building.

(c) *Regional areas.*—(1) *Central region.* The headquarters for the Central Region is in Chicago, IL. The regional area is made up of the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(2) *Eastern region.* The headquarters for the Eastern Region is in Philadelphia, PA. The regional area is made of the states of Delaware, Kentucky, Maryland, New Jersey (ZIP Code areas 080–084, 189, 193 and 194), North Carolina, Ohio, South Carolina (except ZIP Code areas 298 and 299), Virginia, West Virginia and Washington, DC.

(3) *Northeast region.* The headquarters for the Northeast Region is in Windsor, CT. The regional area is made up of the states of Connecticut, Maine, Massachusetts, New Jersey (ZIP Code areas 074–079 and 085–089) New York, Rhode Island, Vermont and Puerto Rico.

(4) *Southern region.* The headquarters for the Southern Region is in Memphis, TN. The regional area is made up of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina (ZIP Code areas 298 and 299), Tennessee and Texas (except ZIP Code areas 797–799).

(5) *Western region.* The headquarters for the Western Region is in San Bruno, CA. The regional area is made up of the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas (ZIP areas 797–799), Utah and Washington.

§ 229.2 Divisions.

2(a) *Division responsibilities.* The divisions are responsible for the day-to-day management of all operations and facilities within a geographic area.

(b) *Organizational structure.* Each division is headed by a Field Division General Manager/Postmaster who reports to the Regional Postmaster General.

(c) *Functional divisions.* Each division is organized into seven functions: Controller, City Operations, Operations Support, Marketing and Communications, Human Resources, Support Services, and Field Operations. Responsibilities are as follows:

(1) The Controller is responsible for the operation of all management information systems, accounting services, timekeeping, financial analysis, auditing, and compliance.

(2) City Operations is responsible for all mail processing within the host Field Division facility, including stations and branches and air mail operations; fleet operations; plant and equipment engineering; and bulk mail center operations.

(3) Operations Support is primarily responsible for providing staff support to the operations function. The primary functions in operation support include logistics and distribution systems management, industrial engineering, data collection, address information programs, delivery and retail programs, and maintenance support.

(4) Marketing and Communications plans and implements Postal Service marketing strategies, account management, technical sales support, communications programs, merchandising and sales information systems, and employee communications and community relations. It directs the consumer affairs program, provides marketing data to operations and other functional areas on customer demand, and recommends locations of retail facilities, hours of operation, collection boxes, and similar retail and delivery programs.

(5) Human Resources is responsible for labor relations, EEO complaint processing, employment and recruitment, training, compensation and benefits, affirmative action, and safety and health.

(6) Support Services is responsible for procurement; materiel management; purchase, lease, and management of real estate and facilities; and design and construction of new and altered facilities.

(7) Field Operations is responsible for the management of grade 24 and below associate offices that report to the host division.

§ 229.3 Management Sectional Centers (MSCs).

(a) *Management Sectional Center responsibilities.* Management Sectional Centers (MSCs) are responsible for managing all mail processing, customer services, finance, and employee and labor relations activities within their area.

(b) *Organizational structure.* Each MSC is headed by an MSC Manager/Postmaster who reports to a Field Division General Manager/Postmaster.

(c) *Functional division.* MSCs are divided into four functions, mail processing, customer services, finance, and employee and labor relations, as follows:

(1) Mail processing is responsible for all mail processing and distribution, plant maintenance, and management of detached distribution units.

(2) Customer services is responsible for delivery and collection, retail sales and services, account management,

philately, fleet operations, and the management of stations and branches.

(3) Finance is responsible for budget and cost analysis, accounting and reporting systems, mail classification, and local procurements.

(4) Employee and Labor Relations is responsible for all employment and recruitment, safety, labor relations, and training.

§ 229.4 Other Field Organizations.

(a) *Bulk Mail Centers (BMCs).* There are twenty-one highly mechanized BMCs, each serving a specific geographic area and headed by a manager who reports to a Director, City Operations, in a Field Division. BMCs are responsible for processing certain types of second- and third-class mail in bulk form and parcel post mail, normally in bulk or piece form.

(b) *Associate offices.* Associate offices are headed by a postmaster who reports to a MSC Manager/Postmaster or to a Director, Field Operations, in a Field Division or, in some cases, to a Field Division General Manager/Postmaster. Associate offices are responsible for receiving and dispatching all classes of mail for a small geographic area normally encompassing the boundaries of a city or town.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-28514 Filed 12-10-87; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OPH-002-CN]

Medicare and Medicaid Programs; Redesignation of Rules Concerning Federal Requirements for Health Maintenance Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: **Federal Register** document 87-22737 regarding Health Maintenance Organizations, beginning on page 36746 in the issue of Wednesday, September 30, 1987, redesignated 42 CFR Part 110 as 42 CFR Part 417, Subpart A. This document corrects two technical errors in the September 30 document.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias, (202) 245-0383.

Corrections

1. On page 36746, column 3, the first item of the rule is revised to read as follows:

The authority citation at the end of the table of contents is revised to read as follows and all other authority citations in Part 417 are removed.

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 1395l(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97-248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701; and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e-17).

2. On page 36747, column 1, the heading of the table is revised to read: "Redesignation Table for 42 CFR Part 110"

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare Supplementary Medical Insurance; No. 13.714, Medical Assistance Program)

Dated: December 4, 1987.

James F. Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87-28467 Filed 12-10-87; 8:45 am]

BILLING CODE 4120-01-M

42 CFR Parts 466 and 476

[HSQ-145-CN]

Medicare and Medicaid Programs; Entities Performing Quality of Care Review of Services Provided by Risk-Basis Health Maintenance Organizations and Competitive Medical Plans; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule that was published in the **Federal Register** on October 7, 1987 (52 FR 37454). The final rule provided for review by Utilization and Quality Control Peer Review Organizations (PROs) of the quality of care furnished by risk-basis health maintenance organizations (HMOs) and competitive medical plans (CMPs) under 24 CFR Part 417, Subpart C. It also provided for this same review by non-PRO entities and identified the requirements that these non-PRO entities must meet.

FOR FURTHER INFORMATION CONTACT: Michelle French, (301) 594-9777.

SUPPLEMENTARY INFORMATION:

In **Federal Register** document 87-23092, beginning on page 37454 in the issue of October 7, 1987, we redesignated paragraphs (c), (d), and (e) of § 466.70 as paragraphs (a), (b), and (c), respectively of new § 466.71. We inadvertently overlooked paragraph (f) of § 466.70, which we would have redesignated as paragraph (d) of § 466.71.

In addition, in the time between preparing the final rule and publishing it, we published another final rule (**Federal Register** document 87-19988) on September 1, 1987 (52 FR 33034) that revised paragraph (e)(2) of § 466.70, which we overlooked when we published the October 7, 1987 final rule. We have also noted two minor editorial corrections that should be made to the final rule. Therefore, the following corrections must be made to the October 7, 1987 final rule:

PART 466—[AMENDED]

1. On page 37457, in the first column, item 2 should read: "Section 466.70 is amended by revising the section heading, paragraphs (a) and (b), and redesignating paragraphs (c), (d), (e), and (f) as paragraphs (a), (b), (c), and (d), respectively, of new § 466.71, which is added to read as follows:"

§ 466.71 [Amended]

2. On page 37457, in the second column, paragraph (b) of § 466.71, the first sentence should read "On the basis of the review specified under paragraphs (a)(1), (3), (6), (7), and (8) of this section, the PRO must determine whether payment may be made for these services."

3. On page 37457, in the third column, paragraph (2) of § 466.71(c) should read "The PRO must review every change in a DRG assignment that is a result of a review made under the provisions of § 412.60(d) if the change results in the assignment of a higher-weighted DRG and the PRO has not previously reviewed the case. The PRO must verify that the diagnostic and procedural information supplied by the hospital is substantiated by the information in the medical record."

4. On page 37457, in the third column, following § 466.71(c)(2), add:

(d) *Coordination of sanction activities.* The PRO must carry out the responsibilities specified in Subpart C of Part 1004 of this title regarding imposition of sanctions on providers and practitioners who violate their statutory obligations under section 1156 of the Act.

PART 476—[AMENDED]

§ 476.133 [Amended]

5. On page 37458, in the first column, paragraph (a)(2)(ii)(A) of § 476.133, should read "Federal and State agencies that are responsible for the investigation of fraud and abuse of the Medicare or Medicaid programs, and".

(Secs. 1102, 1154, and 1871 of the Social Security Act (42 U.S.C. 1302, 1320c-3 and 1395hh); 42 CFR 466.71))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13773, Medicare—Hospital Insurance Program; and No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 4, 1987.

James F Trickett,

Deputy Assistant Secretary for Administrative and Management Services.

[FR Doc. 87-28466 Filed 12-10-87; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-204; RM-5617]

Radio Broadcasting Services; Morro Bay, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 259A to Morro Bay, California, as that community's first local FM service, in response to a petition filed by Morro Bay Investment Company. With this action, the proceeding is terminated.

DATES: Effective January 19, 1988; The window period for filing applications on channel 259A at Morro Bay, California, will open on January 20, 1988, and close on February 19, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530, regarding the allocation. For information related to the application process, contact Audio Services Division, FM Branch, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-204, adopted November 6, 1987, and released December 4, 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, is amended by adding Morro Bay, Channel 259A, under California.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-28480 Filed 12-10-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-243; RM-5080]

Radio Broadcasting Services; Ashland, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates FM Channel 291C2 to Ashland, Missouri, as that community's first FM broadcast service, in response to a petition filed by Stellar Broadcasting Corporation. There is a site restriction 6.4 kilometers (4 miles) southwest of the community. With this action, this proceeding is terminated.

DATES: Effective January 19, 1988; The window period for filing applications will open on January 20, 1988; and close on February 19, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-243, adopted November 12, 1987, and released December 4, 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Channel 291C2 at Ashland.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-28481 Filed 12-10-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 87-191; RM-5601]

Television Broadcasting Services; Athens, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Wendell A. Triplett, allocates Channel 63- to Athens, Ohio, as the community's first local television service. Channel 63- can be allocated to Athens in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 miles north to avoid a short-spacing to unused and unapplied for Channel *63 at Bluefield, West Virginia. Canadian concurrence in the allotment has been received. However, by *Order*, 52 FR 28346, July 29, 1987, the Commission instituted a temporary freeze on the filing of applications for new allotments to communities located within the required minimum co-channel separation distance to certain metropolitan areas. Athens is located within the proscribed distance to two such metropolitan areas, Cincinnati and Columbus, Ohio. Therefore, no applications will be accepted for Channel 63- at Athens until further notice by the Commission. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 19, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-191, adopted November 12, 1987, and released December 4, 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 contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the TV Table of Allotments for Athens, Ohio, is amended by adding Channel 63-.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-28482 Filed 12-10-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 232

Federal Acquisition Regulation Supplement; Provisional Delivery Payments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved revisions to Part 232 of the Defense Federal Acquisition Regulation Supplement (DFARS) to specify authority and procedures for provisional delivery payments to contractors for supplies and services delivered to and accepted by the Government.

EFFECTIVE DATE: November 30, 1987.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Richard J. Wall, USAF, ODASD (P)/CPF, Room 3C800, The Pentagon, Washington, DC 20301-3062, telephone (202) 695-7249.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory (DAR) Council has modified DFARS 232.102 to specify authority and procedures for provisional delivery payments to contractors for supplies and services delivered to and accepted by the Government. Coverage for such payments was included in Appendix E of the Defense Acquisition Regulation but had not been carried forward to either the Federal Acquisition Regulation or the DFARS. The DAR Council and the Civilian Agency Acquisition Council are aware that Provisional Delivery Payments is a subject of interest throughout the Federal acquisition community. The Councils have agreed to consider coverage on Provisional Delivery Payments for future incorporation in the FAR.

A proposed rule was published in the **Federal Register** for public comment on March 18, 1987 (52 FR 8481). In general, the comments received supported the revision. Therefore, the proposed rule is issued as a final rule without modification.

B. Regulatory Flexibility Act Information

The proposed rule published in the **Federal Register** on March 18, 1987, contained initial Regulatory Flexibility Act information. The notice included an expectation that the proposed provision would benefit small businesses but there was not enough information available within DoD to make a thorough assessment. The notice requested comments, particularly from small entities. No comments were received.

C. Paperwork Reduction Act Information

The proposed rule published in the **Federal Register** on March 18, 1987, contained a statement that the Paperwork Reduction Act did not apply because the rule did not impose any additional requirements that would necessitate OMB approval.

There were no comments received on the Paperwork Reduction Act statement.

List of Subjects in 48 CFR Part 232

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore the DoD FAR Supplement is amended as set forth below.

PART 232—CONTRACT FINANCING

1. The authority for 48 CFR Part 232 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 232.102 is amended by adding paragraph (S-70) to read as follows:

232.102 Description of contract financing methods.

* * * * *

(S-70) *Provisional Delivery Payments.* The contracting officer may establish provisional delivery prices to pay contractors for the costs of supplies and services delivered to and accepted by the Government on undefinitized contract actions. Such delivery arrangements are restricted to (1) letter contracts contemplating a definitive fixed-price type of contract, (2) orders under basic ordering agreements, (3) spares provisioning documents annexed to contracts, and (4) fixed-price contracts for increases in contract price for unpriced equitable adjustments. The provisional delivery prices shall not prejudice the price subsequently definitized between the contracting officer and contractor. They should be used sparingly and priced conservatively to cover no more than a reasonable estimate of the costs of items to be included in the provisional delivery arrangement and shall not include any amount for profit. Provisional delivery payments shall not exceed funds obligated for the undefinitized contract action and shall be reduced by liquidating previous progress payments made on the items delivered to and accepted by the Government in accordance with the provisions of the Progress Payments clause.

[FR Doc. 87-28529 Filed 12-10-87; 8:45 am]

BILLING CODE 3810-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 532 and 552

[APD 2800.12 CHGE 49]

General Services Administration Acquisition Regulation; Prompt Payment Discounts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise sections 532.111(a)(1) and 552.232-8(g) to delete the words "beginning with" and to subordinate the word "from." The intended effect is to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: December 24, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA

Acquisition Policy and Regulations on (202) 523–4765.

SUPPLEMENTARY INFORMATION: This rule will not have a significant impact on contractors or offerors. Therefore, it was not published for comment in the Federal Register. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule merely revises language in the GSAR regarding Discounts for Prompt Payment clauses to be consistent with the wording in the Federal Acquisition Regulation and OMB Circular A–125. Therefore, no regulatory flexibility analysis has been prepared. This rule does not contain any information collection requirements which are subject to OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

List of Subjects in 48 CFR Parts 532 and 552

Government procurement.

1. The authority citation for 48 CFR Parts 532 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 532—CONTRACT FINANCING

2. Section 532.111(a)(1) is revised to read as follows:

532.111 Contract clauses.

(a) *Discounts for prompt payment.* (1) Section 32.111(c) of the Federal Acquisition Regulation provides for modification of the Discounts for Prompt Payment clause with respect to payment due dates. Accordingly, the contracting officer shall modify the first sentence of paragraph (b) of the FAR clause at 52.232–8, Discounts for Prompt Payment, to read as follows: "In connection with any discount offered for prompt payment, time will be computed from the later of: (1) The date of completion of performance of the services or the date of acceptance of the supplies, as determined in accordance with the payment terms of this contract, (2) the date a proper invoice or voucher is received in the office specified by the Government, or (3) the date a release of claims is received by the contracting officer, if required by the payment terms of this contract." The FAR clause is for use in contracts for supplies other than Multiple Award Schedule contracts, and in contracts for services.

* * * * *

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 552.232–8(g) is revised to read as follows:

552.232–8 Discounts for prompt payments.

Discounts for Early (Prompt) Payment (Nov 1987) (Deviation FAR 52.232–8)

* * * * *

(g) The ending date of the discount period will be determined by applying the number of calendar days specified by the Contractor, from the later of:

(1) The date the supplies are deemed to be accepted by the Government, as determined in accordance with the payment terms of this contract, or

(2) The date a proper invoice or voucher is received in the office specified by the Government.

* * * * *

Dated: December 1, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–28056 Filed 12–10–87; 8:45 am]

BILLING CODE 6820–61–M

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48 CFR Part 553

[APD 2800.12 CHGE 50]

General Services Administration Acquisition Regulation; Revision of GSA Form 300

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise section 553.272(a) to provide for the use of GSA Form 300, Order for Supplies and Services, the GSA Form 300–1, Order for Supplies and Services (pin-feed format), and the GSA Form 300–A(1), Order for Supplies and Services (Continuation) (pin-feed format); to revise section 553.273(a) to provide for the use of the pin-feed format of GSA Form 3025A, Receiving Report; to revise section 553.370–300 to illustrate the latest version of the GSA Form 300, Order for Supplies and Services; to revise section 553.370–300–I to provide instructions for completion of the latest revision of GSA Form 300, Order for Supplies and Services, and to revise section 553.370–527 to illustrate the latest version of the GSA Form 527, Contractor's Qualifications and Financial Information. The intended effect is to provide uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: December 24, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations on (202) 523–4765.

SUPPLEMENTARY INFORMATION: This rule will not have a significant impact on contractors or offerors. Therefore, it was not published for public comment in the Federal Register. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule provides for the use of updated versions of GSA forms which are already in use and which do not have a significant impact on contractors. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain any information collection requirements which are subject to OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

List of Subjects in 48 CFR Part 553

Government procurement.

PART 553—FORMS

1. The authority citation for 48 CFR Part 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 553.272 is amended by revising paragraph (a) to read as follows:

553.272 Purchase/Delivery orders.

* * * * *

(a) The GSA Form 300 or 300–1 (pin-feed format), Order for Supplies and Services, is used in accordance with the instructions at 553.370.300–I for making purchases payable through the National Electronic Accounting and Reporting (NEAR) System and for certifying receipt of supplies and services. This form may also be used in other situations, unless a specific form is prescribed for use. GSA Form 300–A or 300–A(1) (pin-feed format), Order for Supplies and Services (Continuation), is available for use with GSA Form 300.

* * * * *

3. Section 553.273 is amended by revising paragraph (a) to read as follows:

553.273 Receiving reports.

(a) GSA Form 3025 or 3025A (pin-feed format), Receiving Report, may be used in conjunction with the GSA Form 300 or 300–1 (pin-feed format), Order for Supplies and Services, when required by the instructions for use of the GSA–300 at 553.370–300–I. The GSA Form 3025 or 3025A may also be used when prescribed in GSA handbooks or other directives

* * * * *

Editorial Note: The forms listed in the summary are illustrated in and made a part of the regulation. However, the forms are not illustrated in the Federal Register or the Code of Federal Regulations. Individual copies may be obtained from any GSA contracting activity or the Director of the Office of GSA Acquisition Policy and Regulations (VP), 18th & F Streets, NW., Washington, DC 20405.

Dated: December 1, 1987.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87–28055 Filed 12–10–87; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–222]

Delegation of Powers and Duties Under CERCLA

AGENCY: Office of the Secretary, DOT.
ACTION: Final rule.

SUMMARY: This rule amends Title 49, Code of Federal Regulations, to include the delegation of authority from the Secretary to the Commandant of the U.S. Coast Guard with respect to certain functions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). President Reagan's Executive Order 12580 of January 23, 1987, assigned these functions to the Secretary.

EFFECTIVE DATE: December 11, 1987.

FOR FURTHER INFORMATION CONTACT: LCDR G.F. EPLER, Office of Marine Safety, Security and Environmental Protection (G–MER–2), Room 1203, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593–0001 (202–267–0434) between 7:00 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Since this amendment relates to departmental management, procedures, and practice, it is excepted from the notice and public procedures requirements and it may be made effective in fewer than 30 days after publication in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document were William R. Register, and Frederick Presley, Office of the Chief Counsel, U.S. Coast Guard.

Discussion

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) provided for liability, compensation, cleanup and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites. By virture of Executive Order 12316 of August 14, 1981, the President assigned responsibilities for functions under CERCLA to Federal departments and agencies, including DOT. The Secretary of Transportation in turn, delegated most of these functions to the Commandant of the Coast Guard for activities related to: Certification of financial responsibility for vessels; responses to releases or threats of releases from vessels; immediate removal actions concerning releases or threats of releases at facilities other than active or inactive hazardous waste management facilities; and, to a somewhat more limited degree, immediate removal actions concerning releases or threats of releases at active or inactive hazardous waste management facilities. In addition, as allowed by Executive Order 12316, the Secretary redelegated the remainder of the functions which had been delegated to him relative to removal and remedial actions to the Administrator of the Environmental Protection Agency (EPA).

CERCLA was amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), which was enacted on October 17, 1986. Thereafter, President Reagan signed Executive Order 12580 on January 23, 1987, assigning responsibility for functions under CERCLA, as amended. Section 11(h) of Executive Order 12580 revoked Executive Order 12316.

This document revises the CERCLA delegations to the Coast Guard, as published in Part 1 of Title 49, CFR, to include the Secretary's delegations to the Coast Guard under CERCLA, as amended by SARA, and Executive Order 12580. A copy of the revised redelegation of functions from the Secretary to the EPA is also included. The redelegation is authorized under section 11(g) of Executive Order 12580.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322.

2. Paragraphs (ff) and (gg) in § 1.46 are revised to read as follows:

§ 1.46 Delegations to commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to—

* * * * *

(ff) Carry out the functions vested in the Secretary by:

(1) Section 108(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9608(a)(3)), and by sections 7(b)(1), 7(b)(2), and 7(c)(2) of Executive Order 12580 relating to vessel financial responsibility; and

(2) Sections 2(e)(1), 2(e)(2), 2(i), 2(j)(1), 2(j)(2), 2(k), 3(a), 4(b)(1), 4(b)(2), 6(c), 9(d), 9(i), and 11(b)(2) of Executive Order 12580 relating to facilities and vessels under the jurisdiction, custody, or control of the Coast Guard.

(gg) Carry out the functions, relating to releases or threatened releases involving the coastal zone, Great Lakes waters, and ports and harbors, vested in the Secretary by sections 2(f), 2(i), 2(j)(2), 2(k), 4(c)(1), 4(c)(2), 5(b), 6(c), 9(d), 9(i), and 11(b)(2) of Executive Order 12580 insofar as they relate to:

(1) Responses to releases or threats of releases from vessels;

(2) Emergency action concerning releases or threats of releases at facilities other than active or inactive "hazardous waste management facilities" (as defined in 40 CFR 270.2); and

(3) Emergency action concerning releases or threats of releases at active or inactive "hazardous waste management facilities" only when the Coast Guard On-Scene Coordinator determines that such action must be taken pending the arrival on scene of an Environmental Protection Agency (EPA) On-Scene Coordinator (OSC). Unless otherwise agreed upon by the EPA and Coast Guard, this authority will not be

exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat of release.

As used in this paragraph "emergency action" includes any removal action which, in the view of the Coast Guard On-Scene Coordinator, must be taken immediately to prevent or mitigate immediate and significant danger to the public health, welfare, or the environment. Situations in which such actions may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substance; and the contamination of a drinking water supply. All functions listed in this paragraph include the authority to contract for, obligate monies for, and otherwise arrange for and coordinate the responses included within such functions.

* * * * *

Issued in Washington, DC, on November 29, 1987.

Jim Burnley,

Acting Secretary of Transportation.

[FR Doc. 87-28524 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 70617-7148]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of adjustment of surf clam fishing time.

SUMMARY: NOAA issues this notice to increase the allowable fishing time for surf clams to 48 hours for the fourth quarter of 1987 for vessels harvesting surf clams in the Mid-Atlantic Area of the exclusive economic zone. This action will provide flexibility to operators in the use of fishing time during the period. The intended effect is to match fishing effort to the available quota for the area.

EFFECTIVE DATES: December 10, 1987, through January 1, 1988. Fishing trips must be scheduled with 10 days' advance written notice.

ADDRESS: Send request for fishing time to the Surf Clam Coordinator, NMFS, 2 State Fish Pier, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: John G. Terrill, 617-281-3600, ext. 252.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries contain at § 652.22(a)(3) a provision allowing the Regional Director to revise allowable fishing times to promote fishing for surf clams throughout the year with a minimum of changes. The Regional Director during the first quarter of 1987 decided, with the unanimous support of the Council, to exercise his authority under § 652.22(a)(3) to allocate fishing time by quarter and allow each operator the maximum flexibility possible to schedule that time to best advantage.

Based on the rate of harvest and utilization of available quota through the first half of the fourth quarter, the Regional Director has decided to increase the allocated fishing time from 42 to 48 hours. That time must be scheduled 10 days in advance in fishing trips of six hours' duration each, which may be taken on any eight separate days during the normal daily and weekly fishing times established in § 652.22(a)(1), (2), and (3). If effort were to remain at 42 hours, a surplus allocation of approximately 80,000 bushels is projected. The additional 6 hours' fishing time will bring in an expected catch of 55,000 bushels. Additional landings will be realized through the reporting log, bringing the catch up to the total allocation.

Other Matters

This action is taken under the authority of 50 CFR Part 652 and is taken in compliance with Executive Order 12291.

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

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: December 4, 1987.

James E. Douglas Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-28417 Filed 12-10-87; 8:45 am]

BILLING CODE 3510-08-M

Proposed Rules

Federal Register
Vol. 52, No. 238
Friday, December 11, 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 Stabilization and Conservation Service

7 CFR Part 735

[Amdt. No. 2]

Cotton Warehouses; Definitions, Financial Statement, Bonding and Net Asset Requirements, Warehouse Bonds and Transfer of Stored Cotton

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rule would amend the regulations at 7 CFR Part 735 relating to cotton warehouses licensed or applying for license under provisions of the United States Warehouse Act to: (1) Add definitions; (2) establish financial statement requirements; (3) increase the total bonding and net asset requirements; (4) require warehousemen to have and maintain total current assets equal to or exceeding total current liabilities; (5) allow the Secretary to accept a letter of credit for a deficiency in total net assets above the minimum requirement; (6) permit a warehouseman to deposit, with the Secretary, for the protection of depositors, United States public debt obligations as security in lieu of a bond furnished by a corporate surety; (7) allow a waiver of the requirements for an individual financial statement from a warehouseman wholly-owned by another business entity which other entity is willing to furnish an acceptable financial statement and guarantee the storage obligations of the licensed warehouseman; (8) allow the inclusion of certain appraisals of real personal property in the determination of assets; (9) provide for the acceptance of a continuous form of bond from a surety company; and (10) permit the transfer of receipted cotton from one licensed warehouse to another licensed warehouse. These regulations have not been amended since 1953 and the proposed changes are being made to provide for better protection for the depositors.

DATE: Written comments should be received on or before January 11, 1988, to assure consideration.

ADDRESS: Written comments should be sent to Paul W. King, Director, Warehouse Division, Room 5969-South Agriculture Building, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Department of Agriculture, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Clifford J. McNeill, (202) 475–4028.

SUPPLEMENTARY INFORMATION: .

This rule has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "non-Major." This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. A compete review is in process.

Milton J. Hertz, Administrator, ASCS, has determined that this action is not a major rule since implementation of the proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to complete with foreign-based enterprises in domestic or export markets.

The information collection requirements proposed by this rule will not become effective until they have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980. Such approval has been requested and is under consideration. Comments concerning the information collection requirements contained in these proposed rules may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer ASCS/USDA, Washington, DC 20503, Telephone (202) 395–7340.

Milton J. Hertz, Administrator, Agricultural Stabilization and Conservation Service (ASCS), has certified that this action will not have a significant economic impact on a substantial number of small entities because: (1) This action imposes only moderate economic costs on small entities; and (2) the use of the service is voluntary. Therefore, no regulatory flexibility analysis was prepared.

This rule is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as wildlife habitat, water quality, or land use and appearance. Accordingly, neither an environmental assessment nor an environmental impact statement is required and none was prepared.

This action will not have a significant impact specifically upon area and community development, therefore review as established by Executive Order 12291 (February 17, 1981) was not used to assure that units of local government are informed of this action.

Background

The U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) [the "Act"] provides that warehousemen who apply to the Secretary of Agriculture and who meet certain statutory and regulatory standards may be federally licensed. The primary objectives of the Act are to: (1) Protect producers and others who store their property in public warehouses; (2) assure the integrity of warehouse receipts as documents of title, thereby facilitating trading of agricultural commodities in interstate commerce; and (3) set and maintain a standard for sound warehouse operations.

The Department of Agriculture has sought to attain these objectives by: Research and development of basic standards for good warehousing practices; requiring original and continuing examinations of applicants and licensees; establishing financial and bonding requirements; and establishing licensing and regulatory requirements.

The issuance of a warehouse receipt by the warehouseman and its delivery to the depositor is the best legal evidence that the bailment contract, i.e., the storage obligation exists. However, a warehouse receipt is acceptable only when the original depositor or a subsequent holder of a receipt has reasonable assurance that the product covered by the warehouse receipt will be delivered upon surrender of the receipt and a valid request for delivery. If the depositor or holder of the receipt

fails to receive return of the product, they must have the assurance that the warehouseman is able to compensate them for this breach of contract.

Historically, the responsibility of licensed warehousemen to fulfill their obligations to depositors has been supported by requiring the warehousemen to have and maintain a certain level of allowable total net assets and a corporate surety bond. The levels of both the assets and the bonds have been generally fixed by the maximum number of bales of licensed capacity.

The present asset and bonding requirements have been in place since 1953, and during this period cotton has doubled in value. In recent years an increasing number of cotton warehouse firms have experienced financial difficulties as reflected by the number of insolvencies and reorganizations.

In addition, changes in the marketing operations of warehousemen increase the risk of loss to depositors. Some licensed cotton warehousemen also operate a cotton market or commission merchant business which buys cotton from producers through the same facilities used for the storage of cotton. The businesses of storing and marketing often become inseparable and funds available to the total business often cannot be segregated. The use of "forward" contracts as a marketing tool also has contributed to the possibility of increased losses.

This proposed rule would increase the protection available to depositors to compensate for these changes in the nature of the warehouse industry. This proposed rule would increase the minimum net worth requirements of warehousemen and would require a minimum level of working capital. It will also increase the minimum and maximum bond required.

We recognize that these increases in financial and bonding requirements will require adjustments in the operations of some warehousemen. To alleviate the impact of these changes on any warehouseman, this rule also proposes to add some flexibility to the bonding and net worth requirements. The proposed changes are summarized below.

1. Definitions

This proposed rule would add definitions for: (a) Net assets, (b) capacity, (c) current assets, and (d) current liabilities.

2. Changes in Financial Requirements and Net Asset Requirements for Licensing and Continuation of License

This proposed rule would require that cotton warehousemen licensed or applying for license under provisions of the United States Warehouse Act (7 U.S.C. 268 *et seq.*) provide the Secretary with an annual financial statement that has at least been audited or reviewed by an independent public accountant.

The net asset requirements for licensing would increase.

Total net assets generally are assocaited with the ability to withstand losses and carry the business through seasonal fluctuations. Current net assets, as compared with current liabilities, are a measure of the company's ability to carry on day-to-day operations (cash flow). When either total net assets or current net assets are too low or impaired, the risk of insolvency increases.

Significant changes in net asset and bonding requirements were last made in June, 1953 when the net asset requirement rate was raised to $5.00 per bale of licensed capacity and the minimum to $10,000. The bonding rate was raised to $5.00 per bale of licensed capacity with a minimum of $5,000 and a maximum of $100,000. This rule proposes that the minimum total net asset requirement be raised from $10,000 to $25,000 and that the per bale rate be increased to $10.00. The minimum amount of the surety bond would be increased to $20,000 with a maximum of $250,000 and the per bale rate of $10.00.

The warehouseman would also be required to have and maintain or demonstrate access to total current assets equal to or exceeding total current liabilities (Working Capital) in addition to total net asset (Net Worth) requirements.

3. Acceptable Form of Bond

The United States Treasury Department (31 CFR Part 225) allows the deposit of security with the bond-approving officer in lieu of bond. United States bonds, Treasury notes or other public debt obligations of the Untied States or obligations which are unconditionally guaranteed as to both interest and principal by the United States are acceptable.

ASCS proposes to amend 7 CFR 735.11 to permit acceptance by the Secretary of a deposit of United States debt obligations in lieu of the bond. The use of such a deposit would eliminate the cumulative protection presently provided by the surety bond.

The deposit will not be released until one year after the license is terminated and the storage obligations of the warehouse have been liquidated or otherwise satisfied. The deposit could be released earlier if the warehouseman is able to show that all storage obligations of the warehouse have been satisfied or that no depositors object. In the event that the amount of deposit required is reduced, the obligation will be released to the extent of the reduction after the next satisfactory warehouse examination which confirms the reduction of obligation. Interest on the obligation will accrue to the benefit of the warehouseman unless the Secretary has reason to believe that claims may exist against the obligation in excess of their value. In that event, interest will be used to satisfy outstanding claims.

ASCS further proposes to amend 7 CFR 735.11 to accept a continuous form of surety bond. This would remove the cumulative protection presently provided by the surety bond since the aggregate liability of the surety under this bond for any one or more defaults of the principal would be restricted to the penal sum for liabilities accrued during the term of the bond.

Experience has shown that claims against more than one bond are the exception and the acceptance of these forms of surety would not be expected to adversely affect depositors.

4. Letter of Credit

This proposed rule would permit acceptance of a letter of credit for a deficiency in net assets but only to the extent of the warehouseman's net asset requirement above $25,000. A surety bond (or Treasury deposit) would still be required for the statutory performance bond requirement. The letter of credit must be issued for not less than two years and coincide with the term of the bond. The letter of credit must be clean; irrevocable; issued by a commercial bank and insured as a deposit by the Federal Deposit Insurance Corporation; and payable to the Secretary by sight draft.

5. Waiver of Requirements for Individual Financial Statements

The proposed regulations would require that each warehouseman making application for a license and each warehouseman licensed under the regulations provide a financial statement meeting the requirements of 7 CFR 735.5 (b) and (c) and further have total net assets and working capital at least equal to the minimums required by 7 CFR 735.5(d). Some warehousemen applying for or holding licenses are wholly owned by other business entities

(parent). These warehousemen may have difficulty producing a statement meeting the financial requirements of the regulations, while the parent is willing to guarantee all storage obligations of the warehouseman and could furnish an acceptable statement on behalf of the wholly owned subsidiary. Under these circumstances, preparing individual statements and maintaining required assets by each individual warehouseman would be costly and unnecessary duplication of effort. This rule proposes to accept on behalf of the warehouseman financial statements of the parent when such statements are supported by a guaranty of all storage obligations that the licensed warehouseman may incur.

6. Appraisals of Real or Personal Property

Generally accepted accounting principles preclude valuing depreciable fixed assets at other than cost less depreciation values. The regulations now require that all financial statements be prepared in accordance with generally accepted accounting principles. Because of the age of many warehouses and the attendant depreciation schedules, oftentimes fixed assets are listed in the financial statement at less than the value that could be realized upon the sale of the assets on the open market. To remedy this, ASCS proposes to accept appraisals which give warehousemen credit for the actual market values of the fixed assets.

To be acceptable, narrative market value appraisals of land, buildings, and equipment must be made and prepared by independent appraisers certified by a recognized appraisal society or by a professional appraisal organization. This rule also proposes to accept land only, value appraisals which are prepared by local professional realtors provided that the appraisal report includes a minimum of two citations of recent sales of similar properties in the near geographical area and is accompained by a statement of the appraiser's qualifications.

Although not spelled out in this proposed rule, the Secretary contemplates acceptance of appraised values of all fixed assets subject to the following limitations:

(1) Appraisal values for depreciable fixed assets would be limited to values actually insured;

(2) Appraisal surpluses would be discounted 30 percent;

(3) Warehousemen would be required to have a positive working capital position; and

(4) Recent acquisition of assets by warehousemen through arms length contracts between disinterested parties would not be eligible for consideration at appraised values (the transaction itself is the best indication of value).

7. Continuous Bond and License

ASCS proposes to amend 7 CFR 745.14 to issue a continuous form of license provided that the warehouseman files a bond with the Secretary which meets the requirements outlined in 7 CFR 735.11(a), i.e., required amount and with the approval of the Secretary. The proposed rule clarifies the Department's long held position that failure of a warehouseman to provide a bond results in automatic revocation of the warehouseman's license.

8. Transfer of Stored Cotton

The statutory amendment which mandated this change became effective March 20, 1986. The amendment allows a federally licensed warehouseman to transfer receipted stored agricultural products from one licensed warehouse to another licensed warehouse in accordance with regulations to be issued by the Secretary and subject to such terms and conditions as the Secretary may prescribe. This transfer was previously prohibited by the Act.

This change will help facilitate storage operations of primary receiving warehouses by enabling them to forward cotton to other licensed facilities. Receiving warehouses will continue to be responsible for the safekeeping of cotton.

List of Subjects in 7 CFR Part 735

Definitions, Warehouse licenses, Financial requirements, Warehouse bonds.

Proposed Rule

Accordingly it is proposed to amend 7 CFR Part 735 as follows:

PART 735—COTTON WAREHOUSES

1. The authority citation for 7 CFR Part 735 continues to read as follows:

Authority: Section 28, 39 Stat. 490 (7 U.S.C. 268).

2. Section 735.2 is amended by adding paragraphs (x), (y), (z), and (aa) as follows:

§ 735.2 Terms defined.

* * * * *

(x) *Net assets.* The difference remaining when liabilities are subtracted from allowable assets. In determining allowable assets, credit may be given for appraisal of real property less improvements and for the appraisal of insurable property such as buildings, machinery, equipment, and merchandise inventory only to the extent that such insurable property is protected by insurance against loss or damage by fire, lightning, and tornado. Such insurance must be in the form of lawful insurance policies issued by insurance companies authorized to do such business and subject to service of process in the State in which the warehouse is located. The Secretary shall, at his discretion, determine what assets are allowable and under what conditions appraisal may be used.

(y) *Warehouse capacity.* Warehouse capacity is the maximum number of bales of cotton that the warehouse will accommodate when stored in the manner customary to the warehouse and as required by the Secretary.

(z) *Current assets.* Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

(aa) *Current liabilities.* Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

§ 735.4 [Amended]

3. Section 735.4 is amended by changing "$10,000.00" to "$25,000."

4. Section 735.5 is revised to read as follows:

§ 735.5 Financial requirements.

(a) Each warehouseman conducting a warehouse licensed under the Act or for which application for a license under the Act has been made must maintain complete, accurate and current financial records which shall be available to the Secretary for review or audit at the Secretary's request.

(b) Each warehouseman conducting a warehouse for which application for license under the Act is made shall provide with this application and each warehouseman licensed annually, or more frequently if required, shall furnish to the Secretary financial statements from the records required in paragraph (a) of this section prepared according to generally accepted accounting principles. Such statements shall include but not be limited to: (1) Balance sheet, (2) statement of income (profit and loss), (3) statement of retained earnings, and (4) statement of changes in financial position. The chief executive officer for the warehouseman shall certify under penalties of perjury that the statements as prepared accurately reflect the

financial condition of the warehouseman as of the date named fairly represent the results of operations for the period named.

(c) Each warehouseman conducting a warehouse licensed under these regulations shall have the financial statements required in paragraph (b) of this section audited by an independent certified public accountant. Alternatively, financial statements audited or reviewed by an independent public accountant will be accepted. The Secretary may, at his discretion, require an audited financial statement prepared by an independent certified public accountant. He may also, at his discretion, require an on-site examination and an audit by USDA personnel. Audits and reviews by independent certified public accountants and independent public accountants specified in this section must be made in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's certification, assurances, opinion, comments, and notes on such statements, if any, must be furnished along with the financial statements. Licensees who cannot immediately meet these requirements may apply to the Secretary for a temporary waiver of this provision. The Secretary may grant such waiver for a period not to exceed 180 days if the licensee can furnish evidence of good and substantial reasons therefor.

(d) Each warehouseman conducting a warehouse which is licensed under this part, or for which application for such a license has been made, must have and maintain:

(1) Total net assets liable and available for the payment of any indebtedness arising from the conduct of the warehouse of at least $10.00 multiplied by the warehouse capacity in bales to a maximum of $250,000; *however,* no person may be licensed or remain licensed as a warehouseman under this part unless that person has allowable net assets of at least $25,000, (Any deficiency in net assets above the $25,000 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with § 735.12(c) of this part); and

(2) Total current assets equal to or exceeding total current liabilities or evidence acceptable to the Secretary that funds will be and remain available to meet current obligations.

(e) If a warehouseman is licensed or is applying for licenses to operate two or more warehouses under this part, the maximum number of bales which all such warehouses will accommodate when stored in the manner customary to the warehouses, as determined by the Secretary, shall be considered in determining whether the warehouseman meets the net assets requirements specified in paragraph (d) of this section.

(f) Subject to such terms and conditions as the Secretary may prescribe and for the purposes of determining allowable assets and liabilities under paragraphs (d) and (e) of this section:

(1) Capital stock will not be considered a liability;

(2) Appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by a warehouseman to conform with paragraphs (b) and (c) of this section may be allowed if (i) prepared by independent appraisers acceptable to the Secretary and (ii) the assest are fully insured against casualty loss;

(3) Financial statements of a parent company which separately identifies the financial position of the warehouse as a wholly owned subsidiary and which meets the requirements of paragraphs (b), (c), and (d) of this section may be accepted by the Secretary in lieu of the warehouseman meeting such requirements; and

(4) guaranty agreement from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by the Secretary as meeting the requirements of paragraphs (b), (c), and (d) of this section, if the parent company submits a financial statement which qualifies under this section.

(g) In case a State agency licensed or applying for a license as provided in section 9 of the Act has funds of not less than $500,000 guaranteeing the performance of obligations of the agency as a warehouseman, such funds shall be considered sufficient to meet the net asset requirements of this section.

(h) In case a warehouseman files a bond in the form of a certification of participation in an indemnity or insurance fund as provided for in § 735.11(b), the certification may only be use to satisfy any deficiencies in assets above $25,000.

(i) When a warehouseman files a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are unconditionally guaranteed as to both interest and principal by the United States as provided for in § 735.11(c):

(1) The obligation deposited shall not be considered a part of the warehouseman's assets for purposes of § 735.5(d), (1) and (2);

(2) A deficiency in total allowable net and current assets as computed for § 735.5(d), (1) and (2) may be offset by the licensed warehouseman furnishing a corporate surety bond for the difference;

(3) The deposit may be replaced or continued in the required amount from year to year; and

(4) The deposit shall not be released until one year after termination (cancellation or revocation) of the license which it supports or until satisfaction of any claim against the deposit, whichever is later.

(j) Nothing in these regulations shall prohibit a person other than the licensed warehouseman from furnishing such bond or additions thereto on behalf of and in the name of the licensed warehouseman subject to provisions of § 735.11(c).

§ 735.7 [Amended]

5. Section 735.7(a) is amended by changing "$10,000.00" to "$25,000."

6. Section 735.11 is revised to read as follows:

§ 735.11 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the Act shall, before such license is granted, file with the Secretary or his designated representative a bond either:

(a) In the form of a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall faithfully perform during the period of this bond all obligations of a licensed warehouseman under the terms of [the United States Warehouse Act] and regulations thereunder relating to the above-named products.

Then this obligation shall be null and void and of no effect, otherwise to remain in full force. For purposes of this bond, the aforesaid obligations under the Act and regulations and contracts include obligations under any and all modifications of the Act, the regulations, and the contracts that may hereafter be made, notice of which modifications to the surety being hereby waived.

This obligation shall be and remain in full force and effect for a minimum of one year beginning with the effective date and shall be considered a continuous bond thereafter until terminated as herein provided. The total liability of the surety is limited to the penal amount hereof for liabilities that accrue during the term hereof.

This obligation shall be and remain in full force and effect from date of issue until one hundred twenty (120) days after notice in writing of cancellation shall have been received by the Secretary from the principal

or surety. If said notice shall be given by the surety, a copy thereof shall be mailed on the same day to the principal. Cancellation of this bond and cancellation of any of its provisions shall not affect any liability accrued thereon at the time of said notice or which may accrue thereon during the one hundred twenty (120 days after such notice.

A bond in this form shall be subject to 7 CFR 735.5 and 735.12 through 735.15, and 31 CFR Part 225; or

(b) In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Secretary, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouseman under the terms of the Act and regulations. A certificate of participation and coverage in such fund shall be furnished to the Secretary annually. If administration or application of the fund shall change after being approved by the Secretary, the Secretary may revoke his approval. Such revocation shall not affect a depositor's rights which have arisen prior to such revocation. Upon such revocation the licensed warehouseman then must comply with paragraph (a) of this section. Such certificate of participation shall not be subject to §§ 735.12 and 735.13; or

(c) In the form of a deposit with the Secretary as security, United States bonds, Treasury notes, or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal at their par value to the amount of the penal bond required to be furnished, together with an irrevocable power of attorney and agreement in the form prescribed, authorizing the Secretary to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. Obligations posted in accordance with this paragraph may not be withdrawn by the warehouseman until one year after license termination or until satisfaction of any claims against the obligations whichever is later. A bond in this form shall be subject to 7 CFR 735.5 and 735.12 through 735.15, and 31 CFR Part 225.

7. Section 735.12 is revised to read as follows:

§ 735.12 Amount of bond; additional amounts.

(a) The amount of bond to be furnished by each warehouseman under the regulations in this part, shall be at the rate of $10.00 per bale for the maximum number of bales that the warehouse accommodates when stored in the manner customary to the warehouse as determined by the Secretary, but not less than $20,000 nor more than $250,000; except as provided in paragraphs (b) and (c) of this section.

(b) In case a warehouseman is licensed or applying for licenses to operate two or more warehouses in the same State, he may give a single bond meeting the requirements of the Act and the regulations in this part to cover all his warehouses within the State and shall be deemed to be one warehouse only for purposes of determining the amount of bond required under paragraph (a) of this section.

(c) In case of a deficiency in net assets above the $25,000 minimum required under § 735.5(d), (1), there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency or a letter of credit in the amount of the deficiency issued to the Secretary for a period of not less than two years to coincide with the period of any deposit of obligations under 7 CFR 735.11(c). Any letter of credit must be clean, irrevocable, issued by a commercial bank payable to the Secretary by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation.

(d) If the Secretary, or his designated representatives, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount of bond as determined under the other provisions of this section, a further amount to meet such conditions.

8. Section 735.14 is revised to read as follows:

§ 735.14 Bond required each year.

A continuous form of license shall remain in force for more than one year from its effective date or any subsequent extension thereof, provided that the warehouseman has on file with the Secretary a bond meeting the terms and conditions as outlined in 7 CFR 735.11. Such bond must be in the amount required by the Secretary and approved by him or his designated representative. Failure to provide for or renew a bond shall result in immediate and automatic termination of the warehouseman's license.

9. Section 735.40 is revised to read as follows:

§ 735.40 Excess storage.

(a) If at any time a warehouseman shall store cotton in his licensed warehouse in excess of the capacity thereof as determined in accordance with 7 CFR 735.12, such warehouseman shall so arrange the cotton as not to obstruct free access thereto and the proper operation of the sprinkler or other fire protection equipment provided for such warehouse, and shall immediately notify the Secretary of such excess storage, the reason therefor and the location thereof.

(b) A warehouseman who lacks space and desires to transfer at his own expense, identity preserved depositor stored cotton, for which receipts have been issued to another licensed warehouse may physically do so subject to the following terms and conditions:

(1) The transferring (shipping) warehouseman's accepted rules or schedule of charges must contain notice that the warehouseman may forward cotton deposited on an identity preserved basis with the written permission of the depositor under such terms and conditions as the Secretary may prescribe;

(2) For purposes of this section of the regulations, a licensed warehouse means a warehouse operated by a warehouseman who holds an unsuspended, unrevoked license under the U.S. Warehouse Act for cotton or a warehouse operated by a warehouseman who holds an effective warehouse license for the public storage of cotton issued by a State that has financial, bonding and examination requirements for the benefit of all depositors at least equal to the requirements of this section;

(3) The transferring (shipping) warehouseman must list all forwarded bales on a Bill of Lading by receipt number and weight, in blocks not to exceed 200 bales. The receiving warehouse shall promptly issue a non-negotiable block receipt for each block attaching a copy of the corresponding Bills of Lading to each receipt and forward the receipt promptly to the transferring warehouseman. The receiving warehouseman will store each block intact, attach a header card showing the receipt number, number of bales and a copy of the Bill of Lading with the individual tag numbers. Such non-negotiable block receipts shall have printed or stamped in large bold outline letters diagonally across the face the words "NOT NEGOTIABLE." Receipts are not valid for collateral purposes. They shall be retained by the shipping warehouseman to be presented to and used by Department examiners in lieu of an on-site inventory. The cotton covered by such receipts is not the property of either the receiving or shipping warehouseman but held in trust by both

solely for the benefit of the depositors whose bailed cotton was transferred individually or collectively and the depositor or the depositor's transferee retains title thereto;

(4) The shipping warehouseman's bond shall be increased to consider the addition of the transferred cotton to the licensed capacity of the warehouse with the net asset requirements based on the total of the licensed capacity and the forwarded cotton. The bond amount need not be more than $250,000 unless necessary to cover a deficiency in net assets to meet requirements. The receiving warehouseman must not incur storage obligations that exceed the licensed capacity of the receiving warehouse;

(5) The shipping warehouseman continues to retain storage obligations to the owners of all cotton deposited in the warehouse for storage whether forwarded or retained and is, except as otherwise agreed upon under paragraph (b) (6) of this section, required to redeliver the cotton, upon demand, to the depositor or the depositor's transferee at the warehouse where the cotton was first deposited for storage;

(6) The owner of cotton deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the cotton was first deposited for storage, unless the owner of the cotton, with the consent of both the shipping warehouseman and the receiving warehouseman, elects to take delivery at the warehouse to which cotton was transferred under this section;

(7) Nothing in this section diminishes the right of the owner of the cotton to receive or the obligation of the warehouseman of a licensed warehouse from which the product is transferred, to deliver to the owner the same cotton, identity preserved, called for by the warehouse receipt or other evidence of storage;

(8) Recording and retention of non-negotiable warehouse receipts received as a result of forwarding cotton under this section shall be subject to the requirements for warehouse receipts specified elsewhere in these regulations; and

(9) If it is the shipping warehouseman's obligation by terms of the warehouse receipt or otherwise to insure the cotton subject to the transfer, he must in accordance with 7 CFR 735.23 keep such cotton insured in his own name or transfer the cotton only to a warehouse where the cotton is fully insured

Signed at Washington, DC.
December 7, 1987.
Vern Neppl,
Acting Administrator, Agricultural Stabilization and Conservation Service.
[FR Doc. 87-28473 Filed 12-10-87; 8:45 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 87-163]

General Conference Committee of the National Poultry Improvement Plan; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Announcement of meeting.

SUMMARY: We are giving notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan.

DATE: The meeting will be held December 16, 1987 (9 a.m. to 4 p.m.). Written comments may be filed with the Committee before or at the time of the meeting.

ADDRESSES: The meeting will be held in Room 104-A of the Administration Building of the United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250. Written comments may be mailed to Dr. I. L. Peterson, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, Room 848, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments received may be inspected at this address between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. I. L. Peterson, 301-436-5140.

SUPPLEMENTARY INFORMATION: We are giving notice of a meeting of the General Conference Committee of the National Poultry Improvement Plan, to be held December 16, 1987. The purpose of the Committee is to make recommendations to the Department concerning the poultry industry and the poultry improvement regulations contained in 9 CFR Parts 145 and 147.

Poultry disease prevention programs and proposed changes to the regulations will be reviewed at the meeting. False reactions to the Mycoplasma tests and other testing problems will be discussed by a panel of Mycoplasma experts.

Recommendations from Committee members and technical experts will be considered in advising the Department regarding administering the National Poultry Improvement Plan, and implementation of a Model State Poultry Disease Prevention Program to recognize states that meet certain minimum standards for preventing poultry disease.

The meeting will be open to the public. Written comments concerning these and other matters may be filed with the Committee before or at the time of the meeting.

Dated: December 8, 1987.
Donald Houston,
Administrator, Animal and Plant Health Inspection Service.
[FR Doc. 87-28585 Filed 12-10-87; 8:45 am]
BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Other Applications

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: Pursuant to its regulatory review policy, the NCUA Board has reviewed § 701.5 (Other Applications) of its Rules and Regulations. The Board believes that this section may needlessly add to regulatory burden, and therefore proposes its repeal.

DATE: Comments must be received on or before February 9, 1988.

ADDRESS: Send comments to Becky Baker, Secretary, NCUA Board, 1776 G St., NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Timothy McCollum, Assistant General Counsel, or Julie Tamuleviz, Staff Attorney, Office of General Counsel, at the above address, or telephone: (202) 357-1030.

SUPPLEMENTARY INFORMATION: In furtherance of NCUA's policy (IRPS 87-2) to review existing regulations every three years, the NCUA Board has reviewed § 701.5 entitled "Other Applications.".

Section 701.5(a) provides the method for submitting an application, request, or submittal ("application") to NCUA when no form of application or NCUA rule or regulation dictates the method of submission. Subparagraph (a) states that the application must be in writing, signed by the applicant or his agent, contain a statement of the action requested, the reasons and facts relied upon as the basis for requesting such

action, and the applicant's interest in the matter. The applicant is required to furnish other information as requested by the Board. This paragraph further provides that the application should be addressed to a Regional Director or the NCUA in Washington, DC.

Paragraph (b) of § 701.5 states that, unless otherwise provided for in the regulations, all applications shall be investigated and reviewed by the Regional Director who will then transmit a report and recommendation to the Board for action.

For the reasons given below, the NCUA Board believes that § 701.5 is unnecessary, and in some instances may be misleading. In the interests of removing unnecessary provisions and reducing regulatory burden, the Board proposes that § 701.5 be deleted from the NCUA Rules and Regulations. Comments are requested.

Section 701.5(a) provides in essence that, unless NCUA has required otherwise, a request may be sent to any NCUA office and should contain the information NCUA needs to make a decision. This is simply common sense.

Section 701.5(b) sets forth the uniform internal review procedure NCUA is to follow in reviewing "other applications." However, as these "other applications" will vary in form and substance, it is difficult to predict with any accuracy how each application will best be handled. For instance, § 701.5(b) presently fails to take into account that the NCUA Board has delegated certain matters to the Regional Directors. A recommendation to the Board on these types of applications would not be prepared. The Regulation also does not recognize that in some circumstances, investigation, recommendation and decision on an application may properly be done at NCUA's Central Office.

Deregulation of the "other applications" provision will provide NCUA with greater flexibility in the handling of such applications, enabling the Agency to ensure that each application is processed in the most efficient manner. Accordingly, NCUA proposes to delete § 701.5 of the NCUA Rules and Regulations.

(12 U.S.C. 1766)

By the National Credit Union Administration Board on December 3, 1987.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 87-28474 Filed 12-10-87; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-151-AD]

Airworthiness Directives; British Aerospace Model H.S. 748 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 British Aerospace Model H.S. 748 series airplanes, that would require inspection of certain inboard main landing gear pivot bracket forgings for cracks. This action is necessary because cracks have been reported in airplanes on which Modification 6175 has been accomplished. This condition, if not corrected, could lead to collapse of the main landing gear.

DATES: Comments must be received no later than January 26, 1988.

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-151-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

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-151-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA that cracks have been reported on the inboard main landing gear pivot bracket forgings, part numbers 15aF11365 and 16aF11365, on British Aerospace H.S. 748 series airplanes on which Modification 6175 has been accomplished. This condition, if not corrected, could lead to severe stress and damage to, or eventual collapse of, the main landing gear.

British Aerospace (BAe) issued HS-748 Service Bulletin No. 57/59, dated October 1979, which describes inspection of the main landing gear inboard pivot bracket assemblies (pre Mod 6175), part numbers 15F11365 and 16F11365, for corrosion, loose bolts, and cracks on all Model H.S. 748 series airplanes. The CAA classified the service bulletin as mandatory. The FAA issued AD 83-26-01, Amendment 39-4785, to require inspection of U.S.-operated Model H.S. 748 airplanes in accordance with that service bulletin.

The original issue of Service Bulletin No. 57/59, however, did not include inspection procedures for the similar inboard main landing gear pivot forgings used as part of the main landing gear inboard bracket assemblies 173F11863 and 174F11863 in which Mod 6175 has been incorporated. Since then, cracks have been found in assemblies incorporating that modification. Revisions No. 1 to HS-748 Service Bulletin 57/59, dated April 1984, was

issued to include these assemblies in the necessary inspections. The CAA has also classified Revision No. 1 to Service Bulletin 57/59 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 these conditions are likely to exist or develop on airplanes of this model registered in the United States, and AD is proposed that would require inspections of the main landing gear inboard bracket assemblies, post-Mod 6175, in accordance with Revision No. 1 of HS–748 Service Bulletin No. 57/59.

Currently, no Model H.S 748 airplanes of U.S. registry would be affected by this AD. However, should a Model H.S. 748 airplane be imported to the U.S. in the future, it would take approximately 12 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to a U.S. operator would be $480 per airplane.

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 ($480). 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:

British Aerospace: Applies to all Model H.S. 748 series airplanes, on which Modification 6175 has been accomplished (post-Mod 6175), certificated in any category. Compliance required as indicated, unless previously accompanied.

To detect cracks and prevent collapse of the main landing gear, accomplish the following:

A. Prior to accumulating 25,00 landings or within the next 750 flight hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,500 landings, perform an inspection of inboard main pivot bracket assemblies in accordance with paragraph 2A of the British Aerospace H.S. 748 Service Bulletin 57/59, Revision No. 1, dated April 1984. Any assembly found to exhibit corrosion, loose bolts, and/or cracks must be repaired in accordance with paragraph 2D of the above mentioned service bulletin. If corrosion to a depth greater than 0.060 inch is found, repair in accordance with a method approved by the FAA.

B. An alternate means of compliance of 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 British Aerospace, Librarian for Service Bulletins, P.O. Box 17414 Dulles International Airport, Washington, DC 20041. 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 December 3, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–28451 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 87–NM–119–AD]

Airworthiness Directives; Fokker Model F28 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 Fokker Model F28 series airplanes, that would require installation of stops in the rudder pedal adjustment mechanism. This proposal is prompted by reports of insufficient rudder deflection when the rudder pedals are adjusted to the maximum forward position. This condition, if not corrected, could result in reduced directional control capability of the airplane.

DATES: Comments must be received no later than January 26, 1988.

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–119–AD), 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Fokker Aircraft USA, 1199 N. Fairfax Street, Alexandria, Virginia 22314. 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-119-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Netherlands Department of Civil Aviation has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition that may exist on Fokker F-28 series airplanes. There have been numerous reports of insufficient rudder deflection when the rudder pedals are adjusted to the maximum forward position. This condition, if not corrected, could result in reduced directional control capability of the airplane. Fokker issued Service Bulletin No. F28/27-158, dated November 15, 1985, which describes the installation of stops to limit the forward adjustment of the rudder pedal mechanism. The Netherlands Department of Civil Aviation has issued an AD requiring compliance with the Fokker service bulletin.

This airplane model is manufactured in Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification to the rudder pedal mechanism in accordance with the service bulletin previously mentioned.

It is estimated that 51 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 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 $12,240.

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 ($240). 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:

Fokker Aircraft: Applies to Model F-28 series airplanes, Series Numbers 11003 to 11231 inclusive, 11991 and 11992, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent reduced directional control capability, accomplish the following:

A. Within the next six months after the effective date of this AD, install stops in the rudder pedal mechanism in accordance with Fokker Service Bulletin F28/27-158, dated November 15, 1985.

B. An alternate means of compliance or adjustment of 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 flights 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 Fokker Aircraft USA, 1199 N. Fairfax St., Alexandria, Virginia 22314.

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 December 3, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-28452 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AGL-26]

Proposed Alteration to Control Zone and Transition Area; Monroe County Airport, Bloomington, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Bloomington, Indiana control zone and transition area to accommodate existing Standard Instrument Approach Procedures (SIAPS) to Monroe County Airport. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before January 13, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 87-AGL-26, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Taffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: A review of the airspace designated for Monroe County Airport disclosed that airspace in excess of that required is currently being used to accommodate existing instrument procedures. This action will reduce the length of the control zone extensions by approximately 3 miles each. It will also reduce the area of the transition area by approximately 40% by shortening the northeast extension and eliminating the north, south and southwest extensions.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may

be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AGL-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone and transition area servicing Monroe County Airport, Bloomington, IN.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Bloomington, Indiana

Within a 5-mile radius of Monroe County Airport (lat. 39°08'40"N, long. 86°37'00"W); within 3 miles each side of the Hoosier VORTAC 181 radial, extending from the 5 mile radius zone to 7½ miles south of the VORTAC; within 3 miles each side of the Hoosier VORTAC 062 radial, extending from the 5 mile radius zone to 8½ miles northeast of the VORTAC; within 3 miles each side of the Hoosier VORTAC 346 radial; extending from the 5 mile radius zone to 7½ miles north of the VORTAC; and within 3 miles each side of the Hoosier VORTAC 236 radial, extending from the 5 mile radius zone to 7½ miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

3. By amending 71.181 as follows:

Bloomington, IN [REVISED]

That airspace extending upward from 700 feet above the surface within a 7½ mile radius of Monroe County Airport (lat. 39°08'40"; long. 86°37'00"W); within 3 miles each side of the Hoosier VORTAC 062 radial, extending from the 7½ mile radius to 8½ miles northeast of the VORTAC.

Issued in Des Plaines, Illinois, on November 30, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87-28454 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13

14 CFR Part 71

[Airspace Docket No. 87-AGL-22]

Proposed Transition Area Alteration, Siren, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Siren, WI transition area to accommodate a new VOR RWY 5 Standard Instrument Approach Procedure (SIAP) to Burnett County Airport, Siren, WI.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before January 15, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 87-AGL-22, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East

Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: The present transition area is being modified to accommodate arrival aircraft utilizing the VOR RWY 5 SIAP. The modification consists of reducing the designated airspace from an 8.5 mile radius to a 6 mile radius and returning the excess airspace back for use by general aviation. A 6 mile radius is appropriate for both IFR arrivals and departures.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AGL–22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Siren, WI.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Siren, WI [Revised]

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Burnette County Airport (Lat. 45°49'23"N., Long 92°22'21"W.).

Issued in Des Plaines, Illinois, on November 25, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87–28455 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–AGL–27]

Proposed Alteration of Transition Area; Virgil I. Grissom Municipal Airport, Bedford, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Bedford, Indiana transition area to reduce the amount of airspace designated to accommodate existing Standard Instrument Approach Procedures (SIAPS) to Virgil I. Grissom Municipal Airport.

The intented effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before January 13, 1988.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL–7, Attn: Rules Docket No. 87–AGL–27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: A recent review of the airspace designated for Virgil I. Grissom Municipal Airport disclosed that excess airspace is being used to accommodate existing instrument procedures. This action will reduce the general radius of the transition area from 6½ to 5 miles and

the northeast extension from 8 to 7.5 miles. This will permit the excess airspace to be returned to general non-controlled use.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–AGL–27." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area servicing the Virgil I. Grissom Municipal Airport.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 17

Transition areas, Aviation safety.

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Bedford, IN

That airspace extending upward from 700 feet above the surface within a 5 mile radius of Virgil I. Grissom Municipal Airport (lat. 38°50'26" N, long. 086°26'45" W); within 5 miles each side of the Hoosier, IN. VORTAC 156 radial extending from the 5 mile radius area to 35 miles southeast of the VORTAC; and then within 3 miles each side of the 305° bearing from Virgil I. Grissom Municipal Airport, extending from the 5 mile radius area to 7.5 miles northwest of the airport.

Issued in Des Plaines, Illinois, on November 30, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87–28443 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–ASO–8]

Proposed Alteration of VOR Federal Airways; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 87–ASO–8, which was published in the **Federal Register** on August 13, 1987. That NPRM; proposed to alter the descriptions of Federal Airways V–1, V–521 and V–579 located in the Miami, FL, area. These alterations were proposed in conjunction with the commissioning of the new Lee County navigational aid (NAVAID). However, commissioning of the Lee County Facililty has been postponed until 1989 and this action withdraws Airspace Docket No. 87–ASO–8.

DATES: This withdrawal is effective December 14, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspaces-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

The Proposed Rule

On August 13, 1987, a Notice of Proposed Rulemaking was published in the **Federal Register** to alter the descriptions of V–1, V–521 and V–579 located in the Miami area (52 FR 30168). These changes were proposed in conjunction with the commissioning of the Lee County VORTAC. However, the commissioning of this new facility has been delayed until 1989 and this docket is hereby withdrawn.

List of Subjects in 14 CFR Part 71

Aviation Safety, VOR Federal airways.

Withdrawal of NPRM

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 87-ASO-8, as published in the **Federal Register** on August 13, 1987 (52 FR 30168) is hereby withdrawn.

Authority. 49 U.S.C 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on December 4, 1987.

Daniel J. Peterson,

Manager, Airspace-Rule and Aeronautical Information Division.

[FR Doc. 87-28450 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 87-ACE-8]

Proposed Alteration and Establishment of Restricted Areas; Fort Leonard Wood, MO

AGENCY: Federal AviationAdministration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the times of use of Restricted Areas R-4501A, B, C, and D and to establish R-4501F, G, and H located near Fort Leonard Wood, MO. After reviewing their overall training and operational requirements, the Department of the Army has requested these changes in order to accommodate increased training activities.

DATES: Comments must be received on or before January 27, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 87-ACE-8, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ACE-8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Send comments on environmental and land use aspects to: Director of Engineering, Environment and Planning Branch, Fort Leonard Wood, MO.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the times of use of Restricted Areas R-4501 A, B, C, and D and to establish R-4501 F, G, and H located near Fort Leonard Wood, MO. After reviewing its overall training requirements, the Department of Army has requested additional airspace to accommodate these activities. These airspace actions will increase the amount of time the existing restricted areas are in use and will provide for three additional restricted areas for Department of Army use. Section 73.45 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 73

Aviation safety, restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

PART 73—[AMENDED]

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

Authority, 49 U.S.C. 1348(a), 1354(a), 1510, 1522; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.45 [Amended]

2. § 73.45 is amended as follows:

R–4501A, B, and D Fort Leonard Wood, MO [Amended]

By removing the present time of designation and substitution the following:

Time of designation. 0700–1800 Monday-Saturday; other times by NOTAM issued at least 24 hours in advance.

R–4501 Fort Leonard Wood, MO [New]

Boundaries. Beginning at lat. 37°41'00" N., long. 92°09'04" W.; to lat 37°41'00" N., long. 92°10'52" W.; to lat. 37°43'02" N., long. 92°12'10" W.; to lat. 37°43'10" N., long. 92°08'45" W.; to the point of beginning.

Designated altitudes. Surface to 3,200 feet MSL.

Time of designation. 0700–1800 daily; other times by NOTAM issued at least 24 hours in advance.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Army, Headquarters U.S. Army Training Center, Fort Leonard Wood, MO.

R–4501G Fort Leonard Wood, MO [New]

Boundaries. Beginning at lat.37°41'00" N., long. 92°10'52" W.;to lat 37°41'00" N., long. 92°14'08" W.;to lat 37°44'48" N., long. 92°12'19" W.;to lat. 37°44'00" N., long. 92°08'45" W.;to lat. 37°43'40" N., long. 92°08'45" W.;to lat. 37°43'20" N., long. 92°12'10" W.; to the point of beginning.

Designated altitudes. Surface to 3,200 feet MSL.

Time of designation. By NOTAM issued at least 24 hours in advance.

Controlling agency. FAA, Kansas City ARTCC.

Using agency. U.S. Army, Headquarters U.S. Army Training Center, Fort Leonard Wood, MO.

R–4501H Fort Leonard Wood, MO [New]

Boundaries. Beginning at lat. 37°42'50" N., long. 92°07'20" W.; to lat. 37°44'00" N., long. 92°07'15" W.; to lat. 37°44'45" N., long. 92°05'40" W.; to lat. 37°44'50" N., long. 92°04'48" W.; to lat. 37°46'15" N., long. 92°05'30" W.; to lat. 37°47'45" N., long. 92°06'00" W.; to lat. 37°48'00" N., long. 92°06'00" W.; to lat. 37°48'00" N., long. 92°02'40" W.; thence south and along the Big Piney River and Reservation boundary to lat. 37°46'45"N., long. 92°01'40"W.; to lat. 37°42'30"N., long. 92°04'05"W.; to lat. 37°42'15"N., long. 92°06'05"W.; to the point of beginning.

Designated altitudes. Surface to 3,200 feet MSL.

Time of designation. 1500–1600 Wednesday; other times by NOTAM.

Controlling agency, FAA. Kansas City ARTCC.

Using agency. U.S. Army, Headquarters U.S. Army Training Center,

Fort Leonard Wood, MO.

Issued in Washington, DC, on December 4, 1987.

Daniel J. Peterson

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–28453 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 34

Regulation of Hybrid and Related Instruments

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Commodity Futures Trading Commission ("Commission" or "CFTC") staff has received inquiries concerning the applicability of the Commodity Exchange Act and Commission regulations to instruments that appear to possess, in varying combinations, characteristics of forward contracts, futures contracts, option contracts, debt instruments, bank deposits and other interests. The Commission is seeking comment concerning a proposed regulatory framework that would clarify the status of such instruments and permit, by exemption and subject to certain conditions, specified hybrid option instruments to be traded other than on a designated contract market. The Commission also is seeking comment concerning a proposed no-action position with respect to certain commercial commodity contracts.

DATE: Comments must be received by February 9, 1988.

ADDRESS: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Susan C. Ervin, Esq., Acting Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–8955 or David R. Merrill, Esq., Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–9880.

SUPPLEMENTARY INFORMATION: The Commodity Exchange Act ("Act" or "CEA"), 7 U.S.C. 1 *et seq.* and regulations promulgated thereunder, 17 CFR 1 *et seq.*, require that all transactions in commodity futures contracts and commodity option transactions, with narrowly defined exceptions, occur on or subject to the rules of contract markets (exchanges) designated by the CFTC. 7 U.S.C. 6(a), 6c(b), 6c(c). Such markets provide safeguards to participants in futures and commodity option transactions, including open competitive trading, public price dissemination, and protection against counterparty credit risk, that are not generally available other than on exchange markets. For example, the financial integrity of futures transactions and commodity option transactions on designated futures exchanges is supported by the system of daily payment and collection of margin on a mark-to-market basis, by minimum capital, segregation and reporting requirements applicable to futures commission merchants ("FCMs), and ultimately by the obligation of the clearing organization affiliated with each exchange to guarantee the integrity of each transaction entered on that exchange.

The recent development of "hybrid" instruments that couple certain elements of futures or commodity option contracts with debt obligations or other interests that are not subject to regulation under the Commodity Exchange Act reflects commercial interest in offering to the public instruments that are indexed to or otherwise correlate in value with the price of a commodity or group of commodities through transactions that take place other than on designated commodity exchanges. As a consequence, while such instruments may entail certain of the risks of commodity futures or option transactions, they may be exchanged without the benefit of protections afforded participants in transactions effected on or pursuant to the rules of Commission designated exchange markets, including safeguards against counterparty default and other transaction risks.

The Commission therefore is seeking comment concerning measures that may be taken to clarify the status of certain hybrid and other instruments that possess some limited commodity futures or option elements and to assure that the Commission's regulatory program adequately addresses the developing market in such instruments. Preliminarily, the Commission recognizes that the term "hybrid instruments," as currently employed, encompasses a class of transactions that combine characteristics which in isolation would be subject to different regulatory treatments—for example, such transactions may combine futures or commodity option characteristics with those of debt obligations, bank deposits, forward contracts or other rights or interests. Hybrid instruments vary in form (*e.g.*, note with warrants, insured indexed bank deposit, exchangeable preferred stock, commodity swap), purpose, extent of regulation by other governmental

agencies, proportionate significance of commodity-related components, and otherwise. Separately, there are transactions involving goods, rights and interests that are entered into by commercials as principals and that, but for the lack of delivery, would be characterized as forward contracts, which are exempt from Commission regulation.

The Commission is requesting comment concerning a conceptual framework that would provide simplified regulatory treatment, on a prospective basis,[1] for certain categories of hybrids and related instruments. In light of the diverse characteristics and regulatory contexts of such instruments, the Commission is of the view that formulation of a single standard to define its regulatory response to such instruments may be neither feasible nor desirable. Therefore, the Commission seeks comment with respect to the appropriateness and feasibility of developing separate regulatory treatment for the following types of instruments: (1) Hybrid instruments that may possess *de minimis* futures or commodity option characteristics and therefore may be deemed to be excluded from Commission jurisdiction; (2) hybrid option instruments that are within the Commission's jurisdiction but because of the secondary and incidental nature of their commodity option components and the extent of their regulation by another agency may warrant exemption, upon conditions, from general compliance with Commission regulations; and (3) certain commercial transactions that have elements of contracts for forward delivery of a cash commodity in conjunction with aspects of futures contracts as to which prospective "no-action" treatment may be appropriate. Instruments that do not fall clearly within these categories and which are not specifically addressed on a case-by-case basis would remain fully subject to the Act and regulations.[2]

[1] The proposals made herein are not intended to affect the legality of transactions existing on the date hereof, which are governed by applicable law.

[2] This release does not address the scope or content of the "Treasury Amendment," which excludes from the Commission's exclusive jurisdiction over futures contracts certain transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, mortgages and mortgage purchase commitments. 7 U.S.C. 2. Nor does this release address existing statutory and regulatory provisions applicable to options on domestic agricultural commodities. *See* 17 CFR 32.2(a).

Statutory and Regulatory Predicate for Jurisdictional Exclusion and Regulatory Exemption

Futures-related Instruments

Section 2(a)(1)(A) of the Act accords the Commission exclusion jurisdiction over "accounts, agreements (including any transaction which is of the character of * * * an 'option' * * *), and transactions involving contracts of sale of a commodity for future delivery." 7 U.S.C. 2. Section 4(a) of the Act provides, *inter alia*, that it is unlawful to enter into a commodity futures contract that is not made "on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity." 7 U.S.C. 6(a).[3]

The Act does not recognize expressly any exceptions to the requirement of section 4(a) that domestic futures transactions occur only on or subject to the rules of designated commodity exchanges. Consequently, the Act would appear to preclude hybrid transactions that incorporate futures contracts unless they are effected on or subject to the rules of such exchanges. In determining whether a specific transaction constitutes a futures contract, the Commission and the courts have assessed the transaction "as a whole with a critical eye toward its underlying purpose." *CFTC* v. *Co Petro Marketing Group, Inc.*, 680 F.2d 573, 581 (9th Cir. 1982). Such an assessment entails a review of the "overall effect" of the transaction as well as a determination as to "what the parties intended." *CFTC* v. *Trinity Metals Exchange*, No. 85-1482-CV-W-3 (W. D. Mo. Jan. 21, 1986) (slip op. at 10) (citing *CFTC* v. *National Coal Exchange, Inc.* [1980-1982 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,424 at 26,046 (W.D. Tenn. 1982)).

In evaluating the overall purpose and effect of a transaction, some or all of the following characteristics of futures contracts have been recognized.[4] Generally, futures contracts are contracts for the purchase or sale of a commodity for delivery in the future at a price that is established when the contract is initiated. Both parties to the transaction are obligated to fulfill the contract at the specified price, but contracts providing for delivery may be satisfied either by delivery or offset. Futures contracts are undertaken principally to assume or shift price risk without transferring title to the underlying commodity. In addition, certain characteristics which facilitate the trading of futures contracts on exchanges have been recognized, including standardized commodity units, margin requirements related to price movements, clearing organizations which match trades and guarantee counterparty performance, open competitive trading in centralized markets, and public price dissemination.

The Commission recognizes that uncertainty has been expressed concerning the legal status of certain hybrid instruments that couple some indicia of futures contracts with other features, such as those of a note or other evidence of indebtedness. The Commission therefore is proposing below specific criteria by which certain futures-type instruments can be identified as beyond the purview of the act because of the insignificant and nonseverable nature of their futures components. The Commission also is seeking comment concerning proposed criteria to delimit categories of commercial commodity transactions that may be suitable for a propsective determination that the exercise of Commission jurisdiction is unwarranted and that no-action relief is therefore appropriate. These proposed no-action standards would be designed to address the development of commercial transactions that serve the commercial purposes of producers, processors, fabricators, refiners, and merchandisers of commodities but may depart from the traditional structure of cash forward contracts.

Commodity Option-related Instruments

Section 4c of the Act proscribes transactions in commodity options other than on designated contract markets of "contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe." 7 U.S.C. 6c(b), 6c(c).[5] Commission regulations permit only two categories of commodity options to be traded other than on designated contract markets: trade options and dealer options. The sale of dealer options currently is confined to a limited class of offerors who were in the business of granting options on a physical commodity and in the business of

[3] This prohibition does not apply to futures contracts made on or subject to the rules of a foreign board of trade, exchange or market. 7 U.S.C. 6(a).

[4] *See, e.g., In the Matter of First National Monetary Corp.*, [1984-1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,698 (CFTC 1985).

[5] Section 4c(f) of the Act provides, however, that the Act is inapplicable "to any transaction in an option on foreign currency traded on a national securities exchange." 7 U.S.C. 6c(f).

buying, selling, producing or otherwise using that commodity as of May 1, 1978 and who satisfy the net worth and other requirements of Commission regulations.[6] 7 U.S.C. 6c(d)(1); 17 CFR 32.12.

The other currently permissible category of off-exchange commodity options, trade options, is confined to a limited category of offerees. Regulation 32.4(a), 17 CFR 32.4(a), establishes a "trade option" exemption which permits the sale of off-exchange commodity options, other than options on domestic agricultural commodities, [7] in circumstances in which the offeror "has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or byproducts thereof, and that such producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such." Currently, neither FCMs nor securities broker/dealers generally are considered "commercial users" or other qualified purchasers of trade options.[8]

As a result of the current restrictions upon transactions in commodity options, bybrid instruments possessing commodity option elements, if subject to Commission jurisdiction and not exempted from regulatory compliance by rule or order of exemption,[9] generally may not be offered other then on designated contract markets. However, based upon the authority afforded by the Act to permit off-exchange commodity option transactions by regulation, the Commission is proposing to establish an exemption from otherwise applicable regulatory requirements for specified categories of commodity option transactions in circumstances in which comprehensive regulation under the Act and Commission regulations may be unwarranted. For those option-type instruments neither excluded from Commission jurisdiction nor exempted from regulation, the entire panoply of Commission regulations would remain applicable, including the ban on their trading off of designated exchanges.

1. Hybrid Instruments With De Minimis Futures or Options Characteristics (Jurisdictional Exclusion)

Certain hybrid instruments or transactions may possess commodity option or futures contract elements that are subordinate and inextricably linked to another, non-transferable financial interest and therefore cannot separately be traded on or subject to the rules of a designated futures exchange. The Commission believes that commodity components of such an ancillary and limited nature may be deemed to be *de minimis* and therefore insufficient to bring a transaction otherwise unrelated to commodity futures or options contracts within the purview of the Act.[10] The Commission proposes to describe this category of hybrid interests to include:

(a) Certain annuities or pensions that are indexed to specified commodities or groups of commodities but permit only limited transferability, *e.g.*, to survivors, and entitlement to which derives from an employment relationship; and

(b) Adjustable rate mortgages, employment agreements, leases or other similar contracts in which the interest payment or other contractual obligation is measured by reference to an economic index published by an agency of the United States, a published interest rate or index of interest rates such as the London Interbank Offerer Rate (LIBOR), or other economic indicator in general commercial use, such as certain indices published by the Commodity Research Bureau, provided that the commodity-indexed component of the transaction is not severable from an underlying contractual obligation that serves an independent commercial purpose and is entered into other than for speculative, hedging or investment purposes.

In view of the above, the Commission invites comment: (1) As to what constitute sufficiently *de minimis* futures or commodity option elements to render a hybrid instrument appropriate for exclusion from Commission jurisdiction consistent with the Act; and (2) as to whether different or additional categories of *de minimis* commodity futures or option components should be recognized. The Commission anticipates that most hybrid instruments would not qualify for a categorical exclusion from its jurisdiction based upon the criteria set forth above. By definition, an express jurisdictional exclusion requires the use of restrictive criteria that establish a clear jurisdictional boundary and avoid an unintentional abandonment of jurisdiction over transactions that should not qualify for exclusion. The Commission also is proposing, however, as discussed below, to establish an exemption from certain otherwise applicable regulatory requirements for specified additional categories of hybrid instruments that are *prima facie* within the Commission's option jurisdiction.

2. Otherwise-Regulated Hybrid Instruments With "Incidental" Options Components (Regulatory Exemption)

The Commission proposes to establish an exemption from compliance with certain CFTC regulations for a class of hybrid instruments that are predominantly debt obligations, bank deposits, or other transactions that are not generally subject to CFTC jurisdiction, that possess only incidental commodity option elements, and that are subject to adequate regulation by another regulatory authority. Eligibility for such an exemption would be established through a filing procedure affording the Commission notice of the proposed offering, requiring the issuer's or offeror's consent to submission to special calls, and mandating disclosure to participants in the exempted transaction that the transaction will not be regulated by the CFTC. Prototypical hybrid instruments that could be exempted from general regulatory compliance pursuant to such an exemption could include, for example, commodity-indexed debt or depository instruments that have a commodity-related return that represents a relatively small portion of the overall yield or value of the instrument or of the unit of which the instrument is a part and that are subject to regulatory requirements administered by the Securities and Exchange Commission ("SEC") or federal banking authorities. Commenters are requested to address the specific issues set forth below concerning the predicate conditions and

[6] Currently, only four firms have authority to grant dealer options and only two actively do so.

[7] Domestic agricultural commodities are enumerated in section 2(a)(1)(A) of the Act, 7 U.S.C. 2 (1986).

[8] *See* CFTC Interpretative Letter No. 84-7, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶22,025 at 28,595 n.10 (Division of Trading and Markets, Feb. 22, 1984).

[9] Regulation 32.4(b) recognizes that the Commission "may, by order, upon written request or upon its own motion, exempt any * * * person, either unconditionally or on a temporary or other conditional basis," from the general ban on off-exchange options "if its discretion, that it would not be contrary to the public interest to grant such exemption." 17 CFR 32.4(b).

[10] The Commission recognizes the widespread use of commodity-indexing provisions in commercial trnasactions, such as employment and lease agreements, which generally do not fall within the purview of the Act. The proposed *de minimis* classifications set forth above, which address several types of transactions that appear suitable for jurisdictional exclusion on a generic basis, are designed to assure that the status of transactions that do not implicate the policies and purposes of the Act and Commission regulations is not called into question. As a result, the commission anticipates that additions to and refinements of these categories may be made.

procedural requirements that should be established for exemptive treatment.

a. *"Incidental" commodity option characteristics.* The proposed exemption would afford relief from regulatory requirements with respect to transactions in which any commodity option element is subordinate to other aspects of the transaction. To establish whether a hybrid transaction has only an "incidental" commodity option component, the Commission contemplates that a determination would be made as to whether the trasaction has, as its predominant purpose, the conveyance of an interest in an option on a commodity or the functional equivalent of such a commodity interest. If the commodity-related element of the transaction is not predominant but subordinate to a financing arrangement or other economic relationship, it may be considered incidental to the overall purpose of the transaction, and the transaction therefore may qualify for exemptive treatment upon certain specified conditions.

The Commission proposes to establish term to maturity, commodity-based return and "line of business" requirements to identify hybrid instruments that possess only "incidental" commodity option components. Specifically, the Commission proposes to establish a minimum term to maturity of three years for such instruments.[11] In addition, the Commission is proposing a limit on the commodity-based return to identify hybrid transactions in which the commodity component is sufficiently small to permit a categorical determination that, subject to the requirements discussed below, such transactions may occur other than on designated commodity exchanges and without compliance with otherwise applicable Commission regulations. In this connection, the Commission proposes a two-part measure of return requirement, as follows: (1) The instrument must have a minimum annual yield or return that is independent of the commodity-related component of the transaction [12] equal to at least 35% of the estimated annual yield at the time of issuance for a comparable pure debt or depository instrument issued or offered by the subject issuer or offeror; [13] and (2) the instrument must have no more than a maximum average potential return on its commodity-related component of 20% on an annualized basis (calculated from the strike price at expiration of the commodity component and compounded annually) of the total principal or face amount of a hybrid instrument. Thus, this standard would require that the maximum potential return on the commodity option component of the transaction be limited by a ceiling established at the inception of the transaction.[14]

In addition, the Commission proposes to establish a line of business requirement that would limit the availability of exemptive treatment based upon the incidental nature of the option component of a hybrid instrument to those instruments in which the commodity component is used in a principal line of business of the issuer or offeror. This requirement would be intended to assure that a firm wishing to take advantage of the exemption from compliance with Commission regulations has as a principal line of business the production, processing, fabricating, refining or merchandising of the commodity that underlies the commodity component of the hybrid instrument. By thus limiting the availability of exemptive treatment, the Commission proposes to assure that the commodity-related risks of qualifying hybrid instruments are risks which the issuer or offeror has commercial experience in addressing and which are likely to be offset or limited by reserves, inventories, forward contract commitments or other cover that generally would increase in value commensurately with the issuer's or offeror's commodity-related obligations. Commenters are invited to address the appropriate measure of commodity return, in particular the fixed level and method of calculation of the proposed maximum potential commodity return, the proposed delimitation of the principal line of business requirement, and any additional criteria that may be appropriate to define the class of commodity-related hybrid option instruments potentially eligible for exemptive treatment.

b. *Performance criteria.* The Commission also proposes to condition the availability of exemptive treatment upon the issuer's or offeror's satisfaction of specific criteria intended to address its ability to satisfy the obligations created by the hybrid instrument in question. The Commission believes that conditions to assure the performance of the issuer or offeror are appropriate in view of the fact that establishment of the proposed exemption would permit such transactions to occur without the benefit of an exchange guarantee of the counterparty credit risk of such transactions, without restrictions upon the issuer's or offeror's use of funds received from the purchasers of such instruments and potentially without the necessity to post margin or security for the satisfaction of its obligations to such purchasers, and without the protections afforded by the segregation and minimum capital requirements of the CEA and Commission regulations.

Based upon these considerations, the Commission proposes to establish a requirement of at least $100 million of net worth for issuers or offerors of hybrid option instruments who seek to avail themselves of the proposed exemption. In addition, the Commission proposes to require that the issuer or offeror maintain cover for, or reserves of, the commodity which is the subject of the commodity option component of the hybrid transaction equal to the greater of: (1) The amount of the issuer's or offeror's current commitments to deliver, to take delivery of, or to pay the cash value of the commodity under the terms of the hybrid instrument; or (2) the maximum average annual amount of such commitments. The Commission contemplates that one means of satisfying this cover requirement could be purchases or sales of futures or futures option contracts, as appropriate to the nature of the obligation created by the hybrid instrument, on the generic

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[11] The term of a hybrid instrument would be deemed to be that of the commodity component of the instrument.

[12] For purposes of this standard, the commodity-related component of the transaction would include that portion of the transaction that provides a yield or premium that represents or correlates with changes in the price of a commodity. The hybrid transaction or instrument would include, in addition to its commodity-related component, any interests or instruments that are not detachable from, *i.e.*, are required to be traded with, such commodity-related interest. If the yield or return on the instrument is wholly derived form its commodity component, the instrument would not constitute a hybrid instrument eligible for exemptive treatment.

[13] The yield on an equity instrument would be construed to be the dividend yield on the instrument at the time of issuance.

[14] To apply this standard to a coupon-bearing oil-indexed bond, for example, two steps would be followed. First, the yield of the non-commodity component of the transaction as a percentage of the yield of a comparable pure debt instrument would be determined. If an oil-indexed bond with a $1000 offering price and a 3.5% coupon (paid semi-annually) is issued by an issuer that would pay a 10% interest rate for a similar bond that did not have an oil-indexed return, the instrument would satisfy the minimum 35% required yield standard for the non-commodity component of the transaction. (Analogous computations could be made for zero coupon instruments.) Second, if the same oil-indexed bond provides for an oil-indexed payment at redemption of the amount by which a specified crude oil price exceeds $20 per barrel, to a maximum of $50 per barrel, with a per unit multiple of 34.4 barrels, the maximum return on the commodity component of the transaction would be $1032. Based upon a four year fixed maturity, the annualized return (with annual compounding) on the commodity component of the bond would be 19.4% of the face value ($1000) of the instrument and therefore less than the proposed maximum return.

commodity that is the subject of the commodity component of the hybrid instrument. Commenters are invited to address the nature and size of the performance criteria that should be imposed in this context and whether an appropriate investment grade rating by Standard & Poor's, Moody's or other comparable bond rating service should be considered an adequate substitute for the proposed requirements.

c. *"Otherwise-regulated" transactions.* One principal rationale for the establishment of an exemption from general compliance with Commission regulations for specified categories of hybrid option instruments is to relieve issuers or offerors of such instruments that are adequately regulated by another regulatory authority from duplicative as opposed to complementary regulatory requirements. The Commission therefore proposes to condition the availability of exemptive treatment for commodity-related hybrid option transactions upon the regulation of the transaction by another federal authority that administers an analogous regulatory framework.[15] This requirement is designed to assure that the financial integrity of the commodity-related obligations created by proposed hybrid offerings which, based upon the proposed exemption, would not be required to be traded on designated contract markets, is supported by regulatory protections affording assurance that the risks of transactions in such interests are adequately monitored and disclosed.

In determining what alternative regulator frameworks should be considered sufficient to establish that a transaction is "otherwise regulated," the Commission is of the view that relevant considerations may include: (1) The extent to which the financial integrity of the obligations created by the instrument in question is afforded protection by listing or other eligibility requirements applicable to the issuer or offeror; (2) the extent to which the issuer or offeror is subject to registration and reporting requirements that relate to its ability to satisfy obligations created in specific transactions; (3) the extent of public disclosure requirements with respect to issuer or offeror and/or particular transaction; (4) whether an insurance or guarantee fund would be available to satisfy such obligations in the event of the issuer's or offeror's default; and (5) whether the transaction would be required to be effected on or subject to the rules of a regulated national securities exchange.

The Commission recognizes that other regulatory frameworks may afford protections that are sufficient to address the customer protection issues raised by the incidental commodity-related elements to hybrid option instruments subject to the proposed exemption. Comment is requested concerning what specific regulatory frameworks should be viewed as sufficient to render particular hybrid option transactions or categories of transactions "otherwise regulated." Commenters should address the extent to which the various financial, market, and customer protection requirements afforded by the CEA and CFTC regulations are adequately addressed by other regulatory frameworks applicable to specific hybrid option instruments. Comment also is sought concerning whether requirements imposed by another federal regulatory framework, for example, with respect to disclosure of the risks of counterparty default on hybrid option obligations and dilution, should be considered adequate substitutes for compliance with criteria, such as minimum net worth and cover, proposed as conditions to the exemption. In addressing the adequacy of disclosure requirements under the securities laws or other regulatory frameworks as substitutes for any to the conditions of the proposed exemption set forth above, commenters should consider whether such disclosure requirements would assure that shareholders in the issuer or offeror and other parties whose interests may be affected indirectly by proposed hybrid transactions receive appropriate disclosure. The Commission also seeks comment with respect to potential means of assuring substantially equivalent treatment of offerings of hybrid instruments subject to different regulatory programs, *e.g.*, federal securities statues or federal banking laws.

d. *Marketing of the hybrid instrument.* The Commission also proposes to condition the availability of a regulatory exemption upon the issuer's or offeror's representation that the hybrid option instrument will not be, and has not been, marketed to the public as having the beneficial characteristics of commodity options or commodity futures contracts. *CF* 17 CFR 4.5(c)(2)(iii) (containing a related marketing representation requirement for certain otherwise-regulated persons seeking exclusion from the definition of commodity pool operator).

e. *Minimum unit price.* The Commission proposes to establish a minimum unit price of $20,000 for the sale of hybrid option instruments qualifying for the proposed exemption.

f. *Required disclosure.* The Commission also contemplates that issuers or offerors seeking an exemption from Commission regulations othewise applicable to hybrid option instruments would be required to disclose in writing to prospective offerees the exempted status of the instrument under Commission regulations. Comment is requested concerning any additional or alternative disclosures that should be required.

g. *Special calls.* The Commission also proposes to impose a requirement, similar to the existing regulatory provisions for exclusion from the definition of commodity pool operator (17 CFR 4.5(c)(2)(v)), that issuers or offerors seeking an exemption from general regulatory compliance agree to submit to special calls for information to demonstrate compliance with the conditions to exempt status.

h. *Exemption procedures.* The Commission contemplates that an exemptive mechanism applicable to otherwise-regulated hybrid option instruments with incidental commodity components would require filing of a notice with the Commission containing representations establishing that the requirements for exempt status are satisfied. Upon the filing of a notice of eligibility for the exemption, the instrument generally would be exempted from Commission regulatory requirements without further action by the Commission.

i. *Hybrids offered by governmental and quasi-governmental entities.* The Commission contemplates that hybrid option instruments issued or offered by federal or state authorities, quasi-governmental authorities, and certain international agencies, such as the International Bank for Reconstruction and Development, would be subject to an exemption from compliance with CFTC regulatory requirements on the ground of comity.

3. Commercial Transactions Which Resemble But Do Not Contain All Elements of Forward Contracts

The Commission recognizes that in addition to hybrid option instruments that possess incidental commodity-related elements and that are separately regulated, transactions have developed that would constitute forward contracts but for the lack of delivery as the normal

[15] Comment is requested as to whether there are insurance products not required to be registered as securities that would implicate Commission regulation, unless specifically exempted as "otherwise-regulated," and as to what additional criteria should be applied in tailoring an exemption for such products.

culmination of the transaction. In many instances, such transactions take place between commercial counterparties which are in the business of producing, processing, fabricating, refining, or merchandising the commodity but do not intend in all or most instances to make or take delivery of the commodity by means of such transactions. As set forth more fully below, the Commission is proposing to specify certain commercial transactions that do not necessarily contemplate delivery in all instances with respect to which it would not exercise regulatory or enforcement jurisdiction.[16]

Section 2(a)(1)(A) of the Act specifically excepts from the Commission's jurisdiction over transactions involving contracts of sale of a commodity for future delivery "any sale of any cash commodity for deferred shipment or delivery." Sales of cash commodities for deferred delivery, or forward contracts, generally have been recognized to be commercial, merchandising transactions in physical commodities in which delivery actually occurs but is delayed or deferred for commercial purposes. Forward contracts thus have been defined as transactions in which the parties intend "physical transfer of the actual commodity" *(CFTC v. Co Petro Marketing Group, Inc.*, 680 F.2d 573, 578 (9th Cir. 1982), that are entered by commercial parties that have the ability to make or take delivery *(CFTC v. Co. Petro Marketing Group, Inc.*, 680 F.2d at 578–79; *NRT Metals, inc. v. Manhattan Metals (Non-Ferrous) Ltd.*, 576 F. Sup. 1046, 1050–51 (S.D.N.Y. 1983)), but in which delivery "may be deferred for purposes of convenience or necessity." *In re Stovall*, [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941 at 23,777–78 (CFTC 1979). In addition to the parties' expectation of delivery of the physical commodity, forward contracts historically have been characterized as privately negotiated contracts between commercial principals.[17]

The Commission recognizes that commodity transactions have developed in some markets that are undertaken for commercial, non-speculative purposes by commercial producers, processors, fabricators, refiners or merchandisers of the underlying commodity but do not result in delivery of the commodity on the routine basis that characterizes forward contracts within the jurisdictional exclusion of section 2(a)(1)(A) of the Act.[18] For example, commodity transactions between commercial counterparties in certain markets have evolved from contracts for deferred delivery of a physical commodity pursuant to which delivery generally occurs to transactions that have highly standardized terms, occur on a recurrent basis among an identifiable group of commercial participants and are frequently satisfied by the cancellation of contractual obligations based upon the payment of intervening market price changes.[19] Although such transactions may be settled other than by delivery on more than an occasional basis, it appears that departure from the traditional requirement of settlement by delivery of the physical commodity occurs on the basis of privately negotiated agreements by principals who have the capacity to make or take delivery, who contemplate actual delivery or acceptance of delivery in some of those transactions, but who may be unable to determine at the inception of the transaction that delivery will not be required. While the infrequency of delivery of the commodity in such transactions would tend to preclude their characterization as foward contracts within the Act's jurisdictional exclusion, such transactions nonetheless appear to be essentially private, commercial transactions that generally involve the exchange of interests in an actual physical commodity. As such, while beyond the established definition of forward contracts, such transactions may be suitable for a Commission no-action position to the extent that they occur other than on a designated contract market.

By contract, transactions that are effected through certain intermediaries, transferred in a secondary marketplace, or occur between a commercial and a counterparty which is not a producer, processor, fabricator, refiner, or merchandiser of the underlying commodity in the course of its business, substantially depart from the context in which the forward contract exclusion has historically operated.[20] In particular, the current commodity swap market reflects both direct transactions that are privately negotiated and entered into by commercial counterparties that are engaged in the commercial use of the commodity that is the subject of the swap transaction, as well as the development of swap markets operated by certain institutional swap issuers that enter into swap transactions that are settled in cash and that do not entail the expectation or even the alternative of physical delivery of the commodity.

The Commission requests comment concerning the appropriateness of establishing a prospective no-action position with respect to certain contracts for deferred delivery of a physical commodity that entail the potential for cancellation or offset in addition to delivery. This proposed no-action position would be conditioned upon compliance with at least the following criteria:

a. *Commercial counterparties.* The transaction takes place between commercial counterparties, each of which has the capacity to make or take delivery of the commodity that is the subject of the transaction. This standard would contemplate that, to qualify as "commercial" parties to the transaction, the parties would be required to be engaged in the direct commercial use of the commodity in the ordinary course of their business as producers, processors, fabricators, refiners or merchandisers of that commodity. The Commission contemplates that each party relying on the proposed no-action position would be required to make reasonable efforts to confirm that the other party to the transaction is a qualified commercial counterparty under this standard.[21]

b. *Commercial, non-speculative purpose.* The transaction is undertaken for commercial purposes, that is, as an incident of the parties' routine course of business, and not for speculative or investment purposes.

[16] The no-action position proposed below would not be intended to modify or affect the scope of the statutory exclusion from Commission jurisdiction of contracts for the sale of a commodity for deferred shipment or delivery. 7 U.S.C. 2.

[17] See Memorandum of the Office of General Counsel, CFTC, 44 FR 13498 (March 12, 1979).

[18] *See, e.g.*, 50 FR 39656, 39657–58 ("Characteristics Distinguishing Cash and Forward Contracts and 'Trade' Options") (Office of the General Counsel, CFTC, September 30, 1985).

[19] For example, transactions, especially intermediate or chain transactions, in the Brent oil market, which has been described as one that reflects the evolution of a delivery market, are apparently settled routinely but not exclusively by offset. *See, e.g.*, B. Sas, "The Legal Aspects of the 15 Day Brent Market," 5 *Journal of Energy and Natural Resources Law* 109 (1987). One court has preliminarily expressed the view that Brent oil transactions are predominantly futures transactions. *Transnor (Bermuda) Ltd. v. BP North American Petroluem*, [1986–1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,761 (S.D.N.Y. 1987).

[20] *But cf.* CFTC–OGC Interpretative Letter No. 86–5 [Export Trading Company's Proposed Financial Credit Arrangement), [1986–1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,227 (Office of the General Counsel, June 17, 1986); *and compare* CFTC–OGC Interpretative Letter No. 86–7 (Status of Live Hog Delivery Contracts), [1986–1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,455 (Office of the General Counsel.)

[21] *See* "The Forward Contract Exclusion: An Analysis of Off-Exchange Commodity-Based Instruments," Committee on Commodities Regulation of the Association of the Bar of the City of New York, 41 *Business Lawyer* 853, 901 (May, 1986).

c. *Nontransferability.* Contract rights or other interests arising from transactions that qualify for the proposed no-action position would not be marketed or transferable other than to commercial counterparties (as specified above) of the commodity or traded in a secondary market.

d. *Restriction to direct, privately-negotiated transactions.* The transaction is effected between qualified commercial counterparties as principals without intermediation by a dealer, market-maker or other third party. Brokered transactions would not necessarily infringe this criterion provided that the Commission would propose to define such intermediated transactions as only those wherein the intermediary takes no position in the transaction and assumes no risk.

The Commission contemplates, for example, that this proposed no-action standard would reflect the Commission's election to refrain from exercising jurisdiction over directly negotiated swap transactions between commercial counterparties that serve certain of the essential purposes of cash deferred delivery transactions in that they entail an exchange of obligations that represent, cover, or hedge actual commercial commitments of the contracting parties but may be settled by cash payment rather than by delivery. Swap transactions originated or issued by an intermediary that makes a market in swap obligations or that involve participants which are not commercial users of the underlying commodity would not be included.[22] This section does not address those interest rate and currency swaps subject to the Treasury Amendment.[23] Comment is requested concerning whether any different or additional criteria applicable to the proposed no-action position would be appropriate. The Commission contemplates that, based upon its experience in administering a no-action position of the nature delineated above, it would consider proposing a statutory amendment, as appropriate, to codify that position.

The Commission also requests comment concerning the appropriateness of extending no-action treatment to certain commercial transactions that resemble forward contracts but convey interests in indices, interest rates and other intangible commodities that are not susceptable to physical delivery. The definition of forward contracts as "concomitant[s] of a business for the merchandising of a cash commodity, where actual delivery occurs in virtually all cases absent a breach of contract,[24] appears to contemplate the use of deferred delivery contracts by merchandisers or users of tangible goods in the course of the actual marketing process. The Act's definition of the term "commodity," however, was amended in 1974 to reach not only the physical commodities on which futures contracts could be traded when the forward exclusion was established but also all "services, rights, and interests in which contracts for future delivery are presently or in the future dealt in." 7 U.S.C. 2.

The designation of contract markets for the trading of futures contracts on intangibles such as economic indicators and stock indices reflects the expansion of the Act's definition of "commodity" to include financial interests essentially "deliverable" only through cash settlement. Off-exchange markets also reflect the development of vehicles for the transfer of intangible interests, for example, so-called "forward-rate agreements," that entail the exchange of interests that are "deliverable" only through the payment or receipt of a value measured by an index, interest rate, or other economic measure and do not contemplate the delivery or receipt of a physical commodity.[25] While such transactions do not possess all of the characteristics of forward contracts heretofore delineated by the Commission, to the extent that such transactions are privately negotiated for commercial purposes between commercial users of the underlying "commodity" they may nonetheless not always require the full panoply of regulatory protections that apply to futures contracts and may warrant prospective no-action treatment. The Commission requests comment concerning the appropriateness of establishing a no-action position with respect to transactions for deferred delivery in intangible "services, rights and interests," which contemplate cash settlement rather than delivery of a physical commodity, and the criteria which should form the basis for such a position.

4. Option Instruments Fully Subject to Regulation Under the CEA

The Commission also is cognizant of an additional category of option instruments consisting of options directly on a commodity that are proposed to be offered by a private grantor either separately or in conjunction with debt obligations in a public offering registered with the SEC, but that would in either case thereafter be traded exclusively on a designated commodity exchange.[26] Although such instruments are unlike conventional commodity options in that they are proposed to be offered by a single private issuer and would not constitute either dealer or trade options, the Commission believer that these instruments are clearly within the purview of the CEA and Commission regulations. The Commission is of the view that the special customer and market protection concerns raised by such proposed option transactions are most appropriately addressed by means of exchange rules formulated to govern transactions in the specific option interests for which contract market designation is sought. The Commission will seek public comment on such proposals in separate **Federal Register** notices.

5. Case-By-Case Review of Other Jurisdictional Issues

The exemption outlined above would not be intended to be an exclusive catalogue of the hybrid instruments that could be exempted from Commission regulations nor would any definition of excluded *de minimis* transactions necessarily address all hybrid transactions beyond the jurisdiction of the CEA. Any jurisdictional exclusion or regulatory exemptive procedure of the nature outlined above would, instead, supply guidance to practitioners concerning certain readily resolved jurisdictional issues and regulatory relief in defined circumstances. In cases not addressed by these categories but which are potentially within the Commission's jurisdiction, the Commission could still in appropriate

[22] Whether banks and other financial institutions would qualify as commercial users of the commodity underlying specified transactions would depend upon whether such institutions are engaged in the direct, commercial use of the commodity. *See* CFTC Interpretative Letter No. 84-7, [1982-84 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,025 (Division of Trading and Markets, February 22, 1984). The Commission contemplates that this determination would be made on a case-by-case basis. *See* 51 FR 12698, 12699 (April 15, 1986) (CFTC Order authorizing banks to grant foreign currency options on a foreign exchange). Acceptance of a commodity as collateral would not be considered commercial use of that commodity by a bank or other financial intermediary.

[23] *See* note 2, *supra.*

[24] Memorandum of the Office of General Counsel, CFTC, 44 FR 13498, 13499 (March 12, 1979).

[25] *See, e.g.,* E.R. Schroeder, "Inadvertent Futures Contracts," 19 *Review of Securities and Commodities Regulation* 89 (April 16, 1986).

[26] As such commodity options would be traded separately although initially offered in conjunction with a security, they would not constitute "hybrid" instruments of the nature eligible for exemptive treatment as proposed above. *See* note 12, *supra.*

cases provide case-by-case relief. Such particularized review would permit the resolution of issues that are not susceptible to generalized treatment, accommodate product innovation, and permit more limited relief in cases that would not qualify for a categorical exemption. *See* 17 CFR 32.4(b).

List of Subjects in 17 CFR Part 34

Commodity futures, Commodity options, Hybird option instruments.

Authority: 7 U.S.C. 2, 6c, 12a.

Issued in Washington, DC on December 8, 1987 by the Commission.

Jean A Webb,

Secretary of the Commission.

[FR Doc. 87-28519 Filed 12-10-87; 8:45 am]

BILLING CODE 6351-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 502

[Rulemaking No. 4]

Propaganda as Educational and Cultural Materials; World-wide Free Flow (Export-Import) of Audio-Visual Materials

AGENCY: United States Information Agency.

ACTION: Notice of interim rules; correction.

SUMMARY: USIA is publishing appendix A which was inadvertently omitted from the notice of interim rules which appeared in the **Federal Register** on November 16, 1987 (52 FR 43753). This appendix will not appear in the Code of Federal Regulations. The rest of the notice remains unchanged.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Attorney Advisor, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 485-8829.

Dated: December 4, 1987.

C. Normand Poirier,

Acting General Counsel, United States Information Agency.

The omitted appendix is inserted after the section entitled "Findings and Conclusions," in column 1, page 43757.

Appendix A—Comments Received in Response to the Advance Notice of Proposed Rulemaking No. 4—Propaganda as Educational and Cultural Material

Received before September 8, 1987

1. AAA Foundation for Traffic Safety
2. Concept Media
3. American Dental Association
4. Hazelden Educational Services
5. Spoken Arts
6. Fliptrak Learning Systems
7. Butler Learning Systems
8. Courter Films & Associates
9. Educational Teaching Aids
10. Learn Incorporated
11. West Wind Productions, Inc.
12. The Upjohn Company
13. Biomedical Models Company
14. Authur Barr Productions
15. Center for Constitutional Rights
16. PEN American Rights
17. Pharmaceutical Manufacturers Associations
18. Weston Woods International Sales Corp.

[FR Doc. 87-28516 Filed 12-10-87; 8:45 am]

BILLING CODE 8230-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

Collective-Bargaining Units in the Health Care Industry

AGENCY: National Labor Relations Board.

ACTION: Proposed rule; notice of extension of time for filing comments following completion of hearing.

SUMMARY: The National Labor Relations Board gives notice that it is further extending the time for filing comments on the proposed rulemaking for collective-bargaining units in the health care industry from December 14, 1987, to December 21, 1987.

DATES: The comment period which presently ends at the close of business on December 14, 1987, has been extended to the close of business on December 21, 1987.

ADDRESS: Comments should still be submitted to the Executive Secretary as set forth in 52 FR 25142, July 2, 1987.

FOR FURTHER INFORMATION CONTACT: Curtis A. Wells, Associate Executive Secretary, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION:

Background

The Board's notice of proposed rulemaking and original notice of hearing was published in the **Federal Register** (52 FR 25142) on July 2, 1987. That notice provided for three hearings, the last to be held on September 14, 1987. The notice also provided that the period for comments ended at the close of business on October 30, 1987.

Thereafter, in response to requests by large numbers of organizations and individuals who wished to testify, the Board added a fourth hearing date, October 7, 1987, retaining October 30 as the close of the comment period. Notice of that hearing was published in the **Federal Register** (52 FR 29038) on August 5, 1987.

Subsequently, in response to requests by a number of participants in the hearings for extensions of time to permit interested parties to obtain and review the hearing transcripts in preparation of their comments, the Board extended the comment period, first to the close of business on November 20, 1987, by notice published in the **Federal Register** (52 FR 36589) on September 30, 1987, and then to the close of business on December 14, 1987, by notice published in the **Federal Register** (52 FR 43919) on November 17, 1987.

The American Nurses' Association has requested a 1-week extension of time for filing comments in order to enable the Association to comprehensively deal with the issue of unit placement of nurses which constitute a substantial portion of the record in the proposed rulemaking. The Board has been informed that the American Hospital Association is opposed to this grant of an extension of time. Since the refusal of this request might reduce the value of the comments of some parties to the Board regarding the proposed rulemaking, the Board has decided to extend the period for making comments until the close of business on December 21, 1987.

Dated: Washington, DC, December 8, 1987.

By Direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87-28526 Filed 12-10-87; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Custodial Care

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed amendment of rule.

SUMMARY: This proposed rule will amend DoD 6010.8-R (32 CFR Part 199) which implements the Civilian Health and Medical Program of the Uniformed Services as pertains to the custodial care provisions. This amendment will permit reimbursement for custodial conditions in which medically necessary inpatient hospital care is required.

DATE: Written public comments must be received on or before January 11, 1988.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Program Development, Aurora, CO 80045-6900.

FOR FURTHER INFORMATION CONTACT: Rose M. Sabo, Office of Program Development, OCHAMPUS, Aurora, CO 80045-6900, telephone (303) 361-4014.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title. 32 CFR Part 199 (DoD 6010.8-R) was reissued in the **Federal Register** on July 1, 1986 (51 FR 24008).

The 1956 legislation which initially authorized civilian health care for military dependents, Pub. L. 84-569, did not contain an exclusion of custodial care. Rather, benefits were more limited. The law excluded domiciliary care and the treatment of nervous and mental disorders, chronic diseases and elective medical and surgical treatments. Power was vested in the Secretary of Defense, after consultation with the then Secretary of Health, Education, and Welfare (currently Health and Human Services), to grant exceptions to these exclusions for up to 12 months of treatment in special and unusual cases. Care in civilian facilities was also generally limited to inpatient treatment for active duty dependents.

The express purpose of the changes enacted by the Military Medical Benefits Amendments of 1966 was to "provide improved benefits for military families along the line of those provided other citizens over the (preceding) decade." Consistent with this intent, the 1966 amendment eliminated the exclusion of the treatment of chronic diseases, representing a significant program expansion. This expansion was tempered, however, by the newly adopted exclusion of custodial care, an exclusion which was also consistent with other public and private health care plans. The custodial care exclusion was intended as a limitation on the expansion of benefits represented in part by the inclusion of the treatment of chronic diseases as a benefit.

One of the stated purposes of the 1966 amendment was to ensure that the Department of Defense retained sufficient administrative flexibility to tailor the Program's benefit package to meet the determined needs of the Uniformed Services. Thus, broad discretion was granted to the Secretary of Defense in the management and direction to the civilian health benefits program.

In developing the 1966 amendments, Congress looked to the Federal Employees' Health Benefits Program for guidance in the development of the benefits package. The history of the Program's development (Military Medical Benefits Act of 1966, report dated March 31, 1966, Explanation of the Amendment—Purpose of the Bill) states in part:

> The bill would improve the level of benefits provided by eliminating the specific listing in the law of the types of care permitted and substituting therefor authority to provide hospital care up to the level of the highest option of the Government-wide plan covering the larger number of civilian employees under the Federal Employees' Health Benefits Act. The Department of Defense would have the authority to contract for care subject only to the limitation that the benefits provided could not exceed the high option of the most popular Government-wide civilian program. The bill further provides that benefits shall not be less than those provided under such civilian high option programs on July 1, 1966.

Thus, the bill gives the Department of Defense the flexibility to improve benefits in the future as health benefits expanded for other Government personnel and, at the same time, provides a floor on benefits so that they could not be reduced in the future by arbitrary administrative directive.

Historically, the term domiciliary care was defined to encompass the concept of custodial care. In its initial implementation of the 1966 amendments, the Department of Defense derived its definition of custodial care from the one used by the Social Security Administration's Medicare program. A number of custodial care determinations were reviewed under that definition.

Between 1966 and 1974, CHAMPUS came under increasing Congressional scrutiny and criticism directed at escalating program costs and administrative inefficiencies. A major review was undertaken in 1975-1977 to more consistently enforce the intent of Congress as expressed in the law and to establish a better designed, more uniform program which would be more akin to a contract of insurance and provide a greater degree of control over all program elements. The review culminated in issuance of the comprehensive Department of Defense regulation for the operation and management of CHAMPUS.

The provisions of the law relating to custodial care and domiciliary care were examined as a part of the comprehensive review initiated in 1975. Based upon the legislative history discussed above, it was determined that these terms actually represent separate concepts and that new definitions were required.

In seeking a new definition, program administrators looked to the Federal Employee Health Benefits Program (FEHBP). The definition sought had to be easily understood by beneficiaries and providers and had to be workable for the routine processing of claims. The FEHBP provided a reasonable alternative source and was fully compatible with the original intent of Congress in enacting the 1966 amendments. The definition of custodial care ultimately adopted was derived from that source and is consistent with the concepts developed in that program.

The current custodial care definition has been in effect since 1977. It is briefly described as care rendered to a patient: (1) who is disabled mentally or physically and such disability is expected to continue and be prolonged; (2) who requires a protected, monitored, or controlled environment; (3) who requires assistance in the essentials of daily living; and (4) who is not under active and specific treatment that will reduce the disability to the extent necessary to function outside of a controlled environment. Once a custodial care determination is made, CHAMPUS benefits are limited to one hour of skilled nursing care per day, prescription drugs and medical supplies for their administration. CHAMPUS benefits may be extended to otherwise covered services related to a medically necessary admission to an acute care hospital only if hospitalization is required for treatment of a condition other than the one for which custodial care is being received (i.e., a broken leg as a result of a fall) or if there is an acute exacerbation of the condition for which custodial care is being received that requires active inpatient treatment.

As shown in this historical review, the CHAMPUS custodial care provisions have traditionally acted as benefit limitations to help contain costs in a program that has essentially no limits on medically necessary care and has very favorable cost-sharing provisions. Once a custodial care determination was made, the program offered only limited benefits for the custodial condition. Other third-party plans have controls, absent in CHAMPUS, to contain excessive costs that might otherwise occur with a chronic, long-term illness. These controls consist of limits on the number of days of hospitalization or limits of physician or nursing visits. Some have substantial deductibles and

costsharing for inpatient care, and most have either a dollar or visit limit on other care.

The amendment being proposed would allow payment of inpatient hospital care that is determined medically necessary, even if required for a custodial condition. This amendment is being proposed for two reasons—because of implementation of a DRG-based (diagnosis-related group) payment system for CHAMPUS inpatient hospital admissions occurring on or after October 1, 1987 (published in FR Doc. 87–19684, September 1, 1987) and because of a court decision which held the custodial care provision unsupportable in cases involving medically necessary inpatient hospital care.

On May 15, 1987, the United States Court of Appeals for the District of Columbia Circuit, *Barnett* v. *Weinberger*, 818 F. 2d 953 (DC Cir. 1987), in reversing a district court decision, held the CHAMPUS regulation invalid insofar as it purports to treat medically-necessary patient care obtainable only in a hospital as excluded custodial care. The Court stated the specific issue before it to be "whether the regulations characterizing medically-essential hospital services as excluded 'custodial care' comport with the statutory provision on that subject." The Court held, after analyses of the legislative history and relevant case law, "that the challenged CHAMPUS regulation, as written or applied, is invalid insofar as it purports to treat medically necessary patient care obtainable only in a hospital as 'excluded custodial care.' "

In reaching the foregoing conclusion, the Court relied heavily upon an analysis of the relevant legislative history. The original 1956 legislation excluded domiciliary care, but not custodial care. The Court found significant the original concept of domiciliary care as not excluding hospitalization which is medically essential because it "sheds important light upon the meaning of 'custodial care' when the latter was inserted into the exclusionary section in 1966." The Court noted that the 1966 amendments were characterized generally as benefit enhancements. Based upon its understanding of the legislative history, the Court concluded that "it would be highly anomalous to suppose that by this language (excluding 'custodial care') Congress designed an exclusion of necessary medical services from basic CHAMPUS benefits."

The Department of Defense does not agree with the rationale of the Court in this regard. For other reasons, it has chosen not to appeal or seek other relief from the decision. The Court stated that the broad-gauged reading of the statutory exclusion of custodial care is antithetical to the general statutory purpose of enhancing benefits. We do not believe, however, that the Court gave a true picture of the context of the custodial care exclusion. As is clear from the historical discussion above, the 1956 Dependents' Medical Care Act contained an exclusion of domiciliary care. It did not specifically exclude custodial care. Rather, it excluded all care for chronic conditions. This fact was not discussed by the Court. It has significance because it gives a better picture of the basis for the custodial care exclusion in the 1966 amendment. In 1966, Congress removed the exclusion for care for chronic conditions and substituted the exclusion of custodial care. Contrary to the Court's conclusion that the custodial care exclusion did not enlarge the existing exclusion of domiciliary care, what in reality was occurring was that Congress had removed a major exclusion of necessary medical services for those with chronic medical conditions. Under the 1956 law these conditions were not covered at all, irrespective of how medically essential the care was. The custodial care provision was substituted for this exclusion. For this reason, we disagree with the Count's conclusion that Congress did not intend to exclude necessary medical service from basic CHAMPUS benefits in excluding custodial care. When seen in this context, the custodial care exclusion, as interpreted by the Department in 1977, represents a significant enhancement of benefits over the 1956 law which excluded all care for chronic conditions.

However, because the ruling of the Court closely coincides with the implementation of DRGs, we now are proposing this change in our rule on custodial care in recognition of the decision of the Court. With the implementation of DRGs for hospitals on October 1, 1987, the custodial care provision represents a duplicative control on inpatient care in acute-care hospitals. Other provisions of the Regulation exist to help ensure the responsible expenditure of public funds. For example, the Regulation requires that the medical environment in which the services are performed be at the level adequate to provide the required care. Services and supplies related to inpatient stays in hospitals or other authorized institutions above the appropriate level required to provide the necessary medical care will continue to be excluded. These controls are expected to effectively control utilization.

We are proposing an effective date of October 1, 1987, to coincide with the implementation of the rule on DRGs. Further revision of the custodial definition may be considered following evaluation of the CHAMPUS home-care demonstration which is scheduled to end June 30, 1988 (published in FR Doc. 87–14784, July 1, 1986).

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

This proposed rule will have the impact of enhancing the scope of the CHAMPUS benefit for medically necessary inpatient care. It will not involve any singificant additional administrative burden on CHAMPUS beneficiaries or providers of medical care. It is not, therefore, a "major rule" under Executive Order 12291.

This amendment is being published in the **Federal Register** for proposed rulemaking at the same time it is being coordinated within the Department of Defense and with other interested agencies so that consideration of both internal and external comments and publication of the final rule can be expedited.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR Part 199, is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 contrinues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301, 29 U.S.C. 794.

2. Section 199.4 is amended by revising paragraph (e)(12)(iii) and (g)(7) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(e) * * *

(12) * * *

(iii) *Exception to custodial care exclusion, admission to a hospital.* CHAMPUS benefits may be extended for otherwise covered services or

supplies Directly related to a medically necessary admission to an acute care general or special hospital or long-term hospital if the care is at the appropriate level and meets other requirements of this Regulation.

* * * * *

(g) * * *

(7) *Custodial care.* Custodial care except as otherwise specifically provided in paragraphs (e)(12)(ii), (iii) and (iv) of this section.

* * * * *

§ 199.6 [Amended]

3. Section 199.6 is amended by removing the word "custodial or" where it appears in paragraph (b)(4)(iv)(C)(*4*), removing the existing paragraph (b)(4)(v)(B) and redesignating paragraph (b)(4)(v)(C) to (b)–(4)(v)(B).

December 4, 1987.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 87-28340 Filed 12-10-87; 8:45]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3300-6]

Standards of Performance for New Stationary Sources; Polypropylene, Polyethylene, Polystyrene, and Poly(ethylene terephthalate) Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The end of the public comment period has been extended 60 days for the proposed national emission standards for volatile organic compounds from certain polymer manufacturing plants in response to a request from the Chemical Manufacturers Association (CMA). This request expressed the need for additional time to analyze more fully the effect of the proposed standards on certain polymer manufacturing processes that CMA claims are not clearly represented by any one of the polymer categories for which regulations have been proposed.

DATES: Written comments to be included in the record on the proposed standard must be postmarked no later than February 8, 1988.

ADDRESSES: Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE–131), Attention: Docket No. A–82–19, U.S. Environemental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sims Roy at (919) 541–5578.

SUPPLEMENTARY INFORMATION: On September 30, 1987, the Administrator proposed in the **Federal Register** (52 FR 36678) national process and fugitive emission standards for volatile organic compounds from certain polymer manufacturing plants. In that notice, EPA announced the date ending the public comment period. This notice extends the end of the public comment period as discussed in the summary section of this preamble.

Dated: December 7, 1987.

Paul M. Stolpman,

Acting Assistant Administrator.

[FR Doc. 87-28507 Filed 12-10-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 80, 86 and 600

[AMS-FRL-3300-7]

Control of Gasoline and Alcohol Blends Volatility and Evaporative Emissions, and Refueling Emissions From New Motor Vehicles and Engines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice announces a further extension of the public comment period on EPA's proposed regulation to control refueling emissions and the proposed regulation to control the volatility of gasoline and alcohol blends sold in the summertime. These proposals were both published in the **Federal Register** on August 19, 1987 (52 FR 31162 and 52 FR 31274). The comment period was extended after EPA received several requests.

DATE: The public comment period is being extended one month and will remain open until February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Carlson, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313)–668–4270.

SUPPLEMENTARY INFORMATION: The notice for the current close of the comment period concerning these proposed rules was published in the **Federal Register** on October 28, 1987 (52 FR 41473). That notice specified that the public comment period would remain open until January 11, 1988. During and subsequent to the public hearing held October 27–29, 1987 in Sterling, VA, EPA received requests from several commenters to extend the length of the public comment period. EPA has reviewed these requests in the light of the Agency's desire to assure the fullest possible opportunity for public participation, and has decided that it is reasonable to grant an extension of the comment period for one additional month. The comment period is therefore extended until February 11, 1988.

Dated: December 4, 1987

Don R. Clay

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-28508 Filed 12-10-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-528, RM-5958]

Radio Broadcasting Services; Great Falls, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Contemporary Communications, proposing the substitution of FM Channel 262C1 for Channel 262C at Great Falls, Montana. Contemporary Communications has an application on file at the Commission for Channel 262C. Concurrence of the Canadian government is required for this allocation.

DATES: Comments must be filed on or before January 25, 1988, and reply comments on or before February 9, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Larry G. Fuss, Contemporary Communications, P.O. Box 1901, El Dorado, AR 71731.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87–528 adopted November 4, 1987, and released December 4, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC

Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28485 Filed 12–10–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–388; RM–5385]

Television Broadcasting Services; Kenansville, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of proposal.

SUMMARY: This document denies the request of Meredith Corporation to allot UHF television Channel 31 to Kenansville, Florida, as its first television service. The *Notice* proposed the allotment provided it could be shown that Kenansville is a community within the meaning of the Commission's Rules. The information supplied by Meredith did not meet the community requirements of section 307(b) of the Rules for allotment purposes. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–388, adopted November 12, 1987, and released December 4, 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

Television broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28486 Filed 12–10–87; 8:45 am]

BILLING CODE 6712–01–M

AFRICAN DEVELOPMENT FOUNDATION

48 CFR PART 5706

Competition Requirements

AGENCY: African Development Foundation.

ACTION: Proposed rule.

SUMMARY: This action proposes circumstances and procedures under which certain procurement of the African Development Foundation for services to be provided abroad need not be subject to the FAR requirement of full and open competition.

DATES: Comments must be received on or before February 9, 1988.

ADDRESS: Comments may be mailed to the Director, Administration and Finance, Suite 600, African Development Foundation, 1625 Massachusetts Avenue NW., Washington, DC 20036, or delivered to the same address between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Paul Magid, General Counsel, Tom Wilson, Director, Administration and Finance, (202) 673–3916.

SUPPLEMENTARY INFORMATION: The African Development Foundation (ADF) applies the requirements of the Federal Acquisition Regulations to all of its domestic procurement activities, including the requirement for full and open competition set forth in Part 6 of the Regulations. However, adherence to these requirements for the procurement of goods and services overseas, (almost exclusively in Africa) has proved impractical. These proposed rules, based in part on similar regulations published by AID at 48 CFR 706.302–70, are intended to provide for full and open competition in the overseas context to the extent practicable, while at the same time, allowing for waivers whenever adherence to the competition requirement would impair the objective of ADF's programs.

Regulatory Flexibility Act of 1980

(Generally, these regulations do not contain substantive new material. It is, therefore, certified that they will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.)

Executive Order 12291

The African Development Foundation has determined that this rule is not a major rule for purposes of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the general public.

List of Subjects in 48 CFR Part 5706

Government contracts, Government procurement.

Therefore, it is proposed to amend Title 48 of the Code of Federal Regulations by establishing Chapter 57 and adding Part 5706 to read as follows:

CHAPTER 57—AFRICAN DEVELOPMENT FOUNDATION

SUBCHAPTER B—ACQUISITION PLANNING

PART 5706—COMPETITION REQUIREMENTS

Authority: 40 U.S.C. 474.

Subpart 5706.3—Other Than Full and Open Competition

5706.302–70 Impairment of foreign aid programs.

(a) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) *Application.* This authority may be used for:

(1) An award under section 506(a)(5) of the African Development Foundation Act involving a personal services contractor serving abroad;

(2) An award of $100,000 or less for audit, evaluation or program support services to be provided abroad;

(3) An award for which the President of the Foundation makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and

would be inconsistent with the fulfillment of the Foundation program.

(c) *Limitation.* (1) Offers shall be requested from as many potential offerors as is practicable under the circumstances.

(2) The contract file must include an appropriate explanation and support justifying award without full and open competition, as provided in FAR 6.303, except that determinations made under paragraph (b)(3), of this section will not be subject to the requirements for contracting officer certification or to approvals in accord with FAR 6.304.

ADF Agency Number 11010006

ADF BOAC Number 953901

December 1, 1987.

Leonard H. Robinson, Jr.,

President, African Development Foundation.

[FR Doc. 87-28285 Filed 12-10-87; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 71264-7264]

Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Notice of preliminary initial specifications for 1988 and requests for comments.

SUMMARY: NOAA issues this notice of preliminary initial specifications for the 1988 fishing year for Atlantic mackerel, squid, and butterfish, and requests public comments. Regulations governing these fisheries require the Secretary of Commerce (Secretary) to publish preliminary initial specifications. This action will provide data and request comments for NOAA's determination of the initial specifications for the 1988 fishing year.

DATE: Comments must be received on or before January 7, 1988.

ADDRESS: Send comments to Kathi L. Rodrigues, Northeast Regional Office, NMFS, 2 State Fish Pier, Gloucester, MA 01930-3097. Mark on the outside of the envelope, "Comments on 1988 Annual Specifications".

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 617-281-3600, ext. 324.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) provide at § 655.22(b) that the Secretary will publish a notice specifying the preliminary initial annual amounts of the initial optimum yields (IOYs) as well as the amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. Note that DAH=DAP+JVP. No reserves are provided under the FMP for any of these species.

Procedures for determining the initial annual amounts are found at § 655.21. The Secretary is required to publish this notice on or about November 1 of each year and to provide a 30-day comment period on the preliminary specifications. These specifications are based on recommendations submitted by the Mid-Atlantic and New England Fishery Management Councils.

The Mid-Atlantic Fishery Management Council (Council), the lead Council for the FMP, has prepared an analysis of the nine economic factors specified at § 655.21(b)(1)(ii). Both Councils' recommendations and other relevant data are available for inspection at the NMFS Regional Office at the above address during the comment period.

The following table lists the preliminary initial specifications in metric tons (mt) for the allowable biological catch (ABC), initial optimum yield (IOY), which comprises DAH (DAP + JVP), and TALFF for Atlantic mackerel, *Illex* and *Loligo* squids, and butterfish. These initial specifications are the amounts that the NMFS Director, Northeast Region (Regional Director), is proposing for the 1988 fishing year beginning January 1. The maximum optimum yield (Max OY) is set by the FMP and provided as a point of reference for the proposed specifications.

TABLE.—PRELIMINARY INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKERAL, SQUID, AND BUTTERFISH FOR THE 1988 FISHING YEAR, JANUARY 1 THROUGH DECEMBER 31, 1988

[In metric tons]

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
Max Oy[a]	44,000	30,000	N/A[b]	16,000
ABC[c]	37,000	22,500	323,000	16,000
IOY	14,024	17,000	106,000	10,048
DAH	14,000	17,000	[d]46,000	10,000
DAP	14,000	10,000	12,000	10,000
JVP	0	[e]7,000	20,000	0
TALFF	24	0	[f]60,000	48

[a] Maximum OYs as stated in the FMP.
[b] Not applicable; see the FMP.
[c] IOY can rise to this amount.
[d] Includes 14,000 mt projected recreational catch.
[e] For every 4 mt taken in joint ventures (JV), foreign partner is required to purchase 1 mt U.S.-processed *Illex*.
[f] For every 9 mt TALFF, foreign partner is required to purchase either 3 mt in a joint venture or 1 mt U.S.-processed product.

The Regional Director has determined that the IOY levels proposed for the 1988 fishing year will provide the greatest overall benefit to the United States. These levels were set to encourage continued growth in both the harvesting and processing sectors of the U.S. fishing industry in accordance with the purposes of the Magnuson Act. They were selected after meetings and discussions with the Council, considering information from industry

groups and foreign national representatives, and review of the performance of U.S. fishermen, processors, projected domestic landings, and joint venture information.

The initial *Loligo* IOY is set at a level which results in a JVP of zero. The Council projects that domestic processors have the capacity and intent to utilize the entire amount which is reasonably expected to be harvested. This is the DAH amount. Both Councils indicated a need for an *Illex* IOY which allows for a DAH amount 7,000 mt above the amount domestic processors have the capacity and intent to utilize. The Regional Director has agreed with this recommendation including the stipulation that JVP partners must purchase one mt of U.S.-processed *Illex* for every four mt of JVP amount received.

Domestic landings of *Loligo* for 1987, excluding joint venture harvest, are expected to be about 10,000 mt. The Council has projected an improvement for the 1988 fishing year, setting the IOY at a level which results in a *Loligo* DAH of 14,000 mt. *Illex* landings for 1987 are expected to reach approximately 6,500 mt. However, given that the proposed 1988 *Illex* JVP is 7,000 mt, the Regional Director has agreed with the New England Council's recommendation that the IOY for *Illex* be set at a level which allows for a DAP of 10,000 mt, thereby setting DAP potential at a level higher than JVP.

As in the previous fishing year, specifications give priority to domestic users. Squid IOYs, as proposed by both the Mid-Atlantic and New England Councils, are set at levels which provide squid TALFFs at bycatch levels only, according to the formula established in the FMP. *Loligo* TALFF is sufficient to provide for the Atlantic mackerel foreign fishery. As in 1987, the Council has recommended an *Illex* IOY which results in an *Illex* TALFF of zero based upon its recommendation that there be no foreign directed fishing for silver and red hake during 1988. Therefore, there is no need for a bycatch TALFF of *Illex*.

The annual specifications for the hakes have not been completed at this time nor have any applications for foreign fishing been received. Until the hake specifications are determined, and allocations for foreign fishing made, the Regional Director proposes to set the *Illex* IOY at a level which results initially in an *Illex* TALFF of zero. If a directed fishery for hakes by foreign nations is allowed during 1988, the appropriate bycatch, as specified in the FMP, will be added to the TALFFs.

The Atlantic mackerel ABC amount has been increased because of the continued rebuilding of the mackerel stocks. The Atlantic mackerel IOY has been set at a level that allows for TALFF and JVP amounts to accommodate the applications for foreign fishing received to date. The Council further recommended that, for this year, the foreign nation be required to purchase either 3 mt of Atlantic mackerel in a joint venture or 1 mt of U.S.-processed product for every 9 mt of TALFF. The Council intends to recommend that the foreign partner make a joint venture purchase and a processed product purchase for fishing year 1989. The 1989 ratio of TALFF to required purchases may be modified to reflect any change in world market and supply conditions.

The Regional Director has adopted the Council's 1988 recommendation for Atlantic mackerel as well as recommendations that foreign fishing applications stipulate that any Atlantic mackerel product taken or purchased will not appear in North American markets and that preference be given to foreign vessels having at least a 30 mt per day processing capacity and refrigerated sea water holding tanks.

In accordance with the provisions of the FMP, a butterfish TALFF of 48 mt is provided for bycatch in other fisheries.

The Councils' recommendations, and all public comments on the annual specifications will be considered in the final decision, which will be published in the **Federal Register.**

Classification

This action is authorized by 50 CFR Part 655 and complies with Executive Order 12291.

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

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: December 8, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 87-28553 Filed 12-8-87; 4:37 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 238
Friday, December 11, 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.

DEPARTMENT OF AGRICULTURE

Forest Service

Soil Quality Monitoring Guidelines

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Forest Service gives notice that it has recently issued guidelines on establishing soil quality standards and monitoring soil quality. The guidelines are for use by Forest Service resource specialists assigned to the National Forest System and are contained in Chapter 2 of the Soil Management Handbook, FSH 2509.18. The guidelines provide definitions for soil productivity, significant changes in the productivity of land, significant impairment, and detrimental soil disturbance. The chapter is available upon request from the address shown below.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain single copies of Chapter 2 of the Soil Management Handbook by writing or calling Gray F. Reynolds, Director, Watershed and Air Management Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (703) 235–8096.

Date: December 4, 1987.

George M. Leonard,

Associate Chief, Forest Service.

[FR Doc. 87–28492 Filed 12–10–87; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Proposed Posting of Stockyards; Hwy 20 Horse Auction, Canton, GA, et al.; Stegall's Livestock and Auction Barn, NC; Correction

On September 29, 1987, a notice was published in the **Federal Register** (52 FR 36448) giving notice of the proposing posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility number assigned to the following market in that publication.

The notice should have read:

NC–159 Stegall's Livestock and Auction Barn, Concord, North Carolina

Done at Washington, DC, this 4th day of December, 1987.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 87–28472 Filed 12–10–87; 8:45 am]

BILLING CODE 3410–KD–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Recommencement of Trading and Proposed Amendments Relating to the Four- to Six-Year Treasury Note Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has submitted a proposal to recommence trading in the Four- to Six-Year Treasury Note futures contract, which now is dormant within the meaning of Commission Regulation 5.2. In addition, the CBT has submitted proposed amendments to this Treasury note futures contract. The amendments would change the eligibility standards for deliverable Treasury notes so that only recently issued five-year notes would be deliverable, allow for futures trading during an evening session, and increase the speculative limits for the contract to 4,400 contracts from 1,000 contracts in the spot month and in all futures combined. The amendments also would increase the daily price limit to three points from two points, change the delivery procedures to conform to those currently in effect for the CBT's actively traded Treasury bond and Treasury note futures contracts, and revise the trading month listing provision to include the first four months in the March quarterly cycle. Finally, the CBT proposes to change the name of the contract to "Medium Term Treasury Notes (5 years)."

In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before January 11, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CBT Medium Term Treasury Note futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7227.

SUPPLEMENTARY INFORMATION: The Chicago Board of Trade Four- to Six-Year Treasury Note futures contract is not currently listed for trading and is dormant under Commission Regulation 5.2. Under Regulation 5.2, an exchange must submit for Commission review and approval, pursuant to section 5a(12) of the Commodity Exchange Act (Act) and CFTC Regulation 1.41(b), an appropriate bylaw, rule, regulation or resolution to recommence trading in a dormant contract. Accordingly, the Exchange has submitted, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b), a proposal to list additional months in the contract.

With regard to the proposal to recommence trading in the contract, the CBT noted that:

> The determination to re-launch the medium term note futures contract is a business decision of the Exchange. [T]he level of issuance of Treasury notes has grown over the past few years. The dealers and investors in these issues would be well served by the availability of a viable and liquid hedging and price discovery vehicle * * *.

The re-launched contract will become a reliable and useful hedging and pricing instrument, with the potential to serve the financial markets as the present bond and long term note futures contracts already do. Almost 65% of the long term open interest and 56% short term interest in CBOT Treasury bond futures at the end of September was held by commercial traders. In Treasury notes 87% and 66% of the long and short open interests, respectively, were held by commercials. The relaunched contract is likely to develop the same high level of commercial hedging interest.

In addition, as noted above, the Exchange has submitted for Commission approval proposed changes to the standards for deliverable bonds, the trading hours, speculative limits, daily price limits, delivery procedures, trading month cycle, and the name of the contract. With respect to the proposal to specify that only recently issued five-year Treasury notes (the four most recent issues) be deliverable, the CBT stated:

The proposed changes will alter the essential nature of the contract by focusing the futures contract on the five year issue. The earlier incarnation of this contract was subject to variable pricing because other issues of longer term maturities were permitted in deliveries. With a wide selection of issues with remaining terms to maturity of four to six years each with its own conversion factor, the contract was susceptible to pricing an otherwise little followed older note or bond. The proposed changes will obviate that problem * * *.

Five year Treasury notes are an important point on the yield curve and exhibit a price and yield behavior distinct from the longer term maturities * * *.

As a hedging vehicle with distinct pricing, five year note futures will be an important hedging tool not only for the large issuances of five year notes but also for old longer maturity Treasury instruments. Likewise, corporate issuance in this maturity range will be easily hedged in the medium term Treasury note futures contract. Additionally, with its generally lower implied duration, medium term Treasury note futures will at times be an attractive hedging tool for dealers and holders of seasoned mortgage-backed securities the effective duration of which collapse rapidly when interest rates fall due to extraordinary prepayment patterns.

The Commission is seeking comment on the CBT's proposal to recommence trading in the contract and with respect to the proposed amendments.

The materials submitted by the Exchange in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC, by the specified date.

Issued in Washington, DC, on December 7, 1987.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87-28520 Filed 12-10-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on January 12–14, 1988.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on January 12–14, 1988 the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Committee meeting, concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 8, 1987.

[FR Doc. 87-28531 Filed 12-10-87; 8:45 am]

BILLING CODE 3810-01-M

Strategic Defense Initiative Advisory Committee Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Subcommittee (Ground Based Free Electron Laser Technology Integration Experiment Technical Advisory Group) will meet in closed session in La Jolla, California, on January 13–14, 1988.

The mission of the Subcommittee is to provide the SDI Advisory Committee an independent analysis and assessment of the plans and approaches for the ground based free electron laser technology integration experiment. At the meeting on January 13–14, 1988 the subcommittee will discuss status of laser research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Subcommittee meeting, concerns matters listed in 5 U.S.C., 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 8, 1987.

[FR Doc. 87-28532 Filed 12-10-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 30, 1987.

The USAF Scientific Advisory Board Electronic Security Command (ESC) Advisory Group will conduct a closed meeting in San Antonio, TX, on January 5–6, 1988 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting will be to update status of RVAN, present and discuss Artificial Intelligence application in EW flagging, initiatives related to SRT, methodology for prioritizing mission and programs.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-28428 Filed 12-10-87; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

December 4, 1987.

The USAF Scientific Advisory Board Electronic Systems Division (ESD) Advisory Group will meet on January 6,

1988, from 8:30 a.m. to 5:00 p.m. and on January 7, 1988, from 8:30 a.m. to 12:00 Noon at the Electronic Systems Division (ESD) Command Management Center, Building 1606, Hanscom Air Force Base, MA.

The purpose of this meeting is to receive briefings on and to advise the Commander, ESD, on federal contract support to ESD acquisition programs, the Air Defense Initiative program and various Command Management Systems programs.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–28429 Filed 12–10–87; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

December 3, 1987.

The USAF Scientific Advisory Board Operational Test and Evaluation Center Advisory Group will meet on January 12, 1988, from 8:00 a.m. to 5:00 p.m. and on January 13, 1988, from 8:00 a.m. to 3:00 p.m. at Headquarters, Air Force Operational Test and Evaluation Center (AFOTEC), Kirtland Air Force Base, New Mexico.

The purpose of this meeting is to receive briefings on and to advise the Commander, AFOTEC, on selected operational test and evaluation programs.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87–28430 Filed 12–10–87; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. PP–86]

Extension of Comment Period; Washington Water Power Co.'s Application for a Presidential Permit

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Extension of comment period on application by Washington Water Power Co. for a permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada.

SUMMARY: On November 9, 1987, the Economic Regulatory Administration (ERA) published a notice in the **Federal Register** (52 FR 43101) announcing receipt of an application by Washington Water Power Co. for a Presidential permit to construct electric transmission facilities at the international border between the United States and Canada. Because of several requests and no objection on the part of the applicant, the period for public comment on this application is being extended to January 9, 1988.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Economic Regulatory Administration (RG–22), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–5935

Lise Courtney M. Howe, Office of General Counsel (GC–41), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2900.

SUPPLEMENTARY INFORMATION: On October 15, 1987, Washington Water Power Co. applied to the ERA, pursuant to Executive Order 10485, for a Presidential permit to construct, connect, operate and maintain electric transmission facilities at the international border between the United States and Canada. Receipt of this application was noticed in the **Federal Register** on November 9, 1987 (52 FR 43101). Since that publication date, ERA has received several request, from interested parties that the comment period be extended.

The original notice announced a 30-day comment period ending on December 9, 1987. The ERA is concerned that the information covering the application did not reach some communities affected by this proposed project in a timely fashion, thereby not giving interested parties ample time to comment on the application. Therefore, the period for comment, protest and intervention on this application is being extended.

Any person desiring to be heard or to protest this application for a Presidential permit should file a petition to intervene or protest with ERA, Room GA–093, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with §§ 385.211 or 385.212 or the Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed on or before January 9, 1988. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application will be made available, upon request, for public inspection and copying at the Department of Energy's Freedom of Information Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Issued in Washington, DC on November 25, 1987.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–28517 Filed 12–10–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER87–656–000 et al.]

Arkansas Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

December 4, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER87–656–000]

Take notice that the filing by Arkansas Power & Light Company in the Docket No. ER87–656–000, previously noticed on November 2, 1987, was withdrawn on October 15, 1987.

Comment date: December 17, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Indianapolis Power & Light Company

[Docket No. ER88–44–000]

Take notice that on November 24, 1987, Indianapolis Power & Light Company (IPL) tendered for filing an

amendment to their filing of an Interconnection Agreement with Wabash Valley Power Association, Inc. (Wabash Valley) dated October 7, 1987 to become effective January 1, 1988. The amended filing was to provide additional support of IPL's filing of October 16, 1987.

Said Agreement provides for the voluntary purchases and sales of wholesale power and energy between the parties under Emergency Service, Energy Transfer, Interchange Power, Short Term Power, Limited Term Power (Firm) and Diversity Power schedules at rates comparable to those set forth in like service schedules IPL has in effect with other electric utilities. The Agreement also provides for a specific Short Term Power purchase by Wabash from IPL.

IPL represents that copies of the filing were mailed to Wabash Valley and to the Indiana Utility Regulatory Commission.

Comment date: December 21, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Public Service Corporation

[Docket No. ER88-122-000]

Take notice that on November 30, 1987, Wisconsin Public Service Corporation (Company) of Green Bay, Wisconsin tendered for filing a Proposed Supplement No. 13 to its service agreement with Wisconsin Public Power Incorporated SYSTEM (WPPI). The Supplement relates to the Company's FERC electric tariff, original volume no. 2 for all requirements service and contain provisions relative to peak shaving. The filing does not change the level of the Company's rates or affect terms and conditions other than those related to peak shaving.

The Company asks that the supplemental agreement be given a January 1, 1988 effective date so that peak shaving may continue on that date pursuant to the parties' agreement. The Company represents that WPPI joins in the request for a January 1, 1988 effective date and also supports the filing which the Company has made. The Company states that it has furnished copies of the filing to WPPI, its other customers who are served under its all requirements tariff and the Wisconsin Public Service Commission.

Comment date: December 21, 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 avaialble for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28533 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF88-88-000, et al.]

Inland Steel Co. et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Inland Steel Company

[Docket No. QF88-88-000]

December 3, 1987.

On November 12, 1987, Inland Steel Company (Applicant) of 30 West Monroe Street, Chicago, Illinois 60603, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The cogeneration facility will be located at Applicant's Indiana Harbor Works in East Chicago, Indiana. The facility will consist of a new 115 MW condensing steam turbine generator which will be driven by the output of three existing boilers. Applicant states that the primary energy source will be by-product blast furnace gas. The facility is expected to begin operation in early 1990.

2. Trans-Pacific Geothermal Corporation

[Docket No. QF86-563-001]

On November 13, 1987, Trans-Pacific Geothermal Corporation (Applicant), of 1330 Broadway, Suite 1525, Oakland, California 94612, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 12.5 MW (Stillwater I) small power production facility will be located in Churchill County, Nevada. The facility will use a binary cycle to generate electric power. The facility will include a 12 mile 60 kV transmission line to deliver power to the Sierra Pacific Power Company. The primary energy source of the facility will be a liquid dominated geothermal resource.

3. Trans-Pacific Geothermal Corporation

[Docket No. QF87-229-001]

On November 13, 1987, Trans-Pacific Geothermal Corporation (Applicant), of 1330 Broadway, Suite 1525, Oakland, California 94612, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 10.0 MW (Stillwater II) small power production facility will be located in Churchill County, Nevada. The facility will use a binary cycle to generate electric power. The facility will include a 12 mile 60 kV transmission line to deliver power to the Sierra Pacific Power Company. The primary energy source of the facility will be a liquid dominated geothermal resource.

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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28534 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

[Docket No. TA88-2-20-00]

December 8, 1987

Take notice that on December 1, 1987, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the tariff sheets listed on Appendix A, attached thereto.

Algonquin states that the referenced tariff sheets are being filed to include in Algonquin's rates the Gas Research Institute ("GRI") surcharge as authorized by Opinion No. 283 in Docket No. RP87-71-000 for GRI funding of $0.0151 per Mcf adjusted to $0.0146 per MMBtu. This authorized GRI surcharge is effectuated by a unit decrease of $0.0001 per MMBtu which modifies the amount of $0.0147 included in Algonquin's present rates. Attached as Appendix B is a schedule showing the derivation of such adjustment contained in Algonquin's proposed rates.

Algonquin made a filing on October 6, 1987 in Docket No. TA87-13-20-001 in which it tracked a proposed decrease in the underlying rates of its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"). While Algonquin's filing was accepted by Commission order dated October 29, 1987, Texas Eastern's September 18, 1987 filing in *Texas Eastern Transmission Corporation*, Docket Nos. TA87-3-17 and TA87-4-14, upon which Algonquin's filing was predicated, is still pending Commission action. It is Algonquin's interpretation of the Commission's October 29, 1987 order in Docket No. TA87-13-20-001 that Algonquin's tariff sheets filed on October 6, 1987 do not become effective unless and until the Commission approves the underlying filing by Texas Eastern. In that regard, Algonquin respectfully requests the Commission to so clarify the October 29, 1987 order. In light of the foregoing and in order to reflect the GRI surcharge on the correct rate sheets, Algonquin is filing both Primary and Alternate tariff sheets with respect to Sheets No. 201 and 205. The primary tariff sheets designated as Twenty-third Revised Sheet No. 201 and Sixteenth Revised Sheet No. 205 supersede the corresponding tariff sheets which were in effect prior to Algonquin's referenced filing in Docket No. TA87-13-20-001. Alternate Twenty-third Revised Sheet No. 201 and Alternate Sixteenth Revised Sheet No. 205 supersede the corresponding tariff sheets filed on October 6, 1987 and incorporate Texas Eastern's proposed rate decrease. Algonquin requests that the Commission accept either the Primary or Alternate tariff sheets, whichever sheets synchronize its rates with the underlying approved rates of Texas Eastern.

The proposed effective date of the tariff sheets as filed is January 1, 1988 as authorized by the Commission's Opinion No. 283.

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 December 15, 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.

Lois Cashell,

Acting Secretary.

Appendix A

Algonquin Gas Transmission Company

List of Traffic Sheets Being Filed Relating to GRI Rate Adjustment:

Twenty-third Revised Sheet No. 201
Twenty-third Revised Sheet No. 203
Sixteenth Revised Sheet No. 204
Sixteenth Revised Sheet No. 205
Second Revised Sheet No. 223
Second Revised Sheet No. 224
Seventh Revised Sheet No. 324
Alternate Twenty-third Revised Sheet No. 201
Alternate Sixteenth Revised Sheet No. 205

Algonquin Gas Transmission Company

Derivation of Authorized GRI Adjustment to Comply With Commission Opinion No. 283 Issued September 29, 1987

Line No. and Description[1]	Amount (2)
1. Authorized Total Funding Per Mcf Opinion No. 283.	$0.0151 per Mcf.
2. Adjusted to MMBtu Basis of Algonquin Gas' Tariff rounded to two significant places, reflecting average heat content for 12 months ending October 31, 1987 (of 1.031 MMBtu/Mcf).	$0.0146 per MMBtu.
3. Less: GRI Adjustment in Present Rates Established January 1, 1987.	0.0147
4. Net Current Adjustment Filed Herein.	($0.0001)

[FR Doc. 87-28535 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-48-000]

ANR Pipeline Co.; Proposed Changes to FERC Gas Tariff

December 8, 1987.

Take notice that on December 1, 1987, ANR Pipeline Company ("ANR") tendered for filing Fifteenth Revised Sheet No. 18 Superseding Substitute Alternate Fourteenth Sheet No. 18 under Original Volume No. 1 of ANR's F.E.R.C. Gas Tariff to be effective January 1, 1988.

Fifteenth Revised Sheet No. 18 of ANR's F.E.R.C. Gas Tariff, Original Volume No. 1, reflects a net decrease of .01¢ per dekatherm in one-part rates and the commodity components of the two-part rates. This decrease is the result of a decrease in the GRI Adjustment to 1.51¢ per dekatherm, as approved by the Commission in its Opinion No. 283, issued at Docket No. RP87-71-000 on September 29, 1987.

ANR is also filing the following tariff sheets under Original Volume No. 1 of its F.E.R.C. Gas Tariff to be effective January 1, 1988:

First Revised Sheet No. 80
First Revised Sheet No. 81
First Revised Sheet No. 82
First Revised Sheet No. 83

These revised tariff sheets contain language changes regarding the elimination of ANR's Incremental Pricing Adjustment as provided by the Commission in its Order No. 478, issued at Docket No. RM87-25-000, on July 27, 1987, to be effective January 1, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or Rule 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 December 15, 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 to the proceeding must

file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28536 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-34-000]

ANR Pipeline Co.; Proposed Changes to FERC Gas Tariff

December 8, 1987.

Take notice that on December 1, 1987, pursuant to section 4 of the Natural Gas Act and Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations thereunder, ANR Pipeline Company ("ANR") tendered for filing with the Commission Fourth Revised Sheet No. 570 of its F.E.R.C. Gas Tariff, Original Volume No. 2, with an effective date of January 1, 1988.

Fourth Revised Sheet No. 570 reflects a net decrease of $59,219 in the monthly charge paid by the High Island Offshore System ("HIOS") to ANR pursuant to Rate Schedule X-64 under Original Volume No. 2 of ANR's F.E.R.C. Gas Tariff. Rate Schedule X-64 is a Service Agreement dated August 4, 1977 between ANR and HIOS. Under the terms of this Service Agreement, which was approved by Commission Order issued July 6, 1978 in Docket No. CP78-134, ANR provides certain gas measurement, dehydration and related services for HIOS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or Rule 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 December 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28537 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR88-1-000]

Cook Inlet Pipe Line; Petition for Declaratory Order

December 8, 1987.

Take notice that on November 23, 1987, Cook Inlet Pipe Line Company (CIPL) tendered for filing a Petition for Declaratory Order and Motion for Summary Disposition.

CIPL states that its intrastate rates are the same as its interstate rates because the services performed, and the circumstances and the conditions under which they are performed, are indentical. However, the Alaskan Public Utilities Commission has recently issued a tariff order which would establish lower rates for intrastate movements and require CIPL to make substantial refunds. CIPL states that is seeks a determination from the Commission that its intrastate rates are lawful and that the rates set by the APUC would result in violations of sections 2 and 3 (1) of them Interstate Commerce Act, 49 U.S.C. 2 and 3 (1). CIPL requests summary disposition on the grounds that there is no question of fact.

Copies of CIPL's filing were served on members of the FERC, Staff, the State of Alaska, and the Alaska Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 29, 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

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28538 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA88-2-33-000]

El Paso Natural Gas Co; Tariff Filing

December 8, 1987.

Take notice that on December 1, 1987, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural GAs Act and in accordance with ordering paragraphs (B) and (C) of the Commission's Opinion No. 283 issued September 29, 1987 at *Gas Research Institute,* Docket No. RP87-71-000 and pursuant to El Paso's June 30, 1987 filing at Docket No. RP85-58-000, *et al.,* the following revised tariff sheets to its FERC Gas Tariff to be effective January 1, 1988:

Tariff Volume	Tariff Sheet
First Revised Volume No. 1	Sixteenth Revised Sheet No 100.
	Fourth Revised Sheet No. 100-A.
Original Volume No. 1-A	Fifth Revised Sheet No. 20.
Third Revised Volume No. 2	Fortieth Revised Sheet No. 1-D.
	Twentieth Revised Sheet No. 1-D.2.
Original Volume No. 2A	Forty-second Revised Sheet No. 1-C.

El Paso states that the tendered revised tariff sheets decrease the Gas Research Institute ("GRI") funding unit adjustment component of El Paso's rates for certain sales and transportation services from the currently effective 1.44 cents per dth (1.52 cents per Mcf) to the 1.43 cents per dth (1.51 cents per Mcf) authorized to be collected by jurisdictional members of the GRI by Opinion No. 283.

El Paso also states that the tendered tariff sheets reflect a change in the base tariff rates, effective January 1, 1988, as a result of the impact of the 1986 Tax Reform Act. El Paso states that the change is required by Article XII, *Tracking of Changes in Federal Taxes,* of the "Stipulation and Agreement in Settlement of Rate Proceedings" approved by letter order dated August 14, 1985, issued in Docket No. RP85-58-000, *et al.*[1] El Paso's filing of June 30, 1987, in Docket No. RP85-58-000, *et al.,* set forth in *inter alia,* the workpapers, explanation and *pro forma* tariff sheets reflecting the impact of the 1986 Tax Reform Act on its rates, effective January 1, 1988.

In said filing, El Paso stated that it would file revised tariff sheets to be effective January 1, 1988 which would include the reduction reflected on the *pro forma* tariff sheets along with any other Commission authorized changes in rate that occurred between June 30, 1987 and the January 1, 1988 effective date. In this connection, the Commission approved by order issued September 29, 1987 at Docket No. RP86-157-000, El Paso's Offer of Settlement resolving the issue of El Paso's net liquid revenue deficiencies. By letter order dated November 12, 1987, issued at Docket No.

[1] 32 FERC Para. 61,323 (1985).

RP86–157–001 by the Director of the Office of Pipeline and Producer Regulation, the Commission accepted effectice July 1, 1987, tariff sheets reflecting El Paso's rates pursuant to such Offer of Settlement. Also, the Commission approved by orders issued on September 30, 1987 at Docket No. TA88–1–33–000 and September 29, 1987 at Docket No. RP87–139–000, El Paso's Purchased Gas Adjustment filing and Annual Charge Adjustment filing, respectively, both effective October 1, 1987.

Accordingly, El Paso has incorporated in the tendered tariff sheets (i) the reduction reflected on the *pro forma* tariff sheets, (ii) the revisions made effective July 1, 1987 and October 1, 1987, and (iii) the GRI Funding Unit. The effect of the Federal income tax tracker at Docket No. RP85–58–000, *et al.*, as set forth in the June 30, 1987 filing which is a decrease of $0.0122 per dth to El Paso's current jurisdictional base rates and the GRI Funding Unit which is a decrease of $.0001 per dth results in a net decrease of $0.0123 per dth in El Paso's jurisdictional rates which were effective as of October 1, 1987.

El Paso requests that the tendered tariff sheets be accepted and permitted to become effective January 1, 1988, as provided for in Opinion No. 283 and El Paso's June 30, 1987 filing.

El Paso states that copies of the filing have been served upon all parties or record in Docket No. RP85–58–000, *et al.*, and otherwise upon all interstate pipeline system customers of El Paso and all interested state regulatory 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 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–28539 Filed 12–10–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–3–5–000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

December 8, 1987.

Take notice that on November 30, 1987 Midwestern Gas Transmission Company (Midwestern) tendered for filing the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1988:

Twenty-Ninth Revised Sheet No. 5
Twenty-Seventh Revised Sheet No. 6
Thirteenth Revised Sheet No. 7
Fourteenth Revised Sheet No. 8
First Revised Sheet No. 20
Fourth Revised Sheet No. 21
Second Revised Sheet No. 23
Third Revised Sheet No. 24
Second Revised Sheet No. 25
Second Revised Sheet No. 26
First Revised Sheet No. 27
Second Revised Sheet No. 30
First Revised Sheet No. 31
Second Revised Sheet No. 86A
First Revised Sheet No. 87
Second Revised Sheet No. 88
Second Revised Sheet No. 90
Second Revised Sheet No. 92
Second Revised Sheet No. 94
Second Revised Sheet No. 95
Second Revised Sheet No. 96
Second Revised Sheet No. 97
Third Revised Sheet No. 98
Second Revised Sheet No. 99
Third Revised Sheet No. 167
Third Revised Sheet No. 169
Second Revised Sheet No. 185
First Revised Sheet No. 186
First Revised Sheet No. 187
Second Revised Sheet No. 188
First Revised Sheet No. 189
First Revised Sheet No. 190
First Revised Sheet No. 191

Midwestern states that the purpose of the filing is: (1) To reflect an increase of 12.15 cents per dekatherm applicable to the gas component of Midwestern's sales rates and an increase of 37 cents per dekatherm applicable to the CD–1 Demand rate: (2) to reflect a new GRI adjustment pursuant to Opinion 283; (3) to delete Rate Schedule SS–1; and (4) to eliminate all Incremental Pricing Provisions.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87–28540 Filed 12–10–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA88–1–25–000]

Mississippi River Transmission Corp.; Rate Change and Proposed Changes in FERC Gas Tariff

December 8, 1987.

Take notice that on December 1, 1987, Mississippi River Transmission Corporation ("MRT") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

	Proposed effective date
Fourth Revised Sheet No. 4B	Jan. 1, 1988.
Seventh Revised Sheet No. 4A	Jan. 1, 1988.
Fourth Revised Sheet No. 41	Jan. 1, 1988.
Eighth Revised Sheet No. 42	Jan. 1, 1988.
Third Revised Sheet No. 46	Jan. 1, 1988.
Fourth Revised Sheet No. 52	Jan. 1, 1988.
Third Revised Sheet No. 59	Jan. 1, 1988.
Second Revised Sheet No. 62	Jan. 1, 1988.

Fourth Revised Sheet No. 4B is being submitted in accordance with section 18 of MRT's tariff to reflect the revised GRI surcharge of $.0151 per Mcf authorized by Opinion No. 283 issued on September 29, 1987 at Docket No. RP87–71.

MRT states that the remaining tariff sheets listed above are being submitted to remove the Incremental Pricing Provisions contained in section 19 of its FERC Gas Tariff, and to eliminate references to incremental pricing utilized in other areas of MRT's tariff. MRT states that such tariff provisions are no longer necessary based on Order No. 478 issued on July 27, 1987 in Docket No. RM87–28–000 which revoked the Commission's Incremental Pricing regulations effective January 1, 1988.

MRT also states that copies of its filing have been served on 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 §§ 385.211 and 385.214 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 December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28541 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-206-030]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

December 7, 1987.

Take notice that on November 27, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern) tendered for filing proposed changes to its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, to be effective as proposed.

Northern states that the purpose of this filing is to implement the terms of its Stipulation and Agreement (Settlement) filed in the above-proceeding. By implementing the terms of its Settlement, and containing its tariff to comply with the settlement provisions, Northern will be able to perform open access transportation under Part 284 of the Commission Regulations, it is stated.

The compliance filing is composed of three major segments: (1) Final settlement sales and transportation rates, (2) changes to implement new services and modifications to existing tariffs as ordered by the Commission, and (3) CD turnbacks/conversions along with a related D-1 rate adjustment.

Copies of the filing were served upon Northern's jurisdictional customers, state regulatory commissions and parties of record to the proceedings in the above docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.; Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before December 14, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28542 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-37-000 and RP88-36-000]

Northwest Pipeline Corp.; Proposed Change in Rates and PGA Provision

December 7, 1987.

Take notice that on November 27, 1987, Northwest Pipeline Corporation (Northwest) filed the following tariff sheets to be a part of its FERC Gas Tariff, First Revised Volume No. 1:

Thirty-Ninth Revised Sheet No. 10
Sixth Revised Sheet No. 125
Eighth Revised Sheet No. 126
Third Revised Sheet No. 126-A
Eighth Revised Sheet No. 127
Sixth Revised Sheet No. 127-A
Seventh Revised Sheet No. 128
Second Revised Sheet No. 128-A

Northwest states that the purpose of the filing is (1) to revise Section 16, Purchased Gas Cost Adjustment Provision, of the General Terms and Conditions of its tariff, and (2) to revise its sales rates, both as necessary to reflect the terms of new gas purchase agreements between Northwest and its Canadian pipeline supplier, Westcoast Transmission Company Limited.

Northwest requests waivers to permit an effective date of November 1, 1987 for all tariff sheets except Sheet No. 10 and an effective date of January 1, 1988 for Sheet No. 10.

A copy of this filing has been served on all jurisdictional sales customers and affected state regulatory Commissions.

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 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 14, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28435 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-33-000]

Pacific Gas Transmission Co.; Change in GRI Adjustment Charge

December 8, 1987.

Take notice that on December 2, 1987, Pacific Gas Transmission Company (PGT) tendered for filing the following sheet to its FERC Gas Tariff:

First Revised Volume No. 1
Fourth Revised Sheet No. 12

An effective date of January 1, 1988, is proposed in accordance with the Commission's Opinion No. 283 in Docket No. RP87-71-000.

PGT states that this filing is made under its filed Gas Research Institute (GRI) Charge Adjustment Provision and pursuant to the Commission's Opinion No. 283 issued September 29, 1987, in Docket No. RP87-71-000. That Opinion authorizes members of the GRI to collect a general R&D funding unit of 1.51 cents per Mcf of Program Funding Services for payment to GRI. PGT further states that the change in rates will affect charges for natural gas service rendered to Pacific Gas and Electric Company under Rate Schedule PL-1 and under Rate Schedule IT-1 to those customers who receive interruptible transportation service pursuant to section 7(c) of the Natural Gas Act.

PGT states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest with reference to 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 Sections 385.211 and 385.214 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 December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28543 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-28-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 8, 1987.

Take notice that on December 1, 1987 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1 and FERC Gas Tariff, Original Volume No. 2, to be effective January 1, 1988:

FERC Gas Tariff, Original Volume No. 1
- Sixty-Second Revised Sheet No. 3-A
- Thirty-Ninth Revised Sheet No. 3-B
- Ninth Revised Sheet No. 3-C
- Eighth Revised Sheet No. 3-D
- Fifth Revised Sheet No. 3-F

FERC Gas Tariff, Original Volume No. 2
- Eighth Revised Sheet No. 2731
- Sixth Revised Sheet No. 2827
- Sixth Revised Sheet No. 2850
- Fifth Revised Sheet No. 2975
- Fifth Revised Sheet No. 2976
- Fifth Revised Sheet No. 2977
- Fourth Revised Sheet No. 3010
- First Revised Sheet No. 3189
- First Revised Sheet No. 3208
- First Revised Sheet No. 3230
- First Revised Sheet No. 3252
- First Revised Sheet No. 3274
- First Revised Sheet No. 3292

Panhandle states that such filing reflects a rate adjustment pursuant to Opinion No. 283 issued September 29, 1987 in Docket No. RP87-71-000. Ordering Paragraph (B) of that Opinion provides that jurisdictional members of Gas Research Institute (GRI), such as Panhandle, may file a general R&D cost adjustment to be effective January 1, 1988. This adjustment will permit the collection of 15.1 mills per Mcf (14.7 mills when adjusted to Panhandle's pressure base and dekatherm commodity sales unit) of Program Funding Services for payment to GRI.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

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 December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28544 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-8-000]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

December 7, 1987.

Take notice that on December 1, 1987, South Georgia Natural Gas Company (South Georgia) tendered for filing Forty-Fifth Revised Sheet No. 4 and Alternate Forty-Fifth Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. These tariff sheets and supporting information are being filed with a proposed effective date of January 1, 1988, pursuant to the Purchased Gas Cost Adjustments provisions set out in Section 14 of South Georgia's tariff.

South Georgia states that both versions of its Forty-Fifth Revised Sheet No. 4 reflect an increase of 17.88¢ in the Current Adjustment and a decrease of 4.42¢ per MMBtu in the Surcharge Adjustment. South Georgia states that its Forty-Fifth Revised Sheet No. 4 reflects the costs and allocation factors applicable if the pending settlement offer in Docket No. RP87-13-000 is approved by the Commission while its Alternate Forty-Fifth Revised Sheet No. 4 reflects the costs from South Georgia's compliance filing in Docket No. RP87-13-000 and the allocation factors from South Georgia's FERC Gas Tariff.

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 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such motions or protests should be filed on or before December 14, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28436 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 8, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 2, 1987 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, tariff sheets as listed on Appendix A of the filing.

Texas Eastern states that Eighty-eighth Revised Sheet No. 14 is being filed pursuant to section 25 of the General Terms and Conditions of it's FERC Gas Tariff, Fourth Revised Volume No. 1, to include in Texas Eastern's rates the GRI Funding Unity of 1.51 cents per Mcf approved by the Commission in Opinion No. 283 issued on September 29, 1987, in Docket No. RP87-71.

The proposed effective date of Eighty-eighth Revised Sheet No. 14 is January 1, 1988, the effective date specified in the Commission's Opinion No. 283.

Texas Eastern states that Eighty-eighth Revised Sheet No. 14 also reflects proposed adjustments to it's PGA that were filed on September 21, 1987 with the Commission in Docket No. TA87-3-17-002. Furthermore, Revised Eighty-sixth Revised Sheet Nos. 14, 14A, 14B, 14C, and 14D and Revised Eighty-seventh Revised Sheet No. 14 are being filed solely to reflect the same adjustments to Texas Eastern's PGA as proposed in the September 21, 1987 filing. In the event the rates underlying Texas Eastern's September 21, 1987 filing are not approved by the Commission or are revised in any way, Texas Eastern will refile the tariff sheets listed in Appendix A to reflect the final determination.

The proposed effective dates of the tariff sheets mentioned above are set forth on Appendix A.

Further, on November 16, 1987 Texas Eastern, in a compliance filing made in Docket No. RP85-177 *et al.*, filed a new Volume No. 1 tariff (Fifth Revised Volume No. 1) requesting an effective date of January 1, 1988. In the event the November 16, 1987 filing is accepted by the Commission to be effective January 1, 1988, Texas Eastern requests the Commission to accept, in lieu of Eighty-

eighth Revised Sheet No. 14 (Fourth Revised Volume No. 1), the following substitute tariff sheet (Fifth Revised Volume No. 1) to be effective January 1, 1988 that reflects the GRI Funding Unit as set forth above.

Substitute Original Sheet No. 50

Copies of the filing were served on Texas Eastern'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. All such motions or protests should be filed on or before December 15, 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.

Lois D. Cashell,

Acting Secretary.

Appendix A

Fourth Revised Volume No. 1

To be effective as of September 15, 1987

Revised Eighty-sixth Revised Sheet No. 14
Revised Eighty-sixth Revised Sheet No. 14A
Revised Eighty-sixth Revised Sheet No. 14B
Revised Eighty-sixth Revised Sheet No. 14C
Revised Eighty-sixth Revised Sheet No. 14D

To be effective as of October 1, 1987

Revised Eighty-eighty Revised Sheet No. 14

To be effective as of January 1, 1988

Eighty-eighth Revised Sheet No. 14

[FR Doc. 87-28454 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-143-009]

Texas Gas Transmission Corp.; Supplemental Filing

December 8, 1987.

Take notice that on December 1, 1987, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 3:

Original Sheet Nos. 50A and 50B
Original Sheet Nos. 98A and 98B
Original Sheet Nos. 120A and 120B
Original Sheet Nos. 185A and 185B
Original Sheet Nos. 249A and 249B
Original Sheet Nos. 319A and 319B
Original Sheet Nos. 399A and 399B
Original Sheet Nos. 458A and 458B
Original Sheet Nos. 477A and 477B
Original Sheet Nos. 528A and 528B
Original Sheet Nos. 598A and 598B
Original Sheet Nos. 663A and 663B
Original Sheet Nos. 749A and 749B
Original Sheet Nos. 779A and 779B
Original Sheet Nos. 832A and 832B
Original Sheet Nos. 860A and 860B
Original Sheet Nos. 881A and 881B
Original Sheet Nos. 902A and 902B
Original Sheet Nos. 922A and 922B
Original Sheet Nos. 981A and 981B
Original Sheet Nos. 1019A and 1019B
Original Sheet Nos. 1055A and 1055B
Original Sheet Nos. 1072A and 1072B
Original Sheet Nos. 1090A and 1090B
Original Sheet Nos. 1110A and 1110B
Original Sheet Nos. 1131A and 1131B
Original Sheet Nos. 1154A and 1154B
Original Sheet Nos. 1169A and 1169B
Original Sheet Nos. 1222A and 1222B
Original Sheet Nos. 1257A and 1257B
Original Sheet Nos. 1308A and 1308B
Original Sheet Nos. 1334A and 1334B
Original Sheet Nos. 1356A and 1356B
Original Sheet Nos. 1371A and 1371B
Original Sheet Nos. 1431A and 1431B
Original Sheet Nos. 1481A and 1481B
Original Sheet Nos. 1547A and 1547B
Original Sheet Nos. 1606A and 1606B
Original Sheet Nos. 1633A and 1633B
Original Sheet Nos. 1687A and 1687B
Original Sheet Nos. 1765A and 1765B
Original Sheet Nos. 1847A and 1847B
Original Sheet Nos. 1863A and 1863B
Original Sheet Nos. 1895A and 1895B
Original Sheet Nos. 1929A and 1929B
Original Sheet Nos. 1954A and 1954B
Original Sheet Nos. 1970A and 1970B
Original Sheet Nos. 2057A and 2057B
Original Sheet Nos. 2081A and 2081B
Original Sheet Nos. 2111A and 2111B
Original Sheet Nos. 2202A and 2202B
Original Sheet Nos. 2244A and 2244B
Original Sheet Nos. 2262A and 2262B
Original Sheet Nos. 2682A and 2682B
Original Sheet Nos. 3066A and 3066B
Original Sheet Nos. 3099A and 3099B
Original Sheet Nos. 3124A and 3124B
Original Sheet Nos. 3148A and 3148B

On July 1, 1987, Texas Gas Transmission Corporation submitted for filing its FERC Gas Tariff, Original Volume No. 3 proposed to be effective July 1, 1987. The July 1 filing was made pursuant to the Order Denying Waiver, 37 FERC Para. 61,166, issued November 26, 1986, by the Federal Energy Regulatory Commission (FERC). This filing was noticed on July 7, 1987, with motions to intervene or protest due on or before July 14, 1987.

The tariff sheets listed above are being filed to make certain technical modifications as requested by the FERC Staff Texas Gas submits that all questions with regard to that filing have been satisfactorily answered and the necessary modifications have been reflected in the instant filing. Texas Gas respectfully requests waiver of the requirements of Part 154 of the Commission's regulations under the Natural Gas Act to the extent necessary to permit all the tariff sheets submitted herewith to be accepted for filing and become effective on October 1, 1987.

Copies of the tariff sheets are being mailed to the customers in this docket. Due to the length of this filing, a copy of the entire filing is not being served with the letter of transmittal and form of notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 15, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28546 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-29-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

December 7, 1987.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on December 1, 1987 tendered for filing to be effective January 1, 1988 certain revised tariff sheets included in Appendix A attached hereto.

Transco states that the purpose of this filing is to reflect a decrease of 0.01¢ per dt in the Gas Research Institute (GRI) Adjustment Charge applicable to sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI and to ultimate consumers.

Transco states that on September 29, 1987, the Commission issued Opinion

No. 283 in Docket No. RP87–71–000. The Opinion provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect in advance of payments to GRI, 1.51¢ per Mcf (which on Transco's system equates to 1.46¢ per dt) on sales and transportation deliveries. This charge will replace the currently effective charge of 1.47¢ per dt. All amounts collected under this provision will be remitted to GRI, less any applicable taxes.

Transco further states that copies of the filing have been mailed to each of its customers and 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 and 385.214). All such motions or protests should be filed on or before December 14, 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.

Lois D. Cashell,

Acting Secretary.

Transcontinental Gas Pipe Line Corporation

Appendix A.—Revised Tariff Sheets

Second Revised Volume No. 1

Fiftieth Revised Sheet No. 12
Forty-Sixth Revised Sheet No. 15
Fourth Revised Sheet No. 19
Fourth Revised Sheet No. 20
Fourth Revised Sheet No. 21
Second Revised Sheet No. 22
First Revised Sheet No. 23
First Revised Sheet No. 24

Original Volume No. 2

Seventh Revised Sheet No. 41–A
Third Revised Sheet No. 112–A
Seventh Revised Sheet No. 310–A
Seventh Revised Sheet No. 404–A
Thirteenth Revised Sheet No. 617–A
Seventh Revised Sheet No. 743–A
Tenth Revised Sheet No. 910–A
Thirteenth Revised Sheet No. 1018–A
Seventh Revised Sheet No. 2063–A
Sixth Revised Sheet No. 2118–A
Thirteenth Revised Sheet No. 2169–A
Tenth Revised Sheet No. 2541–A
Fourth Revised Sheet No. 2662–A
Fourth Revised Sheet No. 2694–A
Fourth Revised Sheet No. 2730–A
Fourth Revised Sheet No. 2743–A
Fourth Revised Sheet No. 2784–A

[FR Doc. 87–28437 Filed 12–10–87; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP88–35–000]

Transwestern Pipeline Co.; Filing

December 7, 1987.

Take notice that on December 1, 1987, Transwestern Pipeline Company, (Transwestern), tendered for filing to become a part of Transwestern's F.E.R.C. Gas Tariff, Second Revised Volume No. 1 the following tariff sheets:

2nd Revised Sheet No. 7
2nd Revised Sheet No. 8
1st Revised Sheet No. 9
Original Sheet No. 9A
1st Revised Sheet No. 13
2nd Revised Sheet No. 14
1st Revised Sheet No. 15
1st Revised Sheet No. 16
1st Revised Sheet No. 19
1st Revised Sheet No. 20A
1st Revised Sheet No. 22
3rd Revised Sheet No. 48
Original Sheet No. 83
Original Sheet No. 84
Original Sheet No. 85
Original Sheet No. 86
Original Sheet No. 87
4th Revised Sheet No. 88–104

Transwestern filed the above tariff sheets seeking authority to establish a Gas Supply Inventory Charge (GIC) to become a permanent part of its tariff (GIC Filing). Transwestern states that its GIC Filing fulfills the requirements of each of the principles outlined for such a charge in Order No. 500.

Transwestern states that it will allow its customers to freely nominate their desired level of Contract Demand Quantity (CDQ) under Rate Schedule CDQ–1 and CDQ–3 up to the level of their presently certificated level of CDQ. Transwestern will provide a schedule of gas purchase costs prior to customer's annual nominations which will depict gas prices at various purchase levels to which Transwestern will commit to be in effect during the period its customers' nominations are to be in effect. To the extent the customers' aggregate existing firm sales entitlements exceed 367,500 dth per day, the customers will be given the additional option of submitting revised nominations based upon a revised schedule of gas costs to be incurred for the upcoming quarter for volumes in excess of 367,500 dth per day. Any time a customer reduces its nominated level of CDQ, the difference between the previous nomination and the reduced nomination shall be abandoned. The GIC will be applicable to daily volumes nominated by not purchased and will be the only means Transwestern will employ to collect take-or-pay costs attributable to the period during which the GIC is in effect. Transwestern states that costs incurred to buyout or buydown existing contracts to make them more market responsive will be included in a later filing. The GIC rates also will be provided to Transwestern's customers prior to any permitted nominations, thereby enabling them to know both the costs associated with the service to be nominated as well as the cost consequences of purchasing gas at levels below their currently effective nominated levels of CDQ.

Transwestern states that small volume customers served under Rate Schedules SG–1, SG–2 and RW–1 shall be charged rates based upon a gas cost component equal to the gas cost component which would underlie Transwestern's CDQ commodity rates in the event that all CDQ customers purchased an aggregate quantity equivalent to such CDQ customers' aggregate nomination level.

Transwestern proposes to suspend its PGA during the period the GIC is in effect. Within sixty days following July 1, 1988, the effective date of initial nominations under the GIC proposal, Transwestern will bill or refund each CDQ customer's proportionate share of any amounts accumulated in its Unrecovered Purchased Gas Account (FERC Account No. 191) as of June 30, 1988. Similarly, Transwestern will bill or refund at six month intervals amounts which accumulate in FERC Account No. 191 subsequent to the effective date of the GIC which reflect gas costs for any period prior to such date.

Transwestern requests a January 1, 1988 effective date for the above tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice & Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 14, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28445 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC88-6-000]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets Including Request for Adjustment Under the Natural Gas Policy Act

December 7, 1987.

Take noitice that on December 1, 1987, United Gas Pipe Line Company ("United") tendered for filing, pursuant to section 4 of the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff Revised Volume No. 1 with a proposed effective date of April 1, 1988:

Second Revised Sheet No. 48-C2
Original Sheet No. 48-C2.1
Original Sheet No. 48-C2.2
Second Revised Sheet No. 48-C3
Eighth Revised Sheet No. 71
Thirteenth Revised Sheet No. 72
Tenth Revised Sheet No. 72-A
Third Revised Sheet No. 72-B
Original Sheet No. 72-C
Original Sheet No. 72-D
Original Sheet No. 72-E
Original Sheet No. 72-F
Original Sheet No. 72-G

United states that these tariff sheets, consisting of complete revision to section 12 of its General Terms and Conditions, together with minor conforming revisions to its FTS Rate Schedule, are intended to implement the balance of the plan for management of system services undertaken in part by the capacity allocation provision of United's open access plan, accepted by the Commission in its order issued October 29, 1987, in Docket No. RP86-8 effective November 1, 1987. United further states that the instant proposed tariff filing accomplishes this result by extending to all of its customers the same nomination, scheduling, and allocation procedures as currently apply to transportation services in United's existing Rate Schedules ITS and FTS. These procedures contemplate nominations of daily service by all interruptible customers and annual nominations for monthly service by all firm customers. The proposed plan further provides for the nondiscriminatory pro rata allocation of capacity as between sales and transportation services and parallel mechanisms for the interruption or curtailment of service to each class in the event of system constraints.

United further states that the proposed tariff carries forward several features of its existing tariff with regard to firm sales customers, including a small customer exemption from curtailment and emergency relief procedures respecting high priority end-uses attributable to customers dependent upon United for sales service. United finally indicates that it is seeking, to the extent necessary under the criteria of Opinion No. 150, an adjustment pursuant to section 502(c) of the Natural Gas Policy Act from the literal requirements of Order No. 29.

Section 154.22 of the Commission's regulations provides that proposed tariff changes must be filed not less than thirty days nor more than sixty days prior to the proposed effective date. Section 154.51 provides that, upon request and for good cause shown, tariff changes may be accepted for filing prior to sixty days before the proposed effective date. As indicated, United has proposed that the new tariff sheets become effective April 1, 1988. Because of the nature of the tariff changes proposed and to allow a reasonable time for their review, United has agreed to a period of sixty days from December 1, 1987 for Commission action on its filing.

United has proposed that it be authorized to obtain the service nominations contemplated under the proposed tariff changes by February 15, 1987. A decision on this aspect of the overall proposal will be made in the order on the tariff filing.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before December 21, 1987, file with the 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). 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 the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28438 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-49-000]

Williston Basin Interstate Pipeline Co.; Gas Research Institute Funded Unit Adjustment Filing

December 8, 1987.

Williston Basin Interstate Pipeline Company (Williston Basin), on November 30, 1987, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

Seventh Revised Sheet No. 10

Original Volume No. 1-A

Fourth Revised Sheet No. 11
Sixth Revised Sheet No. 12

Original Volume No. 2

Eleventh Revised Sheet No. 11
Third Revised Sheet No. 11B

The proposed effective date of the tariff sheets is January 1, 1988.

Williston Basin states that the filing reflects the new Gas Research Institute funding unit of 1.51 cents per Mcf (1.433 cents per Dkt on the Williston Basin system), authorized by the Commission in its Opinion No. 283 issued in Docket No. RP87-71-000.

Any person desiring to be heard or to protest said tariff application 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 the Commission's Rules 211 and 214. All such motions of protests should be filed on or before December 15, 1987. Protests will be considered by the Commission 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 the proceeding or to participate as a party in any hearing therein must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28547 Filed 12-10-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3301-3]

Proposed Administrative Penalty Assessment and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g) (4) (a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR Part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is twenty days after issuance of public notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Canyon Lake Marina, 16 Miles N.E., Highway 88, Apache Junction, Arizona 85220; EPA Docket No. IX–FY88–14; filed on December 3, 1987, with Regional Hearing Clerk, U.S. EPA, Region 9, 215 Fremont St., San Francisco, California 94105, (415) 974–8036; proposed penalty, $125,000, for five years of non-submittal of daily monitoring reports (DMRs), and violation of schedule in permit at Canyon Lake Marina, NPDES No. AZ0021440, issued March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. Unless otherwise noted, the administrative record for each of the proceedings is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to January 4, 1988

Dated: December 4, 1987.

Harry Seraydarian,

Director, Water Management Division.

[FR Doc. 87–28512 Filed 12–10–87; 8:45 am]

BILLING CODE 6560–50

[ER–FRL–3300 9]

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 November 30, 1987 through December 4, 1987 Pursuant to 40 CFR 1506.9.

EIS No. 870433, Draft, FRC, ID, Twin Falls (FERC No. 18), Milner (FERC No. 2899), Auger Falls (FERC No. 4797) and Star Falls (FERC No. 5797) Hydroelectric Projects on the mainstream of the Snake River, Construction, Operation and Maintenance Licenses, Upper Snake River Basin, Twin Falls and Jerome Counties, Due: January 25, 1988, Contact: Lee Emery (202) 376–1955.

EIS No. 870434, DSuppl, UMT, CA, Los Angeles Metro Rail Rapid Transit Project, Wilshire/Fairfax Methane Gas Zone Alternate Alignment Alternatives, Los Angeles County, Due: January 25, 1988, Contact: Carmen Clark (415) 974–7317.

Amended Notices

EIS No. 870358, Draft, FAA, CA, Burbank-Glendale-Pasadena Airport, Replacement Passenger Terminal Construction, Approval, Los Angeles County, Due: January 15, 1988, Published FR 10–16–87—Review period extended.

EIS No. 870400, Final, BLM, WY, Elko Resource Area, WSA's Recommendations, Designation or Nondesignation, Due: February 3, 1988, Published FR 11–13–87—Review period extended.

EIS No. 870401, Draft, BLM, CA, NV, California Section 202 WSA's Recommendations, Wilderness Designation or Nondesignation, Due: February 15, 1988, Published FR 11–13–87—Review period extended.

EIS No. 870403, Final, BLM, NV, Shoshone-Eureka Area, Wilderness Recommendations, Designation or Nondesignation, Due: February 3, 1988, Published FR 11–13–87—Review period extended.

EIS No. 870414, Draft, AFS, BLM, MO, Mark Twain National Forest, Hardrock Mineral Leasing, Approval and Issuance of Leases, Due: January 8, 1988, Published FR 11–20–87—Review period extended.

EIS No. 870417, DSuppl, NAS, PRO, Galileo Mission Project, Jovian System Investigation Program and Ulysses Mission Project, Heliosphere Exploration Program, Spacecraft Modifications, Due: January 18, 1988, Published FR 11–20–87—Review period reestablished.

EIS No. 870423, Draft, COE, ND, Souris Basin Flood Control Project, Storage of Floodwater in Saskatchwan Canada and Construction of Compatible Lake Darling Project Features, Due: January 18, 1988, Published FR 11–27–87—Review period reestablished.

Dated: December 8, 1987.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87–28503 Filed 12–10–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3301–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 23, 1987 through November 27, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13479).

Draft EISs

ERP No. D–BLM–L03004–AK, Rating EC2, Trans-Alaska Gas System (JAGS) and Associated Facilities Construction, Prudhoe Bay to Anderson Bay, Right-of-Way, Section 10 and 404 Permits, Special Use Permits, AK.

Summary: EPA has concerns regarding potential adverse air quality effects from the LNG plant and terminal in the Valdez area. EPA requested additional information on water quality effects, air quality effects, and mitigation planning for primary effects.

ERP No. D–FHW–D40227–PA, Rating EC1, Mount Union Borough Traffic Relief Study, Traffic Route 522/ Legislative Route 121, Section 001

Improvement, Juniata Drive to TR–522 and US 22, Funding, Huntingdon County, PA.

Summary: The document clearly describes the project and its impacts. The mitigation measures for surface water impacts, however, must be specified in greater detail in the final EIS. EPA also requested clarification of the type of wildlife in the project area.

ERP No. D–FRC–L05046–WA, Rating LO, Rock Island Hydroelectric Project No. 943, Operating License Renewal, Columbia River, Chelan County, WA.

Summary: EPA has no objections to the preferred alternative identified and supports its adoption along with the fishing and wildlife mitigation measures as recommended in the draft EIS.

ERP No. D–SCS–F36153–IN, Rating EO3, Muddy Fork of Silver Creek Watershed, Flood Prevention and Watershed Protection, Funding, 404 Permit, Clark, Floyd and Washington Counties, IN.

Summary: EPA has reviewed the draft EIS and has environmental objections with the project as proposed. Further, EPA finds it to be inadequate in evaluating potential impacts to water quality, wetlands and the biological characteristics of the project area. Discussion of project alternatives is also incomplete. EPA has requested that the document be revised and submitted for review.

Final EISs

ERP No. F–AFS–J65136–00, Bitterroot National Forest, Land and Resource Management Plan, Implementation, Missoula and Ravall Counties, MT and Idaho County, ID.

Summary: The final EIS improves on the commitment to mitigate potential water quality impacts. However, EPA still has concerns that the extent and frequency of environmental monitoring may be insufficient to detect and remedy adverse impacts on a timely basis. More specifics are needed in the variability limits coupled with a stronger commitment to initiate corrective actions. EPA would like to evaluate the application of this monitoring program on a project specific basis.

ERP No. F1–BLM–K65062–NV, Egan Resource Area, Wilderness Study Areas, Wilderness Recommendations, Designation, White Pine, Nye and Lincoln Counties, NV.

Summary: EPA expressed support for BLM's decision to recommend wilderness designation of three wilderness study areas. EPA asked that BLM's statewide Nevada wilderness decision document state that air and water quality are best protected in areas designated as wilderness.

ERP No. F1–BLM–K65102–NV, Elko Resource Area, WSA's Recommendations, Designation or Nondesignation, Cedar Ridge, Red Spring, Little Humboldt River and Rough Hills WSAs, Elko, Lander, and Eureka Counties, NV.

Summary: EPA expressed support for BLM's decision to recommend wilderness status for two wilderness study areas.

ERP No. F–BLM–K70002–CA, Arcata Resource Area Wilderness Recommendations, Eden Valley and Thatcher Ridge Wilderness Study Areas, Wilderness or Non-Wilderness Designation, Mendocino County, CA.

Summary: EPA expressed concern that activities allowed under the proposed action (No Wilderness Designation) such as timber harvesting, ORV use and road building not degrade the waters of the Eel Wild and Scenic River. Federal regulations prohibit any degradation of water quality for Outstanding National Resource Waters including wild and scenic rivers. EPA expressed support for the adoption of additional measures to mitigate adverse impacts to water quality, riparian areas, and anadromous fisheries from continuing multiple use activities.

ERP No. F–COE–D28011–VA, James City County Dam and Water Supply Reservoir Development, Construction, 404 Permit, Ware Creek, James City County, VA.

Summary: EPA continues to find the proposed Ware Creek project environmentally unacceptable due to potential degradation of surface waters and the loss of functional and valuable wetland systems. Further, EPA is concerned about the cumulative impacts of the proposal on the Chesapeake Bay as well as the lack of discussion of alternative technologies for water supply provided in the final EIS. Based on these conclusions, EPA would seriously consider veto action under 404(c) of the Clean Water Act (CWA) if the Corps decides to approve the placement of fill for project construction. EPA will work with the Corps and project proponents to investigate means to provide a regional rather than local solution to water supply needs.

ERP No. FS–COE–E61064–GA, Lake Alma Project, Reservoir Construction and Development, Outdoor Recreation Opportunities, 404 Permit, Bacon County, GA.

Summary: EPA reaffirms its draft supplemental EIS position that this project with proposed mitigation is environmentally unsatisfactory since it would result in the destruction of approximately 1370 acres of valuable blackwater creek forested wetlands. The proposed greentree reservoir mitigation was considered in reaching this conclusion, but, since it only compensates for 13 percent of the wetland habitat unit losses, was determined to be inadequate. In the event COE pursues this unsatisfactory alternative in the ROD, EPA will seriously consider action under section 404(c) of the CWA to preclude the disposal of fill for project construction.

ERP No. F–COE–J28013–WY, Deer Creek Dam and Reservoir Municipal Water Supply Project, Construction, 404 Permit and Right-of-Way Grant, North Platte River, Natrona and Converse Counties, WY.

Summary: EPA requested the COE provide the public with supplemental information which documents the COE's preferred alternative and details regarding mitigation plans.

ERP No. F–FAA–E51041–TN, Nashville Metropolitan Airport Runway Improvements, Site Grading and Construction, Approval and Funding, Davidson County, TN.

Summary: EPA continues to have serious concerns about the lack of commitment in the final EIS regarding mitigation to reduce noise impacts of the project. In addition, EPA noted that CO air quality analyses for the parking lots and terminal areas were lacking and believes that CO modeling should be included in the EIS rather than in a Part 150 study. (Note—the above summary should have appeared in the 12–4–87 FR Notice.)

ERP No. F–FHW–E40698–NC, Silas Creek Parkway Completion, Silas Creek Parkway to North Point Boulevard, Funding, 404 Permit, Winston-Salem, Forsyth County, NC.

Summary: EPA finds the document adequately responded to issues raised with the draft EIS and that the additional information requested was provided.

ERP No. F–SFW–L61166–AK, Koyukuk and the Northern Unit of Innoko National Wildlife Refuges, Comprehensive Conservation Plan, Wilderness Review and Wild River Plan, Implementation, Galena, McGrath, AK.

Summary: The document identifies monitoring activities as necessary to ensure that selection of the preferred alternative does not result in adverse impacts. EPA's concern is that such activities may not occur without the additional funding that has also been identified as necessary. EPA has suggested that implementation of activities which require monitoring be delayed until funding can also be

assured, and recommended that the ROD include a statement to this effect.

ERP No. F-UMC-E11019-NC, Cherry 1 Military Operating Area (MOA), Craven, Beaufort, Hyde, Pamlico and Washington Counties, and Core MOA, North Carolina Outer Banks/Cape Lookout National Seashore, Establishment, NC.

Summary: EPA expressed concern about the air use issue and noise impacts. These impacts are expected to increase due to a disproportionate growth rate that is occurring along the coast. EPA recognizes the need for realistic training, but suggests that a close look at any changes such as flying higher during training flight be evaluated. EPA further suggested that the document be supplemented with an evaluation of the cumulative impacts of noise and air use restrictions within the Cherry Point local flying area. (Note—the above summary should have appeared in the 12-4-87 FR Notice.)

ERP No. F-UMT-D54033-MD, Baltimore Northeast Corridor Extension Transit Improvements, Funding, Baltimore County, MD.

Summary: Although EPA comments and UMTA responses were omitted from the final EIS, discussions between the agencies have resolved all of the concerns expressed in the draft EIS. Therefore, EPA has no objection to the implementation of this project.

Dated: December 8, 1987.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87-28504 Filed 12-10-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3301-7]

Extension of the Time Requirements in the 404(c) Regulations for Region II EPA's Decision To Withdraw the Proposed Determination or Prepare a Recommended Determination Concerning the Russo Site; Hackensack Meadowlands, Carlstadt, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 404(c) of the Clean Water Act (33 U.S.C. 1251 *et seq.*) authorizes the Environmental Protection Agency (EPA) to prohibit or restrict the discharge of dredged or fill material at defined sites in waters of the United States (including wetlands) if EPA determines, after notice and opportunity for hearing, that use of the site for discharge or dredged or fill material would have an unacceptable adverse effect on various resources, including wildlife. EPA's Regional Administrator, Region II, has reason to believe that the unauthorized discharge of fill and the proposed discharge of fill into wetlands by the Russo Development Corporation—71 Hudson Street, Hackensack, New Jersey—within the Hackensack Meadowlands in Carlstadt, New Jersey for the purpose of building warehouses may have unacceptable adverse effects on wildlife.

EPA's regulations implementing section 404(c), 40 CFR Part 231, establish procedures to be followed in exercising the Administrator's authority to prohibit or restrict the use of an area as a disposal site. The three major steps in the process are: (1) The Regional Administrator's proposed decision to prohibit or restrict the use of a site; (2) the Regional Administrator's withdrawal of the proposed determination or preparation of a recommended determination to the Administrator to prohibit or restrict use of the site; (3) the Administrator's final decision to affirm, modify, or rescind the regional recommendation. The Regional Administrator issued a public notice (August 7, 1987 **Federal Register**) and his designee conducted a public hearing (November 5, 1987) on his proposed determination to prohibit or restrict the discharge of fill into the Russo wetlands. The Regional Administrator is now in the process of either withdrawing his proposed determination or preparing a recommended determination to submit to EPA's Administrator. 40 CFR 231.5 directs the Regional Administrator to complete this process within 30 days of the close of the public hearing. This would occur on December 5, 1987. Pursuant to 40 CFR 231.8, the Administrator or the Regional Administrator may, upon showing of good cause, extend the time requirements of these regulations. Accordingly, this notice announces the Regional Administrator's decision to extend, for 45 days, the completion of this process.

DATES: The 45 day extension would close the time frame referenced in 40 CFR 231.5 on January 19, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Mario Del Vicario, Chief, Marine and Wetlands Protection Branch, U.S. Environmental Protection Agency Region II, 26 Federal Plaza, New York, NY 10278, (212) 264-5170.

SUPPLEMENTARY INFORMATION: As mentioned above, EPA held a public hearing on November 5, 1987. The section 404(c) regulations direct, in 40 CFR 231.4, the Regional Administrator to consider all public comment in his decision to withdraw his proposed determination or prepare a recommended determination. EPA received the verbatim transcript of the hearing on December 1, 1987. The three working days between the 1st and 5th of December do not afford adequate time to fully review public comment to the proposed determination and complete the documentation supporting the Regional Administrator's decision. In addition, following a November 6, 1987 request EPA received a copy of the Corps of Engineers Administrative Record on November 20, 1987. Adequate review of this voluminous record and completion of the documentation supporting the Regional Administrator's decision is not afforded within the 30-day time frame stated. The Regional Administrator concludes that these events represent good cause to extend the time requirements of the section 404(c) regulations.

Christopher J. Daggett,

Regional Administrator.

December 4, 1987.

[FR Doc. 87-28557 Filed 12-10-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. CL-88-39]

Common Carrier Public Mobile Services Information; Dates and Filing Requirements Announced for Acceptance of Applications for Frequency Block B In Cumberland, MD-WV (Mkt. #269) and Hagerstown, MD (Mkt. #257) Cellular Markets

December 8, 1987.

From Monday, January 11, 1988 through Friday, January 15, 1988, applications for frequency block B in the Cumberland, Maryland-West Virginia and Hagerstown, Maryland cellular markets will be accepted for filing. Since no eligible applicant filed for these markets during the initial filing window, BLOCK B ELIGIBILITY STANDARDS DO NOT APPLY TO THIS FILING and frequency block A or B eligibles may file under this notice.

All applications for these markets will be filed in Pittsburgh, Pennsylvania. Applications sent via U.S. Postal Service must be addressed as follows: Federal Communications Commission, Cellular Telephone—Market No. (ENTER MARKET NUMBER), P.O. Box 371995M, Pittsburgh, PA 15250-7995.

Applications shipped via common carrier or hand carried must be brought to the following address between the

hours of 8:30 a.m. and 5:00 p.m.: Federal Communications Commission, Cellular Telephone Filing, Strip Commerce Center, 28th and Liberty Avenue, Pittsburgh, PA 15222.

Directions to the Strip Commerce Center filing location appear on page 4 of this notice.

Format of Applications

Applications must consist of: (1) A completed transmittal sheet, a copy of which is attached hereto (see also page 4); (2) a $200 fee; and (3) a sealed 5" x 7" envelope containing two microfiche copies of the application.

The two microfiche copies of each application shall be prepared in accordance with § 22.913(c) of the Commission's rules.

- Each fiche must be labeled at the top with the Applicant's Name, Market Number, Market Name, and Frequency Block.
- One microfiche jacket must be labeled "Original" and the other jacket must be labeled "Copy".
- The fiche must be black & white (the purple or blue fiche are unacceptable as they do not produce readable paper copies), and the "original" microfiche copy must be archival quality.
- The information required by § 22.913(b)(2) must be placed on the 5" x 7" microfiche envelope. The 5" x 7" microfiche envelope, therefore, must be clearly labeled with the Applicant's Name, Market Number, Market Name, and Frequency Block.
- The information on the microfiche envelope must match the information on the transmittal sheet.
- The completed transmittal sheet, the $200 fee and the microfiche envelope must be placed in a 9" x 12" envelope. The market number of the market being applied for must be placed in the lower left hand corner of all envelopes delivered to the Strip Commerce Center facility.

The certification required under § 22.913(b)(13) is included on the transmittal sheet and will no longer be the first page in the application itself. The applicant chosen in each market will be required to submit its original application at the time indicated in the public notice announcing the winning applicant in each mar[illegible]et.

Receipt copies

Applicants wishing stamped receipts must provide an additional copy of the transmittal sheet for each application submitted.

- Such applications that are mailed or shipped via common carrier must contain a self-addressed business-sized (approximately 4.5" x 9.5") stamped envelope along with the extra copy of the transmittal sheet. Both the extra copy and the envelope must be attached to the application inside the 9" x 12" outer envelope.
- Applications that are hand delivered must not include the receipt copy of the transmittal sheet inside the outer envelope. The receipt copy shall be presented to the acceptance clerk with the 9" x 12" envelope containing the application and will be stamped at that time.

Points To Remember

1. Each application, with associated material (transmittal sheet, check or money order, and 5" x 7" microfinche envelope) must be separately packaged in a 9" x 12" outer envelope.
2. A separate $200 fee must be submitted with each application.
3. A separate completed transmittal sheet is required with each application.
4. The label on the microfinche envelope must agree with the information on the transmittal sheet and the information on the top of each fiche.
5. The transmittal sheet must be signed in ink (preferably not black ink).
6. No extraneous material (such as transmittal letters) should be submitted; it will only serve to impede the processing of the application.
7. The market name and market number must match.
8. A single check or money order in the amount of $200 (made payable to the Federal Communications Commission) must be included. Cash is strongly discouraged.
9. For applications sent via the U.S. Postal Service, the market number of the market being applied for must appear at the end of the second line in the address.
10. For applications delivered by any means other than the U.S. Postal Service, the market number must appear in the lower left hand corner of the 9" x 12" outer envelope.
11. The 9" x 12" outer envelope may be placed inside a shipping envelope when applications are shipped by couriers which use special shipping envelopes.
12. DO NOT submit FAA Form 7640–1 to the Federal Aviation Administration at the time of filing this application. *See Public Notice* (Report No. CL–88–33, Mimeo No. 726, released November 27, 1987).

Directions To Strip Commerce Center

From Greater Pittsburgh International Airport and Interstate 79:

Proceed east on Parkway (Interstate 279) towards downtown Pittsburgh.

Go through the Fort Pitt tunnels and across the Fort Pitt bridge to Liberty Avenue.

Take Liberty Avenue to 28th Street (28 blocks).

Turn right on 28th Street and follow FCC signs to parking lot.

Enter building at designated area and follow signs.

From Pennsylvania Turnpike:

Take Exit 6 (Monroeville) to Parkway (Interstate 376). Go west on Parkway to the Grant Street Exit (Exit 3).

Proceed on Grant Street to Liberty Avenue (Approximately 6–7 blocks).

Bear right on to Liberty Avenue.

Take Liberty Avenue to 28th Street.

Turn right on 28th Street and follow FCC signs to parking lot.

Enter building at designated area and follow signs.

Transmittal Sheet

Attached is a copy of the transmittal sheet which must be filed with each cellular application. You may make copies of the attached form for your use. Only a limited number of transmittal sheets will be available to the public through the forms room located at 1919 M Street, NW. in room B–10.

Notice

A copy of this Public Notice (excluding the transmittal sheet) will be placed in the **Federal Register.**

Federal Communications Commission.

Kevin J. Kelly,

Chief, Mobile Services.

[FR Doc. 87–28488 Filed 12–10–87; 8:45 am]

BILLING CODE 6712–01–M

Technical and Allocations Subgroups of Radio Advisory Committee; Meeting

At their separate meetings on December 2, 1987, the Technical and Allocations Subgroups of the Radio Advisory Committee on Radio Broadcasting decided to continue those meetings in a joint session, which will be convened at 10 a.m., Wednesday, December 16, 1987 at the Wasilewski Room of the National Association of Broadcasters, 1771 N Street, NW., Washington, DC.

At their joint session, the Subgroups will continue their consideration of:

—Improvement of the AM radio broadcast service, including, in

particular, proposed methodology for the conduct of a listener study; and
—Other business.

The Subgroups' meetings are continuing ones, and may be resumed after each session at such times and places as may be decided by the participants. All meetings of the Radio Advisory Committee and its Subgroups are open to the public. All interested persons are invited to participate.

For further information, please call Wallace Johnson, Chairman of the Technical Subgroup, at (703) 824–5660, or Louis Stephens, Chairman of the Allocations Subgroup, at (202) 254–3394.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–28489 Filed 12–10–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–533]

Applications for Consolidated Hearing; Darryl Madlock and Mountlake Productions, Ltd.

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, City/State	File No.	MM Docket No.
A. Darryl Madlock, Ely, Nevada.	BPCT–861223KK	87–533
B. Frederick Grimm d/b/a Mountlake Productions, Ltd., Ely, Nevada.	BPCT–8703313K	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading, Applicant(s)

1. Environmental Impact, A, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW, Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 87–28490 Filed 12–10–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–531; FCC 87–366]

Order to Show Cause, Hearing Designation Order, and Notice of Apparent Liability, Seraphim Corp.

AGENCY: Federal Communications Commission.

ACTION: Order to show cause, hearing designation order, and notice of apparent liability.

SUMMARY: The action taken orders Seraphim Corporation, licensee of Station KGMC(TV), Oklahoma City, OK, to show cause why its license for the subject station should not be revoked pursuant to section 312(a) of the Communications Act of 1934, as amended, for apparent violations of section 310(d) of the Communications Act, § 73.3613 of the Commission's Rules, misrepresentations to the Commission, and for lack of character qualifications to remain a Commission licensee. Additionally, pursuant to section 309(e) of the Communications Act, an application for a transfer of control with respect to the subject station from Beverly Hills Hotel Corporation to Seema Boesky was designated for hearing. Finally, a Notice of Apparent Liability was issued to determine whether, in lieu of license revocation, a monetary forfeiture should be imposed against the licensee with reference to the subject conduct.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gary P. Schonman, Mass Media Bureau, (202) 632–3922.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–28487 Filed 12–10–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010776–023.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.
Barber Blue Sea
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Lines
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
Yamashita-Shinnihon Steamship Co., Ltd.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would prohibit secret ballots at any meeting for tariff rates or rules or rates and/or terms for service contracts.

By Order of the Federal Maritime Commission.

Joseph C. Polking

Secretary.

Dated: December 8, 1987.

[FR Doc. 87–28521 Filed 12–10–87; 8:45 am]

BILLING CODE 6730-01-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 November 27, 1987.

Social Security Administration

Call Reports Clearance Officer on 301–965–4149 for copies of package)

1. SSA/Disability Determination Services (DDS) Cost-Effectiveness Measurement System Data Reporting Form—0960–0384—The information collected by use of form SSA–1461 is needed to assure effective and uniform administration of the disability insurance program, to assist in making payment decisions and to measure the operating costs of State agencies. The affected public is comprised of Disability Determination Services Agencies in the various states. Respondents: State or local governments. Number of Respondents: 52; Frequency of Response: Quarterly; Estimated Annual Burden: 1,040 hours.

2. Health Insurance Information Request—0960–0323—This form is used by States to collect health insurance information from Supplemental Security Income recipients who are entitled to Medicaid in order to determine third party liability for health insurance expenses. The respondents are individuals or households. Respondents: Individuals or households. Number of Respondents: 65,400; Frequency of Response: Occasionally; Estimated Annual Burden 5,450 hours.

OMB Desk Officer: Elana Norden

Public Health Services

(Call Reports Clearance Officer on 202–245–2100 for copies of package)

Food and Drug Administration

1. Cholesterol, Fat and Fatty Acid Labeling—0910–0224—Establishes the requirements for voluntarily placing information concerning cholesterol, fat and fatty acids content of foods on the label for labeling of a food. Respondents: Businesses or other for-profit, Small businesses or organizations. Number of Respondents: 1; Frequency of Response: Other; Estimated Annual Burden: 1 hour.

2. Current Good Manufacturing Practices for Finished Pharmaceuticals—21 CFR211—0910–0139—Records are kept by drug manufacturers in order to assure FDA that they are manufacturing finished pharmaceuticals in accordance with Current Good Manufacturing Practices. Respondents: Businesses or other for-profit, Small businesses or organizations. Number of Respondents: 4,700; Frequency of Response: Recordkeeping; Estimated Annual Burden: 307,713 hours.

3. Product Application for the Manufacturer of Whole Blood and Blood Components—0910–0077—All manufacturers of biological products must apply for review and approval to the Office of Biologics before marketing a product in interstate commerce. Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations. Number of Respondents: 84; Frequency of Response: Occasionally; Estimated Annual Burden: 214 hours.

Centers for Disease Control

1. Reproductive Study of Women Who Work Video Display Terminals (VDT)—0920–0188—This study concerns the potential reproductive health effects of working with video display terminals (VDT). The study population consists of a cohort of married women who use VDT's full-time at work and a group who do not and are employed at three communications companies in eight southern states. The objective of the study is to determine whether VDT's are related to an increase risk of adverse reproductive outcomes. Respondents: Individuals or households. Number of Respondents: 1,000; Frequency of Response: One-time; Estimated Annual Burden: 500 hours.

Alcohol, Drug Abuse and Mental Health Administration

1. Inventory of Mental Health Organizations and General Hospital Mental Health Services—0930–0119—The Inventory of Mental Health Organizations and General Hospital Mental Health Services will provide information to update longitudinal data bases for the United States and each State, to support ongoing research, and to provide a universe of organizations for organization-based sample patient surveys. The data are used to study trends in utilization, staffing, and financial characteristics of mental health organizations and to support intramural and extramural research. Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations. Number of Respondents: 8,175; Frequency of Response: 1; Estimated Annual Burden: 5,029 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: 301–965–4149,

PHS: 202–245–2100.

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).

Date: December 7, 1987.

James F. Trickett,

Deputy Assistant Secretary, Administrative and Management Services.

[FR Doc. 87–28468 Filed 12–10–87; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions, and Delegations of Authority; Public Health Service

Part H of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (42 FR 61317, December 2, 1977, as amended most recently at 48 FR 17652, April 25, 1983) is amended to reflect a reorganization in the Public Health Service (PHS). The Mission, Organization, and Order of Succession of the PHS are revised to reflect the current scope of public health activities. The Indian Health Service is deleted as a component of Health Resources and Services Administration and is established as a separate agency within PHS. Other organization changes within PHS are made to reflect these changes.

Chapter HB, Health Resources and Services Administration (47 FR 38409–24, August 31, 1982, as amended most recently at 52 FR 30959, August 18, 1987) is amended to delete all titles and statements relating to the Indian Health Service (HBN). A new Chapter HG, Indian Health Service is established to reflect the mission, organization and functions of the Indian Health Service.

Public Health Service

Under *Chapter H, Section H–00. Public Health Service—Mission,* delete the statement in its entirety and insert the following:

Section H–00. Public Health Service—Mission. The mission of the Public Health Service is to promote the protection and advancement of the Nation's physical and mental health by: Conducting medical and biomedical research; sponsoring and administering comprehensive programs for the

development of health resources; preventing and controlling disease and alcohol and drug abuse; providing resources and expertise to the States and other public and private institutions, and to Tribes, Councils and organizations concerned with the health of American Indians and Alaska Natives, in the planning, direction and delivery of physical and mental health care services; enforcing laws to assure the safety and efficacy of drugs and protection against impure and unsafe foods, cosmetics, medical devices and radiation-producing projects; and coordinating with States, local and other Federal agencies to protect the public from exposure to toxic substances; coordinating with the States to set and implement national health policy and pursue effective intergovernmental relations; generating and upholding cooperative international health-related agreements, policies and programs and cooperating with Commissions and organizations to promote international health activities.

Under Section H–10. Public Health Service—Organization. Delete the section in its entirety and insert the following:

The Public Health Service is under the leadership and direction of the Assistant Secretary for Health (ASH), who is directly responsible to the Secretary of Health and Human Services. The Public Health Service (PHS) consists of the:

Office of the Assistant Secretary for Health (HA)
Agency for Toxic Substances and Disease Registry (HT)
Alcohol, Drug Abuse, and Mental Health Administration (HM)
Centers for Disease Control (HC)
Food and Drug Administration (HF)
Health Resources and Services Administration (HB)
Indian Health Service (HG)
National Institutes of Health (HN)

Section H–30. Public Health Service—Order of Succession. Delete the section in its entirety and insert the following:

During the absence or disability of the Assistant Secretary for Health, or in the event of a vacancy in this position, the Deputy Assistant Secretary for Health shall act as the Assistant Secretary for Health. In the event of the absence or disability of both the Assistant Secretary for Health and the Deputy Assistant Secretary for Health, a Public Health Service official designated by the Assistant Secretary for Health shall act as Assistant Secretary for Health. Should both the positions of Assistant Secretary for Health and the Deputy Assistant Secretary for Health be vacant, an official designated by the Secretary of Health and Human Services shall serve as acting head of the Public Health Service.

Health Resources and Services Administration

Under *Chapter HB, Section HB–00, Mission, and Section HB–10. Organization and Functions,* delete in their entirety titles and statements relating to the *Indian Health Service (HBN).*

Under *HB–20, Order of Succession,* amend the succession by deleting item (8) Director, Indian Health Service.

Indian Health Service

After *Chapter HF, (Food and Drug Administration),* add *Chapter HG, (Indian Health Service)* as follows:

Section HG–00. Mission. The Indian Health Service (IHS) provides a comprehensive health services delivery system for American Indians and Alaska Natives with opportunity for maximum tribal involvement in developing and managing programs to meet their health needs. The goal of IHS is to raise the health level of the Indian and Alaska Native people to the highest possible level.

To carry out its mission and to attain its goal, IHS: (1) Assists Indian Tribes in developing their health programs through activities including health management training, technical assistance and human resource development; (2) facilitates and assists Indian Tribes in coordinating health planning, in obtaining and utilizing health resources available through Federal, State and local programs, in operating comprehensive health programs, and in health program evaluation; (3) provides comprehensive health care services, including hospital and ambulatory medical care, preventive and rehabilitative services, and development of community sanitation facilities; and (4) serves as the principal Federal advocate for Indians in the health field to assure comprehensive health services for American Indians and Alaska Natives.

Section HG–10. Organization and Functions. The Indian Health Service is under the direction of a Director who reports to the Assistant Secretary for Health. The agency consists of the following major components with functions indicated:

Office of the Director (HGA). Provides overall direction and leadership for IHS by: (1) Establishing goals, objectives, policies and priorities in pursuit of the IHS mission; (2) providing leadership to ensure the delivery of high quality, comprehensive health services; (3) coordinating IHS activities and resources internally and externally with those of other governmental and non-governmental programs, promoting optimum utilization of all available health resources; (4) developing and demonstrating alternative methods and techniques of health services management and delivery with a view to provide Indian Tribes and other Indian community groups with optional ways of participating in the Indian health program; (5) developing individual and tribal capacities to participate in Indian health programs through means and modalities which they deem appropriate to their needs and circumstances; (6) affording Indian people an opportunity to enter a career in the IHS by applying Indian preference; (7) keeping the public fully informed on the activities of the IHS; and (8) encouraging full application of the principles of EEO.

Office of Administration and Management (HGA2). (1) Provides advice and support to the Director in management and policy formulation and execution; (2) provides IHS-wide administrative leadership, direction, and coordination of all phases of management; (3) directs IHS activities in the areas of administration and management policy including: Internal control reviews, records management, debt management, third party reimbursement, delegations of authority, manpower management, procurements, personal property accountability and management, and administrative services; (4) directs the personnel management and personnel administrative activities; (5) directs the contract and grants management activities; (6) directs the resources management activities including the allocation and fiscal control of resources; (7) directs budget formulation activities and execution; (8) manages the fiscal management activities; and (9) coordinates the training and development of IHS employees in administration.

Office of Planning, Evaluation and Legislation (HGA3). (1) Advises the Director, IHS, on policy formulation; (2) conducts and manages program planning, operations research, program evaluation, health services research, legislative affairs, program statistics; (3) develops the long-range program and financial plan for the IHS in collaboration with appropriate agency staff; (4) coordinates with the Office of the Assistant Secretary for Health, the Department, and Indian Tribes and organizations on matters that involve planning, evaluation, research and legislation; (5) develops and implements

long-range goals, objectives, and priorities for all activities related to resource requirements and allocation methodologies and models; (6) directs activities within the IHS which compare costs of the Agency's programs with their benefits, including the preparation and implementation of comprehensive program evaluation plans; (7) directs and coordinates the legislative activities of IHS, including the analysis of existing and proposed legislation and regulations and the development of legislative proposals; (8) develops and manages analytical statistical reporting systems and data bases for measuring health status and appraising program activities; (9) analyses and publishes statistical data on demographics and morbidity of the American Indian and Alaska Native population; (10) administers the Privacy Act and OMB Information collection approval; (11) conducts policy analysis and develops policy options; and (12) maintains liaison with the Office of the General Counsel for the development and monitoring of IHS regulations and Federal Register notices.

Office of Tribal Activities (HGA4). (1) Advises the Director, IHS, on policy formulation regarding tribal activities, including Indian Self-Determination, and their effect on tribal health programs and community development; (2) assures that Indian tribes and tribal organizations are informed regarding pertinent health policy and program management issues; (3) ensures consultation with tribes and tribal organizations in developing policy; (4) supports tribes and tribal organizations in managing community health programs; (5) develops policies for tribal activities, including Indian Self-Determination, and oversees administrative compliance with those policies; (6) develops policy and coordinates implementation of special Indian legislation and authorities; (7) provides procedural guidance and processes to promote Indian Self-Determination; (8) maintains relevant information on Indian tribes, communities, programs, and IHS tribal policies; and (9) coordinates IHS support of tribal activities with other public and private programs.

Office of Health Programs (HGA5). (1) Advises the Director, IHS, on policy formulation on the operations and management of health programs; (2) provides Service-wide leadership in health programs in relation to IHS goals, objectives, policies, and priorities; (3) provides consultation and technical assistance to all operating and management levels of the IHS and Indian tribes in the design and implementation of health management and health delivery systems; (4) provides guidance and support to all field activities related to the day-to-day delivery of health care; (5) develops and implements contract health and Medicare and Medicaid functions into the comprehensive health program through setting medical priorities, quality care oversight, operational planning and health program evaluations; (6) directs and coordinates clinical support and scholarship programs; (7) provides leadership and direction for quality assurance activities; and (8) represents IHS health programs to agencies outside IHS, including international health agencies.

Office of Environmental Health and Engineering (HGA6). (1) Advises the Director, IHS, on policy formulation and administers the overall IHS environmental health, community injury control, real property management, biomedical engineering, emergency preparedness, safety, sanitation facilities engineering and health care facilities engineering programs; (2) develops objectives, priorities, standards and methodologies for the conduct and evaluation of Environmental Health and Facilities Engineering program activities; (3) provides consultation and technical assistance to Headquarters IHS Area Offices, tribal governments and Alaska Native corporations on matters pertaining to OEHE; and (4) coordinates and monitors IHS requirements for shared and cooperative program activities with other Federal and non-Federal agencies and organizations.

Office of Health Program Research and Development (HGA7). (1) Develops and demonstrates methods and techniques for the improved operations and management of the health care delivery systems; (2) provides technical assistance and consultation on the development and implementation of management and service delivery systems throughout the various organizational levels of the IHS and Tribal health programs; (3) conducts and coordinates health research and development activities within the Service directed toward improving the health of Indian people; (4) provides direct or indirect health services for the Indian people in the IHS Service Units under the jurisdiction of the Office; and (5) serves as a resource for directing or assisting in various special projects conducted by the IHS.

Office of Information Resources Management (HGA8). (1) Advises the Director, IHS, on policy formulation regarding information technology and services; (2) develops, coordinates, directs, and evaluates IHS-wide plans and budgets for the management of information technology and services related to automated data processing, office automation, and telecommuncations; (3) provides technical guidance, management direction and support for the IHS-wide production of management and clinical workload information systems; (4) develops and recommends policies and procedures relating to information resource management and support services; (5) directs the provision of systems analysis and design, data processing operations, user assistance and information systems training to all elements of the IHS; (6) reviews and recommends approval or disapproval of the acquisition, use, modification or discontinuance of any data processing, office automation or telecommunications service or resource IHS-wide; (7) maintains state-of-the-art expertise in information science and technology to promote the efficient and effective conduct of the IHS mission; (8) develops and coordinates the implementation of IHS-wide information security programs; and (9) maintains liaison with officials of the PHS, DHHS, and GSA for information resources management matters.

IHS Area Offices (HGF): Aberdeen Area Office (HGFB); Alaska Native Area Office (HGFC); Albuquerque Area Office (HGFD); Bemidji Area Office (HGFE); Billings Area Office (HGFF); California Area Office (HGFG); Nashville Area Office (HGFH); Navajo Area Office (HGFJ); Oklahoma City Area Office (HGFK); Phoenix Area Office (HGFL); and Portland Area Office (HGFM).

The mission of IHS is accomplished in the field through line elements called Area Offices. Within these can be Service Units, Special Programs, Hospitals, Medical Centers, Health Centers, Health Stations, and other elements. Each Area Office is headed by a Director who reports to the Director, IHS. For the population served by their respective health delivery systems, each Area Office is responsible for: (1) Participating in and establishing goals and objectives for health programs in interpreting and determining policies and priorities within the framework of IHS policy; (2) delivering and assuring the delivery of high quality comprehensive health services; (3) providing coordination or ensuring the coordination of IHS activities and resources internally and externally with those of other governmental and nongovernmental programs and

promoting optimum utilization of all available health resources; (4) participating in the development and demonstration of alternative means and techniques of health services management and delivery to provide Indian tribes and other Indian community groups with optimal ways of participating in Indian health programs, and (5) ensuring the development of individual and tribal capacities to participate in the operation of IHS commensurate with the means and modalities which Indian tribal groups deem appropriate to their needs and circumstances.

Section HG–20. Order of Succession. During the absence or disability of the Director, IHS, or in the event of a vacancy in that office, the first official listed below who is available shall act as Director, except that during a planned period of absence, the IHS Director may specify a different order of succession. The order of succession will be:

(1) Deputy Director for Field Operations; (2) Deputy Director for Headquarters Operations; (3) Associate Director, Office of Health Programs; and (4) Associate Director, Office of Administration and Management.

Section HG–30. Delegations of Authority. All delegations and redelegations of authority made to HRSA and IHS officials which were in effect immediately prior to this reorganization, and which are consistent with the reorganization, shall continue in effect pending further redelegation.

Funding: Necessary salary and related costs will be transferred by way of an SF–1151, Non-expenditure Transfer Authorization, from the Health Resources and Services Administration Appropriation to the Indian Health Service Appropriation and the Public Health Service Management Appropriation in Fiscal Year 1988.

This reorganization is effective January 4, 1988.

Date: December 3, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–28470 Filed 12–10–87; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

[Docket No. 87D–0356]

Compressed Medical Gases—Conformance With Current Good Manufacturing Practice Regulations in the Manufacture, Processing, Packing, or Holding; Availability of Compliance Policy Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide 7132a.16 (the Guide) entitled "Compressed Medical Gases—Direct Reference Authority for Sending Regulatory Letters for Specific CGMP Deviations." The Guide provides authority for FDA district offices to issue regulatory letters to firms to seek corrections when certain deviations from compliance with current good manufacturing practice (CGMP) regulations are encountered in the filling of cyclinders with compressed medical gases.

ADDRESS: Requests for single copies of FDA Compliance Policy Guide 7132a.16 may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your requests.)

FOR FURTHER INFORMATION CONTACT: John Christeson, Center for Drug Evaluation and Research (HFN–323), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8098.

SUPPLEMENTARY INFORMATION: FDA has prepared Compliance Policy Guide 7132a.16 "Compressed Medical Gases—Direct Reference Authority for Sending Regulatory Letters for Specific CGMP Deviations." The Guide provides direct authority to FDA district offices for issuing regulatory letters to firms to seek corrections when certain deviations from CGMP regulations are encountered during the inspection of firms that are filling cylinders with compressed medical gases (21 CFR Parts 210 and 211).

Compliance Policy Guide 7132a.16 is available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of Compliance Policy Guide 7132a.16 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch.

This notice is issued under 21 CFR 10.85.

Dated: December 2, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–28421 Filed 12–10–87; 8:45 am]

BILLING CODE 4160–01–M

Office of Human Development Services

Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1989

AGENCY: Office of Human Development Services; HHS.

ACTION: Notification of allocation of Title XX—Social Services Block Grant Allotments for Fiscal Year 1989.

SUMMARY: This issuance sets forth the individual allotments to States for Fiscal Year 1989 pursuant to Title XX of the Social Security Act, as amended (Act). The allotmetns to the States published herein are based upon the authorization set forth in section 2003 of the Act and are contingent upon Congressional appropriations actions for the fiscal year. If Congress enacts and the President approves an amount different from the authorization, the allotments will be adjusted proportionately.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTARY INFORMATION: Section 2003 of the Act authorizes $2.7 billion for Fiscal Year 1989 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands each receives an amount which bears the same ratio to $2.7 billion as its allocation for Fiscal Year bore to $2.9 billion.

(2) The remainder of the $2.7 billion is allotted to each State in the same proprotion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1989, the allotments are based upon the Bureau of Census population statistics contained in its publication "Current Population Reports" (Series P–26, No. 86–A issued August 1987). This is the most recent satisfactory data available from the Department of Commerce as to the population of each State.

EFFECTIVE DATE: The allotments shall be effective October 1, 1988.

Fiscal Year 1989 Federal Allotments to States Social Services—Title XX Block Grants

Total	$2,700,000,000
Alabama	45,147,848
Alaska	5,948,421
Arizona	36,537,118
Arkansas	26,422,575
California	300,551,217
Colorado	36,392,307
Connecticut	35,523,436
Delaware	7,051,218
Dist. of Columbia	6,973,243
Florida	130,052,090
Georgia	67,994,686
Guam	465,517
Hawaii	11,830,006
Idaho	11,172,783
Illinois	128,693,088
Indiana	61,299,928
Iowa	31,758,331
Kansas	27,413,978
Kentucky	41,527,554
Louisiana	50,138,283
Maine	13,077,615
Maryland	49,714,988
Massachusetts	64,964,779
Michigan	101,869,496
Minnesota	46,941,286
Mississippi	29,240,834
Missouri	56,432,025
Montana	9,123,140
Nebraska	17,800,706
Nevada	10,727,209
New Hampshire	11,440,128
New Jersey	84,881,964
New Mexico	16,475,121
New York	197,968,801
North Carolina	70,523,322
North Dakota	7,563,629
No. Mariana Islands	93,103
Ohio	119,770,456
Oklahoma	36,815,602
Oregon	30,054,008
Pennsylvania	132,435,915
Puerto Rico	13,965,517
Rhode Island	10,860,881
South Carolina	37,606,497
South Dakota	7,886,671
Tennessee	53,502,372
Texas	185,826,893
Utah	18,547,043
Vermont	6,026,397
Virgin Islands	465,517
Virginia	64,463,507
Washington	49,714,988
West Virginia	21,376,442
Wisconsin	53,301,863
Wyoming	5,647,658

Dated: December 7, 1987.

G. Barry Nielsen,

Director, Office of Policy, Planning, and Legislation.

Approved: December 7, 1987.

Phillip N. Hawkes,

Acting Assistant Secretary for Human Development Services.

[FR Doc. 87–28469 Filed 12–10–87; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

National Cancer Institute; Ad Hoc Subcommittee on the Women's Health Trial; Meeting

Notice is hereby given of the meeting of the Ad Hoc Subcommittee on the Women's Health Trial, Division of Cancer Prevention and Control, on December 15–16, 1987, at the National Institutes of Health, 9000 Rockville Pike, Building 31, Room 4A48. The meeting will begin at 8:30 a.m. and be open to the public until 12 noon.

In accordance with the provisions set forth in sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B), Title 5, U.S.C., this meeting will be closed to the public on December 15 from 12 noon until adjournment on December 16 for the evaluation and discussion of individual cooperative agreements. The discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the cooperative agreements, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Further, in accordance with the provisions set forth in section 552b(c)(9)(B), title 5 U.S.C., the meeting will be closed to the public for the preparation of comments to be submitted to the National Cancer Institute regarding the Women's Health Trial. Premature disclosure of such information would significantly frustrate implementation of proposed agency actions.

Dated: December 8, 1987.

William F. Raub,

Acting Director, National Institutes of Health.

[FR Doc. 87–28618 Filed 12–10–87; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

White Earth Reservation Land Settlement Act of 1985; Impending Ratification of Questionable Land Transfers

December 11, 1987.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to publish certification.

SUMMARY: This notice establishes that on January 11, 1988, the Secretary of the Interior will publish a certification in the **Federal Register**, in accordance with section 10(a) of the White Earth Reservation Land Settlement Act of 1985, Pub. L. 99–264.

DATE: This notice establishes that questionable land transfers, as defined in sections 4(a), 4(b) and 5(c) of the Act will be ratified on January 11, 1988, and that any action to recover title or damages, relating to transactions described in sections 4(a), 4(b), 5(a), or 5(c) of the Act, will be barred unless filed prior to the publication of the certification described above on January 11, 1988.

FOR FURTHER INFORMATION CONTACT: White Earth Project Director, Bureau of Indian Affairs, c/o Minnesota Agency, Route 3, Box 112, Cass Lake, Minnesota 56633, Telephone: (218) 335–6913, Ext. 454.

SUPPLEMENTARY INFORMATION: Sections 4(a) and 4(b) of the White Earth Reservation Land Settlement Act of 1985, Pub. L. 99–264, define circumstances by which the title to an allotment of land, or interest therein, may have been lost through a questionable tax forfeiture, sale, mortgage, or other conveyance during the trust period. For each allotment or interest which falls within the scope of sections 4(a) or 4(b) of the Act, settlement compensation will be paid to the individuals determined to be entitled thereto. In addition, section 5(c) of the Act describes allotments of land which were granted to individuals who died prior to the selection dates thereof and provides that the White Earth Band of Chippewa Indians shall be compensated for such allotments.

Section 6(a) of the Act provides for the retroactive ratification of questionable land transfers which fall within the scope of sections 4(a), 4(b), or 5(c). Said ratification will take place upon the publication, in the **Federal Register**, of a certification that the conditions set forth in section 10(a) of

the Act have been satisfied. These conditions are that: (1) The Department of the Interior and the State of Minnesota have agreed upon the transfer of 10,000 acres from the State to the United States, to be held in trust for the White Earth Band of Chippewa Indians, (2) the State has appropriated $500,000 for technical and computer assistance in implementing the Act, and (3) the United States has appropriated $6.6 million for economic development for the benefit of the White Earth Band of Chippewa Indians.

Under section 6(c) of the Act, the publication of the certification on January 11, 1988 will operate to bar any subsequent suits to recover title or damages, relating to transactions described in sections 4(a), 4(b), 5(a), or 5(c). Prior to the publication of the certification, individuals may file suits in the Federal District Court for the District of Minnesota seeking the recovery of title or damages, but individuals who file such suits would not then be eligible to receive any compensation under the Act.

The questionable land transfers to be ratified by the publication of the certification on January 11, 1988, will be identified by separate publication in the **Federal Register**. On September 19, 1986 (51 FR 33348), a list of 723 allotments and interests, which had been determined to fall within the scope of sections 4(a), 4(b), or 5(c) of the Act, was published in the **Federal Register**. Section 7(c) of the Act requires that a supplemental list be published in the **Federal Register** by March 12, 1988.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Ross O. Swimmer,

Assistant Secretary; Indian Affairs.

[FR Doc. 87-28184 Filed 12-10-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[ID-020-08-4410-08]

Designation of Areas of Critical Environmental Concern; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of land use plan amendments.

SUMMARY: This notice is to advise the public of the availability of the proposed environmental assessment and land use plan amendments covering the Cassia Resource Management Plan, the Malad Management Frame Work Plan and the Twin Falls Management Frame Work Plan to allow designation of described public lands as Resource Natural Areas (RNA)/Areas of Critical Environmental Concern (ACEC).

RNA/ACEC Proposal No. 1, Jim Sage

Parts of Sections 14, 15, 10, and 11, T.15S., R.25E., Boise Meridian, Idaho, 620 acres (public land).

The general location of this land is 12 miles south of Elba, Idaho, and 7 miles east of Almo, Idaho.

RNA/ACEC Proposal No. 2, Goose Creek Mesa

Part of Section 17, T.16S., R.21E., Boise Meridian, Idaho.

The general location of this land is 14 miles south of Oakley, Idaho, and 15 miles southwest of City of Rock, Idaho, 110 acres (public land).

RNA/ACEC Proposal No. 3, City of Rocks

Part of Sections 19 and 30, T.15S., R.24E., Boise Meridian, Idaho.

The general location of the area is 4 miles west of Almo, Idaho, and 14 miles southeast of Oakley, Idaho, 240 acres (public land).

RNA/ACEC Proposal No. 4, Big Juniper

T.6S., R.27E., Section 36, E½, Boise Meridian, Idaho.

The general location of the area is within the Wapi Lava Flow approximately 15 miles northeast of Minidoka, Idaho, 320 acres (public land).

RNA/ACEC Proposal No. 5, Sand Kipuka

Parts of Sections 11 and 14, T.8S., R.27E., Boise Meridian, Idaho.

The general location of the area is 12 miles northeast of Minidoka, Idaho, within the Wapi Lava Flow, 320 acres (public land).

ACEC Proposal No. 6, Granite Pass

Parts of Sections 30, 31, 32, and 33, T.16S., R.22E., Boise Meridian, Idaho.

The general location of the area is 16 miles south of Oakley, Idaho, and 11 miles southwest of City of Rocks, Idaho, 200 acres (public land).

ACEC Proposal No. 7, Oregon-California Trail Junction

Parts of Sections 10, 11, 12, 17 and 18, T.10S., R.27E., and parts of Sections 13 and 14, T.10S., R.26E., Boise Meridian, Idaho.

The general location of the area is 20 miles east of Burley, Idaho, and 22 miles west of American Falls, Idaho, 600 acres (public land).

ACEC Proposal No. 8, Playas

Parts of Sections 31 and 32, T.14S., R.15E., Boise Meridian, Idaho.

The general location is 30 miles south of Buhl, Idaho, and 8 miles southwest of Rogerson, Idaho, 60 acres (public land).

ACEC Proposal No. 9, VanKoman Homestead and Old Juniper Townsite

Parts of Section 6, T.16S., R.30E., and parts of Section 4, T.15S., R.30E., Boise Meridian, Idaho.

The general area is 6 miles south of Juniper, Idaho, and 15 miles northwest of Stone, Idaho, 5 acres (public land).

ACEC Proposal No. 10, Baker Cave

Parts of Section 9, T.8S., R.27E., Boise Meridian, Idaho.

The general location is 10 miles east of Minidoka, Idaho within the Wapi Lava Flow, 40 acres (public land).

The protest period on the proposed environmental assessment and land use plan amendments will begin on December 11, 1987 and will end on January 15, 1988. Protest must be sent in writing to Director (760), Premier Building, Room 909, Bureau of Land Management, 18th & C Street NW, Washington, DC 20240 and be postmarked on or before January 15, 1988.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick, Bureau of Land Management, Burley District Office, Rt. 3, Box 1, Burley, Idaho, 83318, (208) 678-5514 or FTS 554-6675; or John Christensen, Bureau of Land Management, 138 S. Main, Malad, Idaho, 83252, (208) 766-4766.

Dated: December 4, 1987.

John S. Davis,

District Manager.

[FR Doc. 87-28431 Filed 12-10-87; 8:45 am]

BILLING CODE 4310-CG-M

National Park Service

Upper Delaware Scenic and Recreational River; Citizens Advisory Council Meeting

AGENCY: Upper Delaware Citizens Advisory Council, National Park Service, Department of the Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: December 11, 1987, 7:00 p.m.[1]
Inclement Weather Reschedule Date: January 8, 1987.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION, CONTACT: John T. Hutzky, Superintendent: Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, NY 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround housing development subdivisions within the Upper Delaware corridor.

The meeting will be open to the public.

Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, New York Damascus Township, Pennsyulvania.

Sandra C. Rosencrans,
Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 87–28415 Filed 12–10–87; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Section 5a Application No. 62,[1] (Amendment No. 2); Intermountain Tariff Bureau, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Intermountain Tariff Bureau, Inc. (IMB), has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). The Commission has provisionally approved the agreement. Since modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of IMB's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from IMB's representative: Thomas M. Zarr, Parsons & Crowther, 455 South Third East Street, Salt Lake City, UT 84111.

DATES: Comments from interested parties are due January 11, 1988. Replies are due January 26, 1988.

ADDRESS: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 62 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Paul Schach, (202) 275–7885

or

Jane Udovic, (202) 275–7831

(TDD for hearing impaired (202) 275–1721).

SUPPLEMENTARY INFORMATION: Intermountain Tariff Bureau, Inc. (IMB), has filed an application for approval of its proposed amended collective ratemaking agreement as required by section 14(e) of the Motor Carrier Act of 1980, Pub. L. No. 96–296 (1980) (MCA). Since filing its application, IMB has been obliged to observe the requirements of the MCA and the standards in *Motor Carrier Rate Bureaus—Imp. P.L. 96–296,* 364 I.C.C. 464 (1980) and 374 I.C.C. 921 (1981) (*Rate Bureau*). We have provisionally approved IMB's agreement as consistent with 49 U.S.C. 10706(b) and *Rate Bureau, supra,* subject to certain conditions and modifications in the following subject areas: Identification and description of member carriers; right of independent action; employee docketing; open meetings; proxy voting; quorum standard; final disposition of cases; single-line rates; general increases and decreases; changes in tariff structure; and zone of rate freedom and released rates. We have also offered comments and imposed requirements concerning the agreement generally. IMB has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and the *Rate Bureau* case, *supra,* we request applicant and other interested parties to comment on our interpretation of the controlling statutory and administrative criteria, and their application to IMB's agreement.

A copy of any comments filed with the Commission must also be served on IMB, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that IMB must submit to the Commission as a condition to final approval of its agreement.

Additional information is contained in the Commission's decision. Copies may be obtained from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4357, (assistance for the hearing impaired is available through TDD Services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: December 3, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre concurred with a separate expression.

Noreta R. McGee,
Secretary.

[FR Doc. 87–28464 Filed 12–10–87; 8:45 am]
BILLING CODE 7035–01–M

Section 5a Application No. 115,[1] (Amendment No. 1); Midwest Motor Carriers Association; Agreement

AGENCY: Interstate Commerce Commission.

[1] Announcements of cancellation due to inclement weather will be made by raido stations WDNH, WDLC, WSUL, and WVOS.

[1] Section 5 was recodified as section 10706.

[1] Section 5a was recodified as section 10706. This decision also embraces section 5a Application No. 114, *Midwest Household Goods Carriers Association,* which is dismissed because this association is no longer in business.

ACTION: Notice of decision and request for comment.

SUMMARY: Midwest Motor Carriers Association (MMCA) has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Since modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of MMCA's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from MMCA's representative: James R. Boyd, 1000 Perry Brooks Building, Austin, TX 78701.

Additional information is in the Commission's decision. Copies may be obtained from Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423, or call (202) 275–7428. (Assistance for the hearing impaired is available through TDD Services (202) 275–1721 or by pickup from Dynamics Concepts, Inc., in Room 2229 at Commission headquarters.)

DATES: Comments from interested persons are due January 11, 1988. Replies are due January 26, 1988.

ADDRESS: An original and 10 copies, if possible, of comments referring to section 5a Application No. 115 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Ardith M. Horne, (202) 275–1764
or
Jane Udovic, (202) 275–7831.
(TDD for hearing impaired (202) 275–1721).

SUPPLEMENTARY INFORMATION: We have provisionally approved MMCA's agreeement as consistent with 49 U.S.C. 10706(b) and *Motor Carrier Rate Bureaus—Imp. of Pub. L. 96–296,* 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (*Rate Bureau*), subject to certain conditions and modifications in the following subject areas: Identification and description of member carriers; right of independent action; rate bureau protests; employee docketing; open meetings; quorum standard; final disposition of cases; general standards for member voting and disposition of collectively established rates; single-line rates; general increases and decreases; changes in tariff structure; and zone of rate freedom and released rates. We have also offered comments and imposed requirements concerning the agreement generally. MMCA has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and the *Rate Bureau* case, *supra,* we request applicant and other interested parties to comment on our interpretation of the controlling statutory and administrative criteria, and their application to MMCA's agreement.

A copy of any comments filed with the Commission must also be served on MMCA, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that MMCA must submit to the Commission as a condition to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: December 3, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Andre concurred in the holding of this proceeding.

Noreta R. McGee,

Secretary.

[FR Doc. 87–28322 Filed 12–10–87; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

(1) Wyatt Cafeterias, Inc., P.O. Box 38388, Dallas, Texas 75238 (Incorporated in the state of Texas)

(2) Starmark Food Distributors, Inc., P.O. Box 389001, Dallas, Texas 75238 (Incorporated in the state of Texas)

Noreta R. McGee,

Secretary.

[FR Doc. 87–28465 Filed 12–10–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes 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.

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

Massachusetts:
MA87-3 (Jan. 2, 1987)..... p. 402.

Volume II

Indiana:
IN87-2 (Jan. 2, 1987)..... pp. 250-266.

volume III

Colorado:
CO87-1 (Jan. 2, 1987)..... pp. 103-110.
Oregon:
OR87-1 (Jan. 2, 1987)..... pp. 283-284.

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, DC 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 4th day of December 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-28207 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-19,987; TA-W-19,988]

Ames Oil and Gas Corp., Pawnee, OK and Houston, TX; Negative Determination Regarding Application for Reconsideration

By an application postmarked November 10, 1987, the petitioners requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance. The denial notice was signed on September 25, 1987 and published in the **Federal Register** on October 23, 1987 (52 FR 39716).

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.

The petitioners claim that crude oil produced by Amesco, Ltd., a producing affiliate of Ames Oil & Gas Corporation, was sold to an importer of crude oil. Petitioners claim the price of oil fell below $10 per barrel because of the general oil glut in the market.

The dominant cause for the worker separations and the cessation of production and sales were the bankruptcy proceedings which Ames Oil & Gas entered into in December 1986, followed by Amesco Ltd. in May 1987. The bankruptcy proceedings were related to the reduced cash flow brought about be declining crude oil prices. Prices and reduced cash flows, in themselves, are not criteria for a worker group certification.

Further, none of the customers importing crude oil had significant purchases from Ames Oil & Gas in 1986.

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 4th day of December 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28496 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,089]

Continental Can Co., Plant No. 4, Fairfield, AL; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 2, 1987 applicable to all workers of Plant No. 4, Continental Can Company, Fairfield, Alabama. The Certification contained a termination date of October 30, 1987. The Certification was published in the **Federal Register** on November 20, 1987 (52 FR 44647).

Based on new information furnished to the Department by the company, a few workers were retained after the October 30, 1987 termination date set in the certification to close down the plant.

The intent of the certification is to cover all workers at Plant No. 4, Continental Can Company, Fairfield, Alabama who were affected by the closing of the plant. The notice,

therefore, is amended by providing a new termination date of January 1, 1988.

The amended notice applicable to TA-W-20,089 is hereby issued as follows:

All workers of Continental Can Company, Plant No. 4, Fairfield, Alabama who became totally or partially separated from employment on or after September 3, 1986 and before January 1, 1988 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 3rd day of December 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28497 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,262]

Craddock-Terry Shoe Corp., Farmville, VA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 23, 1987 in response to a petition filed on November 23, 1987 on behalf of workers and former workers at Craddock-Terry Shoe Corporation, Farmville, Virginia. The workers manufactured women's shoes.

The investigation revealed that workers at Craddock-Terry Shoe Corporation, Farmville, Virginia were certified eligible to apply for Trade Adjustment Assistance on December 12, 1986 under TA-W-18,312 with an impact date of September 22, 1985. The expiration date of coverage in this case is December 12, 1988. Consequently, an active certification covering the petitioning group of workers remains in effect and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of December 1987.

Marvin M. Fooks,

Director, Office of Trade Ajustment Assistance.

[FR Doc. 87-28498 Filed 12-10-87 8:45 am]

BILLING CODE 45102-30-M

[TA-W-19,956]

General Electric Co., Lighting Business Group, Lighting Products Division, Austintown, OH; Negative Determination Regarding Application for Reconsideration

By an application dated October 5, 1987, the International Union of Electrical Workers (IUE) requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at General Electric Company, Lighting Business Group, Lighting Products Division, Austintown, Ohio. The denial notice was signed on September 1, 1987 and published in the **Federal Register** on September 22, 1987 (52 FR 35599).

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 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.

The union notes that workers at General Electric's (GE) Youngstown, Ohio lamp plant and the Warren, Ohio lamp plant were certified for adjustment assistance in 1985 and in 1987, respectively. The union reports G.E.'s announcement on its intention to eliminate the Packaging Operations at Austintown and move a part of it to Korea. The union notes that light bulbs produced in Korea and shipped to the U.S. do not incorporate filaments produced at Austintown and assumes such filaments were manufactured in Korea. Lastly, the union submitted a company statement concerning layoffs occurring in the first quarter of 1986 on associated work at Austintown for discontinued items.

Workers at the Austintown plant produce light bulb filaments which was shipped to affiliated incandescent lamp plants. A small coating and packaging operation was moved to the Austintown plant when the Youngstown lamp plant closed in 1985.

Investigative findings show that workers at General Electric's Youngstown, Ohio lamp plant were certified for adjustment assistance with a termination date of October 1, 1985, TA-W-16,974. The plant closed permanently in April, 1985. Workers producing component parts for a finished article may be certified for trade adjustment assistance if their work is related to production facilities whose workers currently meet the statutory criteria for certification. Since the Youngstown plant's certification has expired, that certification cannot provide a basis for certifying the workers at the Austintown plant.

The findings also show that workers at the Ohio lamp plant in Warren, Ohio are certified for adjustment assistance until June 3, 1989, TA-W-19,479. Workers producing component parts for a finished article may be certified for trade adjustment assistance if a substantial amount of their production is integrated into the production of a finished article at a plant which is related by ownership or control and whose workers already meet the statutory criteria for certification. However, company officials have stated that only a small amount of Austintown's filament production is integrated into the production at the Warren plant. Thus, there is not a substantial amount of integration of production with the Warren plant to form a basis for certification.

Imported finished articles incorporating component parts like light filaments would not serve as a basis for certification. This issue was addressed in *United Shoe Workers of America, AFL-CIO* v. *Bedell*, 506 F 2d 174, (D.C. Circ. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe counters. Similarly, light filaments cannot be considered as like or directly competitive with light bulbs incorporating the filament. Section 222(3) of the Trade Act states that there must be increased imports of articles that are like or directly competitive with those produced at the worker's firm.

With respect to the transfer of the Packaging Operations to a foreign facility, investigation findings show that this transfer has not occurred. Company officials stated that the Packaging Operations transfer is scheduled to begin in mid-February 1988. Company officials indicated that there have been no layoffs with respect to the Coating or Cov-R Guard Operations at the Austintown plant.

Lastly, no basis exists for the certification of workers performing associated work on discontinued production who were laid off in early 1986. Investigative findings show that associated work on these products ceased in the first quarter of 1986. Section 223(b)(1) of the Trade Act states that no certification shall occur more than one year prior to the June 29, 1987 date of the petition.

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 1st Day of December 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS

[FR Doc. 87-28499 Filed 12-10-87 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19, 925 and TA-W-19, 926]

General Motors Corp., BOC Orion Assembly, Orion Township, MI, BOC Wentzville Assembly Center, Wentzville, MO; Revised Determinations on Reconsideration

On November 19, 1987, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at General Motors Corporation's BOC Orion Assembly, Orion Township, Michigan and BOC Wentzville Assembly, Wentzville, Missouri. The affirmed notice regarding application for reconsideration was published in the **Federal Register** on November 30, 1987 (52 FR 45512).

The company claims that the Department used the standard automobile classification in making its determination rather than the high or standard/lower luxury automobile classification.

Workers at the Buick, Oldsmobile, Cadillac (BOC) Orion and BOC Wentzville Assembly Centers produce mainly C-body type cars.

On reconsideration, the Department found that General Motors' C-body cars link the upper standard and lower luxury class of cars by virtue of the base price factor. Further, proper consideration of the price factor indicates that the classification of cars like and directly competititve with C-body cars is the same as that used by the Department in certifying workers at General Motors' Clark Sreet plant in Detroit, Michigan which manufactures other upper standard/lower luxury cars (TA-W-20,050).

The investigation revealed that sales and production of General Motors standard/lower luxury automobiles declined absolutely during the first three quarters of model year (MY) 1987 compared to the same period in MY 1986. Employment at the BOC Orion Township and the BOC Wentzville Assembly Centers declined from MY 1986 to MY 1987.

The market share of General Motors standard/lower luxury models declined during the first three quarters of MY 1987 compared to the same period of MY 1986. The overwhelming majority of General Motors' market share loss was captured by the foreign automobile segment. The market share of imported automobiles that are competitive with General Motors' standard/lower luxury cars increased both in MY 1986 and in the first three quarters of MY 1987 compared to the corresponding periods one year earlier.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with standard/lower luxury automobiles produced at General Motors' BOC Orion Assembly Center, Orion Township, Michigan and BOC Wentzville Assembly Center, Wentzville, Missouri contributed importantly to the decline in sales or production and to the total or partial separation of workers at the subject locations. In accordance with the provisions of the Act, I make the following revised determinations:

All workers of the BOC Orion Assembly Center, Orion Township, Michigan and BOC Wentzville Assembly Center Wentzville, Missouri of General Motors Corporation who became totally or partially separated from employment on or after July 16, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 4th day of December 1987.

Roberto O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28500 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,019]

National Standard, Niles, MI; Negative Determination Regarding Application for Reconsideration

By an application dated October 27, 1987, the Company requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at National Standard, Niles, Michigan. The denial notice was signed on October 15, 1987 and published in the **Federal Register** on October 27, 1987 (52 FR 41336). 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.

The company states that the workers who sought adjustment assistance were terminated on or before March 1, 1987; however, the Department's denial is based on the transfer of company production from Niles, Michigan to Mount Joy, Pennsylvania. The company states that the production transfer did not occur until August 1987, some months after the employment reductions. It is claimed that imports of wire and tires which contain wire that was manufactured overseas affected production, sales and employment at the Niles plant.

Workers at National Standards, Niles, Michigan produce alloy wire and carbon steel wire.

The basis of the Department's denial was not the transfer of production from the Neils plant to the Mount Joy plant. Investigation findings show that the increased import criterion of the Group Eligibility Requirements of the Trade Ace was not met in 1986 or in the first quarter of 1987 for alloy wire.

Concerning carbon steel wire, the findings show that the "contributed importantly" test of the increased import criterion was not met in 1986. The Department's survey showed that customers accounting for a major share of carbon steel wire purchases from National Standard decreased their import purchases in 1986 compared to 1985. Investigation findings also show that the Niles plant had increased production of carbon steel wire in the first half of 1987 compared to the same period in 1986. Corporaté sales of carbon steel wire did not decrease in quantity in fiscal year (FY) 1986 compared to FY 1985 or in FY 1987 compared to FY 1986.

Imported finished articles like steek belted tires incorporating component parts like carbon steel wire would not serve as a basis for certification. This issue was addressed in *United Shoe Workers of America, AFL-CIO* v. *Bedell*, 506 F 2d 174, (D.C. Circ. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe counters. Similarly, carbon steel wire cannot be considered as like or directly competitive with steel belted tires incorporating the steel. Section 222(3) of the Trade Act states that there must be increased imports of articles that are like or directly competitive with those produced at the workers' firm.

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 3rd day of December 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28501 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-30-M,

[TA-W-20,036]

Tru-Weld Grating, Inc., Pittsburgh, PA; Negative Determination Regarding Application for Reconsideration

By an application dated November 11, 1987, the Industrial Union of Marine and Shipbuilding Workers of America requested administrative reconsideration of the Department's negative determination on the subject petition for trade adjustment assistance for workers at Tru-Weld Grating, Inc., Pittsburgh, Pennsylvania. The denial notice was signed on October 15, 1987 and published in the **Federal Register** on October 27, 1987 (52 FR 41336).

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.

The union claims that the company under reported its company imports of grating from Canada in 1987 as well as imports from other Canadian manufacturers since the shutdown of its Pittsburgh (Neville Island) facility.

Workers at Tru-Weld Grating in Pittsburgh produced steel grating mainly for the construction industry.

In order for a worker group to be certified eligible to apply for adjustment assistance it must meet all three criteria of the Group Eligibility Requirements of the Trade Act of 1974. Investigative findings show that the decreased sales and production criterion was not met in 1986. Sales and production of steel grating increased in 1986 compared to 1985. Because of a strike which began on February 9, 1987, the Department can only use the first five weeks on 1987 to determine whether imports of grating contributed importantly to worker separations. The findings show that the decreased employment criterion was not met for this period as there were no layoffs in 1987 prior to the strike.

The Pittsburgh facility is a leased facility with the lease running out in mid-1988. The company was informed before the strike that the lease would not be renewed. Company officials indicated that they closed the plant on March 20, 1987 when the union refused to bargain and all production was transferred to the Litchfield, Illinois plant. A domestic transfer of production would not form a basis for certification. The company is building a new grating plant in Meadeville, Pennsylvania which is scheduled to open in mid-1988.

Official company data show that company imports continued to be small in the first seven months of 1987 compared to the same period in 1986. However, any imports after February 9, 1987 would not form a basis for certification since the workers had voluntarily separated themselves from employment.

Conclusion

After reveiw 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 3rd day of December 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87-28502 Filed 12-10-87; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440]

The Cleveland Electric Illuminating Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio.

The amendment would delete the provisions in the Technical Specifications relating to the Main Steam Isolation Valve (MSIV) Leakage Control System (LCS) (Sections 3.6.1.4 and 4.6.1.4 and related bases). The amendment would also revise the leakage criteria for primary containment allowable leakage through the main steam lines from less than or equal to 25 standard cubic feet per hour (SCFH) for any one main steam line (there are four main steam lines total) to less than or equal to 100 SCFH for all main steam lines in accordance with the licensees' application for amendment dated September 18, 1987.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 11, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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. Requests 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 a 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 amendment 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States 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 or representative for 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 Martin J. Virgilio: (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 Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for The Cleveland Electric Illuminating Company.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted 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 amendment dated September 18, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Bethesda, Maryland, this 7th day of December, 1987.

For The Nuclear Regulatory Commission.

Timothy G. Colburn,

Project Manager, Project Directorate III–1, Division of Reactor Projects–III, IV, V & Special Projects.

[FR Doc. 87–28522 Filed 12–10–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority, (Sequoyah Nuclear Plant, Units 1 and 2); Exemption

I

The Tennessee Valley Authority (the licensee) is the holder of Facility Operating Licenses No. DPR–77 and DPR–79 which authorize operation of the Sequoyah Nuclear Plant, Units 1 and 2, respecively. These licenses provide that, among other things, the facility is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

The Sequoyah facility consists of two pressurized water reactors located at the licensee's site in Hamilton County, Tennessee.

II

General Design Criterion (GDC) 55 of Appendix A to 10 CFR Part 50 requires that each reactor coolant pressure boundary line penetrating the primary reactor containment be provided with containment isolation valves. The combination of valves is to be one inside and one outside containment and either automatic or locked closed. The GDC does allow for a demonstration of acceptability for a specific class of lines on some other defined basis.

As part of the original design of Sequoyah Nuclear Plant Units 1 and 2, TVA relied upon certain closed systems as the outside containment isolation barrier to meet the Commission's regulations, specifically GDC–55 and 56, on some "other defined basis." The NRC staff issued NUREG–0011, dated March 1979, which documents the acceptability of TVA's compliance with the GDC; however, the staff did not specifically address the acceptability of an "other defined basis" for any containment isolation configurations.

Subsequent to the development of the TMI Action Plan, NRC staff policy has been established that closed systems outside containment are not generally acceptable as an isolation barrier for lines covered by GDC 55 and 56.

As a result of an NRC staff inspection conducted at Sequoyah in March 1986, apparent discrepancies in system compliance with the containment isolation requirements were identified. These findings led to a general reassessment of the containment isolation design and the "other defined basis" assumptions made for the Sequoyah Nuclear Plant, Units 1 and 2.

Subsequent to discussions with TVA, by letter dated January 2, 1987 TVA redesignated certain existing system line isolation vales as containment isolation valves. The Commission's requirements, however, could not be met in every isolated case. In most of the cases evaluated, the explicit requirements of GDC 55 or 56 could be satisfied by valve redesignation, thereby imposing them to the associated operability, suveillance, and testing requirements. For these cases where the staff requirements could not be met, TVA has requested an exemption from the GDC. This exemption addresses the Sequoyah Nuclear Plant, Units 1 and 2, containment isolation valves in the four Reactor Coolant Pump (RCP) Seal Injection Lines.

By letter dated January 23, 1987, the licensee requested an exemption to GDC 55 for the four RCP seal water injection lines. The exemption is needed because the containment isolation provisions for each RCP seal injection line consists of a check valve inside containment and a local manual glove valve outside containment. The local manual glove valves are located in the supply header feeding the seal injection lines. In summary, an exemption has been requested because the local manual globe valves are not locked closed nor are they automatic isolation valves, and therefore, do not meet specific valve

type requirements of 10 CFR Part 50, Appendix A, GDC 55.

As justification for the exemption the licensee stated that it was desirable, for certain transient and accidents, that the RCP seal injection lines remain in service to protect the RCP seals, and thus these lines should not be automatically isolated, or locked closed.

The licensee has stated that in addition to the inboard check valves and the outboard local manual valves, there are other isolation barriers that provide protection against leakage to the environment from these penetrations. First, the system outside containment is a closed system designed to seismic Category 1 standards and meets at least Safety Class 2 design requirements. Secondly, these lines are in service under normal, transient, and accident conditions, with at least one centrifugal charging pump providing a water seal at a pressure sufficient to preclude containment atmosphere leakage. NRC staff recognizes that both the water seal and the closed system outside containment, in these circumstances, are equivalent to a valve as isolation barriers since each of these barriers can withstand a single active failure.

Based on the above considerations, the staff concludes that the proposed containment isolation provisions for the RCP seal water injection lines, with the existing containment isolation valves, are adequate and that an exemption from the requirements of GDC 55 should be granted for the RCP seal injection lines. The NRC staff notes that application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule since the Sequoyah Nuclear Plant, Units 1 and 2 design provides a check valve inside containment and a local manual valve for the lines outside containment combined with both a closed system and continuous water seal at a pressure sufficient to preclude containment atmospheric leakage.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption—namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule in that the licensee's design provides two redundant means of isolation, with a check valve inside containment and a local manual valve outside containment combined with a closed system and a water seal at a sufficent pressure to preclude containment atmospheric leakage.

The Commission hereby grants an exemption from the valve type requirements of GDC 55 of Appendix A to 10 CFR Part 50 to the licensee for operation of the Sequoyah Nuclear Plant, Units 1 and 2, in that the RCP seal injection lines can be isolated using a check valve inside containment and a local manual globe valve outside containment.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (52 FR 5220, February 19, 1987; 52 FR 6250, March 2, 1987).

For further details with respect to this action, see the request for exemption dated January 23, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

This exemption is effective upon issuance.

Dated At Bethesda, Maryland, this 4th day of December, 1987.

For the Nuclear Regulatory Commission.

Jane A. Axelrad,

Acting Director, Office of Special Projects.

[FR Doc. 87-28523 Filed 12-10-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-16158 (813-80)]

Application; Prudential-Bache Capital Partners I, L.P. et al.

Date: December 7, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

Applicants: Prudential-Bache Capital Partners I, L.P. ("Partnership") and Prudential-Bache Partners Inc. ("General Partner").

Relevant 1940 Act Sections: Order sought under: (i) Sections 6(b) and 6(e) granting various exemptions; (ii) Section 17(b) granting exemption from Section 17(a); (iii) Section 17(d) and Rule 17d-1 permitting certain joint transactions; and (iv) Section 45(a) granting confidential treatment.

Summary of Application: Applicants seek an order to permit the Partnership and each successive partnership to operate as an employees' securities company within the meaning of section 2(a)(13) of the 1940 Act, granting exemption from all provisions of the 1940 Act (except sections 9, 36 and 37, certain provisions of sections 17 and 30, and certain rules and regulations thereunder), permitting certain affiliated and joint transactions, and granting confidential treatment to certain documents.

Filing Dates: The application was filed on June 15, 1987, and amended on October 26, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 29, 1987. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Serve the Applicants 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 Fifth Street, NW., Washington, DC 20549; Applicants, c/o William J. Foster, IV, Esq., Hertzog, Calamari & Gleason, 100 Park Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney, (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

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 (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Partnership is a Delaware limited partnership formed as an "employees' securities company" within the meaning of section 2(a)(13) of the 1940 Act. The General Partner, Prudential-Bache Partners Inc., is a Nevada corporation. The limited partners ("Limited Partners") who will invest in the Partnership will be restricted to senior employees of

Prudential-Bache Securities Inc. ("Prudential-Bache"), a registered broker-dealer which, with its affiliates, is engaged in various facets of the investment banking, securities, and commodities businesses.

2. Prudential-Bache will establish successive limited partnerships annually ("Subsequent Partnerships") that will be similar to the Partnership (collectively, "Partnerships"). As is the case with the Partnership, each Subsequent Partnership will be a closed-end, non-diversified, management investment company and will be subject to the same terms and conditions to which the existing Partnership will be subject under the requested order.

3. Each Subsequent Partnership will also be an "employees' securities company" within the meaning of section 2(a)(13) of the 1940 Act, inasmuch as participation in all the Subsequent Partnership will be limited to highly compensated, key employees of Prudential-Bache. Further, (a) Limited Partner participants in the Partnerships, in addition to being experienced professionals in the investment banking and securities businesses, or in administrative, financial and accounting, legal or operational activities related thereto, will be sophisticated investors able to fend for themselves without benefit of regulatory safeguards; (b) all Limited Partners will understand that (i) interest in the Partnerships will be sold under a claim of exemption under section 4(2) of Securities Act of 1933 ("1933 Act"), and thus, are offered without registration under the 1933 Act and the protections afforded by that law, and (ii) although registered under the 1940 Act, the Partnerships will be exempt from most provisions of the 1940 Act; (c) with limited exceptions, Limited Partners will further be required to meet the "accredited investors" standard of Regulation D under the 1933 Act and, in any case, will have had a minimum income in the past year of $150,000 and expectations of income in excess of $150,000 in the present year; (d) a substantial community of economic and other interests exists among Prudential-Bache and the Limited Partners which obviates the need for investors protection under the 1940 Act; and (e) the Partnerships were conceived and will be organized and promoted by persons who will themselves be investing in the Partnerships rather than by persons seeking to profit from fees for investment advice or from the distribution of securities.

4. The Partnerships will enable key employees of Prudential-Bache to pool their investment resources and to receive the benefit of certain investment opportunities that come to the attention of Prudential-Bache and its affiliates, including Prudential-Bache Interfunding Inc. ("PBIF"). Prudential-Bache, the General Partner and PBIF are wholly-owned subsidiaries of Prudential Securities Group Inc. ("PSG"), a Deleware corporation which in turn, is an indirect subsidiary of The Prudential Insurance Company of America.

5. The management of the Partnerships will be exclusively vested in the General Partner. The directors and principal officers of the General Partner are directors or officers of Prudential-Bache and are eligible to be Limited Partners. However, certain members of a committee, established by the General Partner's Board of Directors for the purpose of exercising independent judgment in supervising certain investment-related decisions of the Partnerships ("Corporate Governance Committee"), will be directors and principal officers of Prudential-Bache but will not be permitted to be Limited Partners.

6. The General Partner will receive no compensation for its services although it may be reimbursed for out-of-pocket expenses incurred by it or its directors and officers in connection with the sale or liquidation of Partnership investments. The General Partner will bear all other expenses in connection with the organization and ordinary operations of the Partnerships, including all legal and accounting fees and all overhead and administrative expenses. In addition, the General Partner will make a capital contribution equal to one ninety-ninth (1/99th) of the aggregate contributions of the Limited Partners and PSG has agreed to lend to the initial Partnership an aggregate amount equal to 400% of the total capital contributions of the Limited Partners to provide funding for Partnership investments. The Limited Partners will be fully informed of the exact terms of the loans including the interest rate and the manner of payment.

7. The investment objective of the Partnership is to permit the Limited Partners to realize capital appreciation through investments in transactions commonly referred to as "leveraged" or "management" buyouts ("Buyouts") that are structured by PBIF ("PBIF Investments"), and through a wide range of other speculative investments originated by persons other than PBIF ("Non-PBIF Investments"). PBIF, a newly organized corporation, has been formed by the General Partner's parent company, PSG, among other things, for the purpose of acting as principal in Buyouts and to syndicate a substantial portion of such investments to affiliated or non-affiliated investor groups.

8. The Partnership will acquire PBIF Investments at the Partnership's proportionate share of PBIF's cost of such investments without any fee or profit to PBIF. The Partnership's cost of Non-PBIF Investments acquired from Prudential-Bache or its other affiliates will be on the same basis as PBIF Investments. In all cases where affiliates of Prudential-Bache or the Partnership are also investors, the cost to the Partnership of such investment must be approved by the Corporate Governance Committee. The Partnership will invest in all PBIF Investments until it has invested at least 50% of the Partnership's capital contributions and the loans to be made in connection therewith in such PBIF Investments, subject to a waiver by the Corporate Governance Committee. The balance of up to 50% of the Partnership's assets will be invested in Non-PBIF Investments, which will consist of speculative investments in equity and equity-related transactions.

9. As provided in the Partnership Agreement, a Limited Partner's interest in the Partnership is non-transferable except with the express consent of the General Partner and it is not intended that the General Partner will consent to transfers to persons other than members of the transferor's immediate family, to one or more Limited Partners, or to the General Partner. Upon the death of a Limited Partner, or his becoming incompetent or bankrupt, his estate or legal representatives will succeed to his interest as an assignee or, with the consent of the General Partner, may become a Limited Partner on the same terms. Upon a Limited Partner ceasing for any other reason to be employed by Prudential-Bache within five full years after the closing date of Limited Partner interests, the General Partner has the irrevocable right and option to purchase for its own account a portion of the Limited Partner's interest at its original cost (the amount of such interest subject to purchase is based upon the length of time that such Limited Partner has been employed by Prudential-Bache) for cash or by delivery of the General Partner's interest bearing promissory note.

10. Each Limited Partner will receive annual financial statements examined by independent certified public accountants and a report setting forth information with respect to such Limited Partner's distributive share of income, gains, losses, credits and other items for Federal and state income tax purposes.

11. Applicants request exemption from all provisions of the 1940 Act except (a) sections 9, 36 and 37, (b) certain provisions of sections 17 and 30, (c) the sections of the 1940 Act necessary to implement sections 9, 36 and 37 and the applicable provisions of sections 17 and 30, (d) the administrative and jurisdictional sections necessary to enforce compliance with the terms of the order sought, and (e) such other provisions as the SEC may consider appropriate, as set forth below.

12. Applicants request all exemption from section 17(a) of the 1940 Act, to the extent necessary, to permit Prudential-Bache or its affiliates to engage in any transaction as principal with the Partnership in addition to transactions as agent. This exemption is requested to permit the Partnerships to (a) invest, as appropriate, in securities of companies or other investment vehicles offered by PBIF, Prudential-Bache, or any other affiliated company or partnership on a principal basis and to purchase or sell securities or investments in such entities through Prudential-Bache, or an affiliate, as agent; (b) purchase interests or property in, or lend money to, a company or other investment vehicle in which PBIF, Prudential-Bache, an affiliated company or partnership, or individual directors, officers, or employees of Prudential-Bache already own 5% or more of the voting securities of such company or investment vehicle, or where such company or investment vehicle is otherwise affiliated with Prudential-Bache or a Partnership (including through a Partnership's ownership of 5% or more of the voting securities of such entity); (c) sell, put or tender, or grant options in securities or interests in a company or other investment vehicle back to such entity, where that entity is affiliated with PBIF, Prudential-Bache, an affiliated company or partnership, individual directors, officers or employees of Prudential-Bache otherwise than as a result of the Partnership's ownership of voting securities; (d) participate as a selling security holder in a public offering that is underwritten by Prudential-Bache or an affiliate or in which Prudential-Bache or an affiliate acts as a member of the underwriting or selling group; and (e) make short term temporary investments where such investments will be purchased from, and sold to, Prudential-Bache or an affiliate thereof. Applicants represent that these transactions will only be effected upon a determination by the Corporate Governance Committee of the General Partner that the terms of the transaction (including the consideration to paid or received) are reasonable and fair to the Limited Partners of the Partnerships and to the Partnerships involved in the transactions and do not involve overreaching on the part of any person concerned.

13. Applicants also request an order under section 17(d) of the 1940 Act and Rule 17d–1 thereunder to permit the Partnerships to engage in transactions in which affiliated persons of the Partnerships may also be participants. Applicants state that such order is necessary in view of the fact that the investment objectives of the Partnerships will require that the Partnerships invest at least 50% of their capital contributions and the loans to be made in connection therewith in PBIF Investments. Applicants also state that the Partnerships expect that the balance of up to 50% of the Partnerships' investments will be in the Non-PBIF Investments that nonetheless may involve transactions and investments in which affiliates of the General Partner, other than PBIF, may be participants. Applicants contend that to permit investments with PBIF and other affiliates will not lead to disadvantageous treatment of the Partnership because Prudential-Bache, in addition to its substantial indirect financial stake in the Partnerships, will be acutely concerned with its relationship with, and the welfare of, the key employees who invest in the Partnerships. Applicants undertake that with respect to PBIF Investments and Non-PBIF Investment in which an affiliate of the General Partner is also a participant, the General Partner will approve the cost to the Partnership of such investments, for fairness and adequacy, and to assure against overreaching. Applicants agree that any order issued by the SEC shall require the General Partner to observe the standards prescribed in sections 9, 36, 37 and 57(f)(3) of the 1940 Act. Applicants also request limited exemptions from sections 17(f), 17(g) and 17(j) of the 1940 Act and Rules 17f–1, 17g–1 and 17j–1, thereunder.

14. Applicants also seek exemption from sections 30(a), 30(b) and 30(d) of the 1940 Act and the rules thereunder, which would require the Partnerships to mail to the Limited Partners and file with the SEC certain periodic reports and financial statements, to permit each Partnership to report annually to the Limited Partners. The forms prescribed by the SEC for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweight any benefit to the Limited Partners. In addition, because interests in the Partnerships would not be available to the public, the purposes intended to be served by sections 30(a) and 30(b) are not relevant to the Partnerships. Applicants undertake that each Partnership will file with the SEC a copy of the financial statements and reports required to be provided annually to the Limited Partners pursuant to the Partnership Agreement. Applicants further request that such filings and any other of its filings with the SEC under section 30 be afforded confidential treatment under section 45(a) of the 1940 Act. Confidential treatment is requested because there will be no public trading in interests of the Partnerships and the Limited Partners, who are the only people with a legitimate interest in such information, would receive that information.

15. Applicants further request exemption from the filing requirements of section 30(f) for the officers, directors or members of the advisory board of a Partnership. Because no trading market for any Partnership interests will exist and transferability of the interests will be severely restricted, the purposes intended by this section would not be served.

Applicants' Legal Conclusions

1. Applicants submit that the exemptions requested pursuant to sections 6(b) and 6(e) of the 1940 Act are consistent with the protection of investors. Applicants also submit that the terms of the proposed affiliated transactions are reasonable and fair and free from overreaching, and are consistent with the policy of each registered investment company concerned. In addition, Applicants assert that the participation of each Partnership will not be on a basis less advantageous than that of any other participant. Finally, Applicants argue that public disclosure of the documents for which confidential treatment has been requested is neither necessary nor appropriate in the public interest or the protection of investors. In support of these contentions, Applicants cite the nature of the Partnerships as employees' securities companies under the 1940 Act and their intended manner of operation. Applicants also point out that because the Partnerships will be managed by individuals who are also Limited Partners, a substantial community of interest will exist between the management of each Partnership and the Limited Partners, which obviates the need for the protections provided by the 1940 Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-28551 Filed 12-10-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16160; File No. 812-6909]

Application; Russell Insurance Funds, Inc.

December 7, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Russell Insurance Funds, Inc.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 9(a), 13(a), 15(a), and 15(b) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15).

Summary of Application: Applicant requests an exemption permitting it to offer its shares to a class of life insurers ("Participating Insurance Companies") in connection with variable annuity contracts and variable life insurance policies offered by the Participating Insurance Companies. Such Participating Insurance Companies may or may not be affiliated with each other.

Filing Date: The application was filed on October 21, 1987.

Hearing or Notification: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC no later than 5:30 p.m., on January 2, 1988. Request a hearing in writing, giving the nature of your interest, the reasons for the request, and the issues you contest. Applicant should be served with a copy of 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. Notification of the date of a hearing should be requested by writing to the Secretary of the SEC.

ADDRESS: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Russell Insurance Funds, Inc., 1201 Pacific Avenue, Tacoma, Washington 98402.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Ulness, Attorney, at (202) 272-2026, or Lewis B. Reich, Special Counsel, (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) 258-4300).

Applicant's Representations

1. Applicant is registered under the 1940 Act as an open end diversified management investment company of the series type. It presently proposes to maintain five Portfolios (Series): Multi-Style Equity Fund series, Aggressive Equity Fund series, Non-U.S. Fund series, Short-Intermediate Fixed Income Fund series and Money Market Liquidity Fund series.

2. Applicant proposes to offer its shares to the separate accounts of Participating Insurance Companies which issue either variable annuity contracts or scheduled or flexible premium variable life insurance contracts (together, "variable life insurance"). The use of a common investment management company as the investment medium of both variable annuities and variable life insurance is referred to herein as "mixed funding." The use of a common investment management company as the investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding."

3. Rules 6e-2 and 6e-3(T) under the Act provide certain exemptions from the Act in order to permit insurance company separate accounts to issue variable life insurance. Rule 6e-2(b)(15), however, precludes both mixed and shared funding and Rule 6e-3(T)(b)(15) precludes share funding. Applicant requests exemptive relief to the extent necessary to permit its shares to be sold for mixed funding and shared funding. Applicant requests exemptive relief extending to a class consisting of life insurers and variable life separate accounts investing in Applicant (and principal underwriters and depositors of those separate accounts) which would otherwise be precluded from investing in Applicant by virtue of Applicant's offering its shares to variable annuity separate accounts or unaffiliated separate accounts.

4. Applicant asserts that granting its request for relief to engage in mixed and shared funding will benefit variable contract owners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for the development of larger pools of assets resulting in greater cost efficiencies; and (3) encouraging more insurance companies to offer variable contracts, which should result in increased competition and lower contract charges. Applicant asserts that the Portfolios will not be managed to favor or disfavor any particular insurer or type of insurance product.

Disqualification

5. Applicant request relief from section 9(a) and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) to the extent necessary to permit mixed and shared funding, *viz.* that the relief granted by paragraph (b)(15) of Rules 6e-2 and 6e-3(T) from section 9(a) be extended to Participating Insurance Companies and variable life separate accounts which may use applicant as an investment medium to fund variable life insurance contracts, subject to the conditions regarding conflicts set out below.

6. In support of its request, Applicant asserts that the same policies that led the Commission to limit the provisions of section 9(a) to those employees of an insurance company engaged in managing the separate account are applicable to insurance companies and their separate accounts that are funded by a fund offering mixed and shared funding. Thus, Applicant argues that it would serve no regulatory purpose to apply the provisions of section 9(a) to the many employees of the Participating Insurance Companies whose separate accounts may utilize Applicant as a funding medium for variable life insurance contracts. Moreover, Applicant submits that applying the requirements of section 9(a) in such cases would increase the costs of monitoring for compliance with that section, which would reduce the net rates of return realized by contractowners. Under the relief requested, Section 9 would still apply to those employees managing the separate account and would thus insulate Applicant from those individuals who should remain disqualified under the Act.

Voting

7. Applicant requests relief from sections 13(a), 15(a), and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding; *viz.* that the relief granted by paragraph (b)(15) of Rules 6e-2 and 6e-3(T) from sections 13(a), 15(a) and 15(b) be extended to the Participating Insurance Companies and their variable life separate accounts which use Applicant as an investment medium to fund variable life contracts subject to the conditions regarding conflicts set out below.

8. In support of this request for relief, Applicant states that all variable

annuity and variable life contract owners will be provided pass-through voting rights with respect to shares of the Applicant. Because paragraphs (b)(15) of both Rule 6e–2 and Rule 6e–3(T) permit the insurance company to disregard these voting instructions in certain limited circumstances, Applicant acknowledges that this may cause an irreconcilable conflict of interest to develop among the separate accounts. Applicant proposes to resolve these potential conflicts through certain undertakings it proposes as conditions to receipt of exemptive relief set out below. Thus, according to Applicant, if a particular Participating Insurance Company's disregard of voting instructions conflicted with the voting instructions of a majority of the contractowners, or precluded a majority vote, the insurer may be required, at Applicant's election, to withdraw its separate account's investment in Applicant. The Participating Insurance Companies will vote shares for which they have not received voting instructions, as well as shares attributable to them, in the same proportion as they vote shares for which they have received instructions.

Applicant's Conditions

Applicant states that it will comply with the following conditions:

1. A majority of the Board of Directors of Applicant ("Board") shall consist of persons who are not interested persons of Applicant, as defined by the 1940 Act.

2. The Board will monitor Applicant for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in Applicant. An irreconcilable material conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any Portfolio are being managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners or by contractowners of different Participating Insurance Companies; or (f) a decision by an insurer to disregard the voting instructions of contractowners.

3. Participating Insurance Companies and the Investment Adviser will report any potential or existing conflicts to Applicant's Board. Participating Insurance Companies will be responsible for assisting the Board in carrying out its responsibilities by providing the Board with all information reasonably necessary for the Board to consider any issues raised including information as to a decision by an insurer to disregard voting instructions of contractowners. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of all insurers investing in Applicant under their agreements governing participation in Applicant.

4. If it is determined by a majority of the Board of Applicant or a majority of its disinterested trustees that a material irreconcilable conflict exists, the relevant Participating Insurance Companies shall, at their expense, take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, which steps could include: (a) Withdrawing the assets allocable to some or all of the separate accounts from Applicant or any Series (Portfolio) and reinvesting such assets in a different investment medium, including another Portfolio of Applicant, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any particular group (i.e. annuity contractowners, life insurance contractowners, or variable contractowners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at Applicant's election, to withdraw its separate account's investment in Applicant, and no charge or penalty will be imposed against a separate account as a result of such a withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in Applicant and those responsibilities will be carried out with a view only to the interests of their contractowners. For purposes of this condition 4, a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable conflict, but in no event will Applicant be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by this condition 4 to establish a new funding medium for any variable contract if an offer to do so has been declined by vote of a majority of affected contractowners.

5. The Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly to all Participating Insurance Companies.

6. Participating Insurance Companies shall provide pass-through voting privileges to all variable contractowners so long as the Commission continues to interpret the Act to require pass-through voting privileges for variable contractowners. Participating Insurance Companies shall be responsible for assuring that each of their separate accounts participating in Applicant calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in Applicant shall be a contractual obligation of all present and future Participating Insurance Companies under their agreements governing participation in Applicant. Participating Insurance Companies will vote shares for which they have not received voting instructions, as well as shares attributable to them, in the same proportion as they vote shares for which they have received instructions.

7. All reports received by the Board of potential or existing conflicts, determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedied a conflict, will be properly recorded in the minutes of the Board or other appropiate records, and such minutes or other records shall be made available to the Commission upon request.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–28552 Filed 12–10–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2295; Amdt. #1]

Declaration of Disaster Loan Area; Texas

The above-numbered Declaration (52 FR 45702) is hereby amended in accordance with the Notice of Amendment to the President's declaration, dated November 23, 1987, to include the Counties of Burleson, Lee, Panola, Shelby, Smith, and Upshur in the State of Texas because of damage from severe storms and tornadoes on November 15–16, 1987. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on January 21, 1988, and for economic injury until the close of business on August 22, 1988.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: November 27, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87–28416 Filed 12–10–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/1138]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Partially Closed Meeting

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 2:00 PM, Thursday, January 7, 1988, in Room 1205, and Thursday, February 25, 1988, in Room 1408, Department of State, 22nd and C Streets NW., Washington, DC.

At these meetings, officers responsible for Antarctic affairs in the Department of State will discuss key issues and problems involving the Antarctic in the context of current domestic and international developments. These sessions will be open to the public. The public will be admitted to the session to the limits of seating capacity and will be given the opportunity to participate in discussion according to the instructions of the Chairman. As access to the Department of State is controlled, person wishing to attend the meetings should enter the Department through the Diplomatic (C Street) Entrance. Department officials will be at the Diplomatic Entrance to escort attendees.

The Antarctic Section of the Oceans and International Environmental and Scientific Affairs Advisory Committee will also meet on Friday, January 8, and Friday, February 26, 1988, in Room 1205, Department of State, 22nd and C Streets NW., in sessions that will not be open to the public. As these sessions will include discussion of classified material, they have been closed pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and 5 U.S.C. 552b (c)(9)(B). The disclosure of classified material and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in future negotiations. The purpose of these discussions will be to elicit views concerning the further development of United States policy regarding Antarctic resources, particularly Antarctic mineral resources. This portion of the meeting will include classified briefings and examination and discussion of classified documents pursuant to Executive Order 12356.

Requests for further information on the meetings should be directed to R. Tucker Scully of OES/OPA, Room 5801, Department of State. He may be reached by telephone on (202) 647–3262.

Richard J. Smith,

Acting Chairman.

[FR Doc. 87–28414 Filed 12–10–87; 8:45 am]

BILLING CODE 4710–09–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–49]

Unfair Trade Practices; Brazil's Informatics Policy

ACTION: Supplemental request for public comment on possible U.S. actions in response to certain Brazilian unfair trade practices.

SUMMARY: This notice provides additional information regarding the public hearings to be held on possible trade sanctions against Brazil, specifies contacts for further information, and lists products under consideration for increased duties or other import restrictions in terms of the Harmonized System tariff nomenclature.

Background: This notice supplements information given earlier (52 FR 44939), which announced public hearings on possible sanctions in the Brazil informatics section 301 case.

Public Hearings: Remarks at the public hearings on December 18, 1987, will be limited to no more than 5 minutes, to accommodate all interested parties (not 10 minutes as stated in the prior notice at 52 FR 44939).

If the number of parties giving oral testimony warrants, hearings may begin on December 17 and continue on December 18. The deadline for notifying the Office of the U.S. Trade Representative of intent to give oral testimony is December 10; parties testifying will be notified soon thereafter of the date of their testimony.

Contacts for Further Information: General questions about products under consideration for increased duties should be directed to Joseph Damond, U.S. Department of Commerce, (202) 377–2831; questions about informatics products in particular should be directed to R. Clay Woods, U.S. Department of Commerce, (202) 377–3013; questions about the disposition of the informatics section 301 case should be directed to Christina Lund, Director for Brazil and Southern Cone Affairs, Office of the U.S. Trade Representative, (202) 395–5190.

Annex: The annex lists products being considered for increased duties or other import restrictions in terms of the Harmonized System tariff nomenclature. The list represents the best possible conversion of the Annex to the notice at 52 FR 44939, which listed the products in terms of the nomenclature of the current Tariff Schedules of the United States (TSUS). Trade data indicate that the Harmonized System conversion covers virtually the identical products as the TSUS listing. However, because the conversion is not in all cases exact, some differences in precise product coverage may arise. Comments are sought on any product coverage discrepancies created by the conversion of tariff nomenclature.

Judith H. Bello,

Chairman, Section 301 Committee.

BILLING CODE 3190–01–M

ANNEX

Articles, the product of Brazil, classified in the following provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are being considered for increased duties or other import restrictions:

HTSUS or HTSUSA 1/ subheading	Article
	[The bracketed language in this list is included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]
2707	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the nonaromatic constituents:
2707.10.00	Benzene
2804	Hydrogen, rare gases and other nonmetals:
	Silicon:
	[Containing by weight not less than 99.99 percent of silicon]
2804.69	Other:
2804.69.10	Containing by weight less than 99.99 percent but not less than 99 percent of silicon
2902	Cyclic hydrocarbons:
2902.20.00	Benzene
2909	Ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, ketone peroxides, (whether or not chemically defined), and their halogenated, sulfonated, nitrated or nitrosated derivatives:
2909.30	Aromatic ethers and their halogenated, sulfonated, nitrated or nitrosated derivatives:
	[5-Chloro-2-nitroanisole; 6-chloro-3-nitro-p-dimethoxybenezene; dimethyl diphyenyl ether; decabromodiphenyl oxide; octobromodiphenyl oxide]
	Other:
2909.30.30	Pesticides
2918	Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulfonated, nitrated or nitrosated derivatives:
	[Carboxylic acids with alcohol function but without other oxygen function, their anhydrides, halides, peroxides, peroxyacids and their derivatives]
	[Carboxylic acids with phenol function but without other oxygen function, their anhydrides, halides, peroxides, peroxyacids and their derivatives]
	[Carboxylic acids with aldehyde or ketone function but without other oxygen function, their anhydrides, halides, peroxides, peroxyacids and their derivatives]
2918.90	Other:
	Aromatic:
	[Articles provided for in subheading 2918.90.05]
	Other:
	Pesticides:
	[Articles provided for in subheading 2918.90.10]
2918.90.20	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
2924	Carboxyamide-function compounds; amide-function compounds of carbonic acid:
	Cyclic amides (including cyclic carbamates) and their derivatives;
	salts thereof:
2924.21	Ureines and their derivatives; salts thereof:
	Aromatic:
	Pesticides:
	[3-(p-Chlorophenyl)-1,1-dimethylurea (Monuron); and
	1,1-Dimethyl-3-(, , -trifluoro-m-tolyl) urea
	(Fuometuron)]
2924.21.15	Other
2924.29	Other:
	Aromatic:
	[Articles provided for in subheadings 2924.29.05 thru
	2924.29.14]
	Other:
	Pesticides:
	[Articles provided for in subheading
	2924.29.15]
2924.29.19	Other
2926	Nitrile-function compounds:
	[Acrylonitrile; 1-cyanoguanidine (Dicyandiamide)]
2926.90	Other:
	Aromatic:
	[Articles provided for in subheading 2926.90.10]
	Other:
	Pesticides:
	Herbicides:
	[3,5-Dibromo-4-hydroxybenzonitrile
	(Bromoxynile)]
2926.90.25	Other
2930	Organo-sulfur compounds:
2930.20	Thiocarbamates and dithiocarbamates:
	Aromatic:
2930.20.10	Pesticides
2933	Heterocyclic compounds with nitrogen hetero-atom(s) only; nucleic acids and
	their salts:
	Compounds containing an unfused pyrazole ring (whether or not
	hydrogenated) in the structure:
	[Phenazone (Antipyrine) and its derivatives]
2933.19	Other:
	Aromatic or modified aromatic:
	[Articles provided for in subheading 2933.19.10]
	Other:
2933.19.25	Pesticides
	[Compounds containing an unfused imidazole ring (whether or not
	hydrogenated) in the structure]

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
2933 (con.)	Heterocylic compounds with nitrogen, etc. (con.):
	Compounds containing an unfused pyridine ring (whether or not hydrogenated) in the structure:
	[Pyridine and its salts]
2933.39	Other:
	[Articles provided for in subheadings 2933.39.10 and 2933.39.20]
	Other:
	Pesticides:
	Herbicides:
	[o-Paraquat dichloride]
2933.39.25	Other
	[Compounds containing a quinoline or isoquinoline ring-system (whether or not hydrogenated), not further fused]
	Compounds containing a pyrimidine ring (whether or not hydrogenated) or piperazine ring in the structure; nucleic acids and their salts:
	[Malonylurea (Barbituric acid) and its derivatives; salts thereof]
2933.59	Other:
	Pesticides:
	Aromatic or modified aromatic:
2933.59.10	Herbicides
	[Compounds containing an unfused triazine ring (whether or not hydrogenated) in the structure; lactams]
2933.90	Other:
	Aromatic or modified aromatic:
	[Articles provided for in subheadings 2933.90.05 and 2933.90.10]
	Other:
	Pesticides:
	[5-Amino-4-chloro- -phenyl-3-pyridazinone; and o-diquat dibromide (1,1'-ethylene-2,2'-dipyridilium dibromide)]
	Other:
	[Insecticides]
2933.90.20	Other
2934	Other heterocyclic compounds:
	[Compounds containing an unfused thiazole ring (whether or not hydrogenated) in the structure; compounds containing a benzothiazole ring-system (whether or not hydrogenated), not further fused; compounds containing a phenothiazine ring-system (whether or not hydrogenated), not further fused]
2934.90	Other:
	Aromatic or modified aromatic:
	[Articles provided for in subheadings 2934.90.05 and 2934.90.06]
	Other:
	Pesticides:
	[Articles provided for in subheading 2934.90.10]
	Other:
2934.90.14	Herbicides

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
4202	Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of plastic sheeting, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials:
	Handbags, whether or not with shoulder strap, including those without handles:
4202.21	With outer surface of leather, of compositions leather or of patent leather:
	[Of reptile leather]
	Other:
4202.21.60	Valued not over $20 each
4202.21.90	Valued over $20 each
4411	Fiberboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances:
	Fiberboard of a density exceeding 0.8 g/cm^3:
4411.11.00	Not mechanically worked or surface covered
4411.19	Other:
4411.19.20	Not surface covered (except for oil treatment)
	Fiberboard of a density exceeding 0.5 g/cm^3 but not exceeding 0.8 g/cm^3:
4411.21.00	Not mechanically worked or surface covered
4411.29	Other:
	[Tongued, grooved, or rabbetted continuously along any of its edges and dedicated for use in the construction of walls, ceilings, or other parts of buildings]
	Other:
4411.29.60	Not surface covered (except for oil treatment)
6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather:
	Sports footwear:
	[Ski-boots and cross-country ski footwear]
6403.19	Other:
	For men, youths and boys:
	[Welt footwear]
6403.19.45	Other
	[Footwear with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe; footwear made on a base or platform of wood, not having an inner sole or a protective metal toe-cap]
6403.40	Other footwear, incorporating a protective metal toe-cap:
	[Welt footwear]
6403.40.60	Other
	Other footwear with outer soles of leather:
6403.51	Covering the ankle:
	[Welt footwear]
	Other:
6403.51.60	For men, youths and boys

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
6403 (con.)	Footwear with outer soles of rubber, plastics, etc. (con.):
	Other footwear with outer soles of leather (con.):
6403.59	Other:
	[Turn or turned footwear; welt footwear]
	Other:
6403.59.60	For men, youths and boys
	Other footwear:
6403.91	Covering the ankle:
	[Welt footwear]
	Other:
6403.91.60	For men, youths and boys
6403.99	Other:
	[Footwear made on a base or platform of wood]
	Other:
	[Welt footwear]
	Other:
6403.99.60	For men, youths and boys
6404	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials:
	Footwear with outer soles of rubber or plastics:
6404.11	Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like:
	Having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to chapter 64 of the Harmonized Tariff Schedule of the United States) is leather:
6404.11.2030	For men
6404.11.2045	For youths and boys
6404.19	Other:
	Footwear having uppers of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as those mentioned in note 4(a) to chapter 64 of the Harmonized Tariff Schedule of the United States) is leather:
6404.19.1520	For men
6404.19.1540	For youths and boys
6405	Other footwear:
	With uppers of leather or composition leather:
6405.10.0030	For men
	[For women]
6405.10.0090	For other persons
6406	Parts of footwear; removable insoles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof:
6406.10	Uppers and parts thereof, other than stiffeners:
	Formed uppers:
	Of leather or composition leather:
6406.10.05	For men, youths and boys
	Of textile materials:
	Of which over 50 percent of the external surface area (including any leather accessories or reinforcements such as mentioned in note 4(a) to chapter 64 of the Harmonized Tariff Schedule of the Unite States) is leather:
6406.10.2030	For men, youths and boys

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
6908	Glazed ceramic flags and paving, hearth or wall tiles; glazed ceramic mosaic cubes and the like, whether or not on a backing:
6908.10	Tiles, cubes and similar articles, whether or not rectangular, the largest surface area of which is capable of being enclosed in a square the side of which is less than 7 cm:
	[Having not over 3,229 tiles per square meter, most of which have faces bounded entirely by straight lines]
	Other:
	[The largest surface area of which is less than 38.7 cm^2]
6908.10.50	Other
6908.90.00	Other
6910	Ceramic sinks, washbasins, washbasin pedestals, baths, bidets, water closet bowls, flush tanks, urinals and similar sanitary fixtures:
6910.10.00	Of porcelain or china
6910.90.00	Other
6911	Tableware, kitchenware, other household articles and toilet articles, of porcelain or china:
	[Tableware and kitchenware]
6911.90.00	Other
6912.00	Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china:
	Tableware and kitchenware:
6912.00.10	Of coarse-grained earthenware, or of coarse-grained stoneware; of fine-grained earthenware, whether or not decorated, having a reddish-colored body and a lustrous glaze which, on teapots, may be any color, but which, on other articles, must be mottled, streaked, or solidly colored brown to black with metallic oxide or salt
	Other:
6912.00.20	Hotel or restaurant ware
	Other:
	Available in specified sets:
6912.00.35	In any pattern for which the aggregate value of the listed in additional U.S. note 6(b) of chapter 69 of the Harmonized Tariff Schedule of the United States is not over $38
6912.00.39	In any pattern for which the aggregate value of the articles listed in additional U.S. note 6(b) of chapter 69 of the Harmonized Tariff Schedule of the United States is over $38
	Other:
6912.00.41	Steins with permanently attached pewter lids; candy boxes, decanters, punch bowls, pretzel dishes, tidbit dishes, tiered servers, bonbon dishes, egg cups, spoons and spoon rests, oil and vinegar sets, tumblers and salt and pepper shaker sets
6912.00.44	Mugs and other steins

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
6912.00 (con.)	Ceramic tableware, kitchenware, other household, etc. (con.):
	Tableware and kitchenware (con.):
	Other (con.):
	Other (con.):
	Other (con.):
6912.00.47	Cups valued over $5.25 per dozen; saucers valued over $3 per dozen; soups, oatmeals and cereals valued over $6 per dozen; plates not over 22.9 cm in maximum diameter and valued over $6 per dozen; plates over 22.9 but not over 27.9 cm in maximum diameter and valued over $8.50 per dozen; platters or chop dishes valued over $35 per dozen; sugars valued over $21 per dozen; creamers valued over $15 per dozen; and beverage servers valued over $42 per dozen
6912.00.49	Other
7202	Ferroalloys:
	Ferrosilicon:
7202.21	Containing by weight more than 55 percent of silicon:
	Containing by weight more than 55 percent but not more than 80 percent of silicon:
7202.21.10	Containing by weight more than 3 percent of calcium
7202.21.50	Other
7202.29.00	Other
8419	Machinery, plant or laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, nonelectric; parts thereof:
	[Instantaneous or storage water heaters, nonelectric; medical, surgical or laboratory sterilizers]
	Dryers:
8419.32	For wood, paper pulp, paper or paperboard:
	[For wood]
8419.32.50	Other
	[Distilling or rectifying plant; heat exchange units; machinery for liquefying air or gas]
	Other machinery, plant or equipment:
	[For making hot drinks or for cooking or heating food]
8419.89	Other:
8419.89.10	For making paper pulp, paper or paperboard
8419.90	Parts:
8419.90.20	Of machinery and plant for making paper pulp, paper or paperboard
8458	Lathes for removing metal:
	Horizontal lathes:
	[Numerically controlled]
8458.19.00	Other
	Other lathes:
	[Numerically controlled]
8458.99	Other:
	[Vertical turret lathes]
8458.99.50	Other
8461	Machine tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine tools working by removing metal, sintered metal carbides or cermets, not elsewhere specified or included:
8461.50.00	Sawing or cutting-off machines

HTSUS or HTSUSA 1/ subheading	Article
8462	Machine tools (including presses) for working metal by forging, hammering or die-stamping; machine tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above:
	[Forging or die-stamping machines (including presses) and hammers; bending, folding, straightening or flattening machines (including presses); shearing machines (including presses), other than combined punching and shearing machines; punching or notching machines (including presses), including combined punching and shearing machines]
	Other:
8462.91.00	Hydraulic presses
8462.99.00	Other
8470	Calculating machines; accounting machines, cash registers, postage-franking machines, ticket-issuing machines, and similar machines, incorporating a calculating device:
8470.40.00	Accounting machines
8470.50.00	Cash registers
8471	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included:
8471.10.00	Analog or hybrid automatic data processing machines
8471.20.00	Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit, whether or not combined
	Other:
8471.91.00	Digital processing units, whether or not entered with the rest of a system, which may contain in the same housing one or two of the following types of units: storage units, input units, output units
8471.92	Input or output units, whether or not entered with the rest of a system and whether or not containing storage units in the same housing:
8471.92.10	Combined input/output units
	Other:
8471.92.20	Keyboards
	Display units:
8471.92.30	Without cathode-ray tube (CRT), having a visual display diagonal not exceeding 30.5 cm
8471.92.40	Other
	Printer units:
8471.92.65	Assembled units incorporating at least the media transport, control and print mechanisms
8471.92.70	Other
	Other:
8471.92.80	Units suitable for physical incorporation into automatic data processing machines or units thereof
8471.92.90	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
8471 (con.)	Automatic data processing machines and units, etc. (con.):
	Other (con.):
8471.93	Storage units, whether or not entered with the rest of a system:
	Magnetic disk drive units:
	For a disk of a diameter exceeding 21 cm:
8471.93.10	Without read-write unit assembled therein; read-write units separately entered
8471.93.15	Units for physical incorporation into automatic data processing machines or units thereof
8471.93.20	Other
	Other:
8471.93.30	Not assembled in cabinets, and without attached external power supply
8471.93.40	Other
	Other storage units:
8471.93.50	Not assembled in cabinets for placing on a table, desk, wall, floor or similar place
8471.93.60	Other
8471.99	Other:
8471.99.15	Control or adapter units
8471.99.30	Power supplies
	Other:
8471.99.60	Units suitable for physical incorporation into automatic data processing machines or units thereof
8471.99.90	Other
8472	Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, automatic banknote dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil-sharpening machines, perforating or stapling machines):
	[Duplicating machines; addressing machines and address plate embossing machines]
8472.30.00	Machines for sorting or folding mail or for inserting mail in envelopes or bands, machines for opening, closing or sealing mail and machines for affixing or cancelling postage stamps
8472.90	Other:
	[Pencil sharpeners; numbering, dating and check-writing machines]
8472.90.80	Other
8473	Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings 8469 to 8472:
8473.30	Parts and accessories of the machines of heading 8471:
8473.30.40	Not incorporating a cathode ray tube
8473.30.80	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
8517	Electrical apparatus for line telephony or telegraphy, including such apparatus for carrier-current line systems; parts thereof:
8517.10.00	Telephone sets
8517.20.00	Teleprinters, including teletypewriters
8517.30	Telephonic or telegraphic switching apparatus:
8517.30.10	Telephonic switching apparatus (including private branch exchange and key system switching apparatus)
8517.30.50	Other
8517.40.00	Other apparatus, for carrier-current line systems
	Other apparatus:
8517.81.00	Telephonic
8517.82.00	Telegraphic
8517.90	Parts:
	Of telephonic apparatus:
8517.90.20	Of telephonic switching apparatus
8517.90.30	Of telephone sets and other terminal apparatus
8517.90.40	Other
	Of telegraphic apparatus:
8517.90.60	Of telegraphic switching apparatus
8517.90.70	Of terminal apparatus (including teleprinting machines)
8517.90.80	Other
8520	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device:
8520.20.00	Telephone answering machines
8522	Parts and accesories of apparatus of headings 8519 to 8521:
	[Pick-up cartridges]
8522.90	Other:
8522.90.60	Parts of telephone answering machines
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of chapter 37:
	Magnetic tapes:
8523.11.00	Of a width not exceeding 4 mm
8523.12.00	Of a width exceeding 4 mm but not exceeding 6.5 mm
8523.13.00	Of a width exceeding 6.5 mm
8523.20.00	Magnetic discs
8523.90.00	Other
8524	Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of chapter 37:
	[Phonograph records]
	Magnetic tapes:
8524.21	Of a width not exceeding 4 mm:
	[News sound recordings relating to current events]
8524.21.30	Other recordings
8524.22	Of a width exceeding 4 mm but not exceeding 6.5 mm:
	[Video tape recordings]
8524.22.20	Other tape recordings
8524.23	Of a width exceeding 6.5 mm:
	[Video tape recordings]
8524.23.20	Other tape recordings

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
8524 (con.)	Records, tapes and other recorded media for sound, etc. (con.):
8524.90	Other:
	[Master records or metal matrices therefrom for use in the production of sound records for export; recordings on wire; video discs]
8524.90.40	Other
8525	Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras:
8525.20	Transmission apparatus incorporating reception apparatus:
	Transceivers:
	[Citizens Band (CB); low-power radiotelephonic transceivers operating on frequencies from 49.82 to 49.90 MHz]
8525.20.30	Other
8527	Reception apparatus for radiotelephony, radiotelegraphy or radiobroadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock:
	[Radiobroadcast receivers capable of operating without an external source of power, including apparatus capable of receiving also radiotelephony or radiotelegraphy; radiobroadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles, including apparatus capable of receiving also radiotelephony or radiotelegraphy; other radiobroadcast receivers, including apparatus capable of receiving also radiotelephony or radiotelegraphy]
8527.90	Other apparatus:
	[Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks]
8527.90.80	Other
8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders, junction boxes), for a voltage not exceeding 1,000 V:
	Lampholders, plugs and sockets:
	[Lampholders]
8536.69.00	Other
8540	Thermionic, cold cathode or photocathode tubes (for example, vacuum or vapor or gas filled tubes, mercury arc rectifying tubes, cathode-ray tubes, television camera tubes); parts thereof:
	Parts:
8540.91	Of cathode-ray tubes:
	[Deflection coils]
8540.91.40	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
8541	Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes; mounted piezoelectric crystals; parts thereof:
	[Diodes, other than photosensitive or light-emitting diodes; transistors, other than photosensitive transistors; thyristors, diacs and triacs, other than photosensitive devices; photosensitive semiconductor devices, including photovoltaic cells whether or not assembled in modules or made up into panels; light-emitting diodes]
8541.50.00	Other semiconductor devices
8541.60.00	Mounted piezoelectric crystals
8542	Electronic integrated circuits and microassemblies; parts thereof:
	Monolithic integrated circuits:
8542.11.00	Digital
8542.19.00	Other
8542.20.00	Hybrid integrated circuits
8542.80.00	Other
8544	Insulated (including enameled or anodized) wire, cable (including coaxial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fiber cables, made up of individually sheathed fibers, whether or not assembled with electric conductors or fitted with connectors:
8544.20.00	Coaxial cable and other coaxial electric conductors
8544.70.00	Optical fiber cables
8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars:
	[Vehicles specially designed for traveling on snow; golf carts and similar vehicles]
	Other vehicles, with spark-ignition internal combustion reciprocating piston engine:
8703.23.00	Of a cylinder capacity exceeding 1,500 cc but not exceeding 3,000 cc
8802	Other aircraft (for example, helicopters, airplanes), spacecraft (including satellites) and spacecraft launch vehicles:
	Helicopters:
8802.11.00	Of an unladen weight not exceeding 2,000 kg
8802.12.00	Of an unladen weight exceeding 2,000 kg
8802.20.00	Airplanes and other aircraft, of an unladen weight not exceeding 2,000 kg
8802.30.00	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg
8802.40.00	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
9001	Optical fibers and optical fiber bundles; optical fiber cables other than those of heading 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked:
9001.10.00	Optical fibers, optical fiber bundles and cables
9008	Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers; parts and accessories thereof:
9008.20	Microfilm, microfiche or other microform readers, whether or not capable of producing copies:
9008.20.40	Capable of producing copies
9009	Photocopying apparatus incorporating an optical system or of the contact type and thermocopying apparatus; parts and accessories thereof:
	Electrostatic photocopying apparatus:
9009.11.00	Operating by reproducing the original image directly onto the copy (direct process)
9009.12.00	Operating by reproducing the original image via an intermediate onto the copy (indirect process)
	Other photocopying apparatus:
9009.21.00	Incorporating an optical system
9009.22.00	Of the contact type
9009.30.00	Thermocopying apparatus
9014	Direction finding compasses; other navigational instruments and appliances; parts and accessories thereof:
9014.10	Direction finding compasses:
9014.10.10	Optical instruments
9014.20	Instruments and appliances for aeronautical or space navigation (other than compasses):
9014.20.20	Optical instruments and appliances
9014.80	Other instruments and appliances:
9014.80.10	Optical instruments
9015	Surveying (including photogrammetrical surveying) hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders; parts and accessories thereof:
	[Rangefinders]
9015.20	Theodolites and tachymeters:
9015.20.40	Electrical
	[Levels; photogrammetrical surveying instruments and appliances]
9015.80	Other instruments and appliances:
9015.80.20	Optical instruments and appliances
9016.00	Balances of a sensitivity of a 5 cg or better, with or without weights; parts and accessories thereof:
9016.00.20	Electrical balances and parts and accessories thereof

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments; parts and accessories thereof:
	Electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters); parts and accessories thereof:
9018.11.00	Electrocardiographs, and parts and accessories thereof
9018.19	Other:
	[Apparatus for functional exploratory examination, and parts and accessories thereof]
9018.19.80	Other
9018.20.00	Ultraviolet or infrared ray apparatus, and parts and accessories thereof
	[Syringes, needles, and catheters, cannulae and the like; parts and accessories thereof]
	[Other instruments and appliances, used in dental sciences, and parts and accessories therof]
	[Other ophthalmic instruments and appliances and parts and accessories thereof]
9018.90	Other instruments and appliances and parts and accessories thereof:
	[Optical instruments and appliances and parts and accessories thereof]
	Other:
	Electro-medical instruments and appliances and parts and accessories thereof:
	[Electro-surgical instruments and appliances and parts and accessories thereof]
9018.90.70	Other
9019	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus; parts and accessories thereof:
9019.10	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; parts and accessories thereof:
	[Mechano-therapy appliances and massage apparatus and parts and accessories thereof]
	Other:
9019.10.40	Electrically operated apparatus and parts thereof

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
9021	Orthopedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; parts and accessories thereof:
	[Artificial joints and other orthopedic or fracture appliances; parts and accessories thereof]
	[Artificial teeth and dental fittings, and parts and accessories thereof]
	[Other artificial parts of the body and parts and accessories thereof]
	[Hearing aids, excluding parts and accessories thereof]
	[Pacemakers for stimulating heart muscles, excluding parts and accessories thereof]
9021.90	Other:
9021.90.40	Parts and accessories for hearing aids and for pacemakers for stimulating heart muscles
9022	Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like; parts and accessories thereof:
	Apparatus based on the use of X-rays, whether or not for medical, surgical, dental or veterinary uses, including radiography or radio-therapy apparatus:
9022.11.00	For medical, surgical, dental or veterinary uses
	[Apparatus based on the use of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radio-therapy apparatus; X-ray tubes]
9022.90	Other, including parts and accessories:
9022.90.20	Other apparatus
	Parts and accessories:
	[Of X-ray tubes]
	Other:
9022.90.60	Of apparatus based on the use of X-rays
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading 9014, 9015, 9028 or 9032; parts and accessories thereof:
9026.10	For measuring or checking the flow or level of liquids:
9026.10.20	Electrical
9026.20	For measuring or checking pressure:
9026.20.40	Electrical
9026.80	Other instruments and apparatus:
9026.80.20	Electrical
9026.90	Parts and accessories:
9026.90.20	Of electrical instruments and apparatus

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes; parts and accessories thereof:
9027.10	Gas or smoke analysis apparatus:
9027.10.20	Electrical
9027.20	Chromatographs and electrophoresis instruments:
9027.20.40	Electrical
9027.30	Spectrometers, spectrophotometers and spectrographs using optical radiations (ultraviolet, visible, infrared):
9027.30.40	Electrical
	[Exposure meters]
9027.50	Other instruments and apparatus using optical radiations (ultraviolet, visible, infrared):
9027.50.40	Electrical
9027.80	Other instruments and apparatus:
9027.80.40	Electrical
9027.90	Microtomes; parts and accessories:
	[Microtomes]
	Parts and accessories:
9027.90.40	Of electrical instruments and apparatus
9030	Oscilloscopes, spectrum analyzers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionizing radiations; parts and accessories thereof:
9030.10.00	Instruments and apparatus for measuring or detecting ionizing radiations
9030.90	Parts and accessories:
9030.90.40	For articles of subheading 9030.10
9302.00.00	Revolvers and pistols, other than those of heading 9303 or 9304
9401	Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof:
	[Seats of a kind used for aircraft; seats of a kind used for motor vehicles; swivel seats with variable height adjustment]
9401.40.00	Seats other than garden seats or camping equipment, convertible into beds
	[Seats of cane, osier, bamboo or similar materials]
	Other seats, with wooden frames:
9401.61	Upholstered:
	[Chairs]
9401.61.60	Other
9401.69	Other:
	[Bent-wood seats]
	Other:
	[Chairs]
9401.69.80	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

HTSUS or HTSUSA 1/ subheading	Article
9403	Other furniture and parts thereof:
9403.30	Wooden furniture of a kind used in offices:
	[Bent-wood furniture]
9403.30.80	Other
9403.40	Wooden furniture of a kind used in the kitchen:
	[Bent-wood furniture]
	Other:
	[Designed for motor vehicle use]
9403.40.90	Other
9403.50	Wooden furniture of a kind used in the bedroom:
	[Bent-wood furniture]
	Other:
	[Designed for motor vehicle use]
9403.50.90	Other
9403.60	Other wooden furniture:
	[Bent-wood furniture]
9403.60.80	Other

1/ Proposed Harmonized Tariff Schedule of the United States.

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BILLING CODE 3190-01-C

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

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.

DATE: Comment period closes January 13, 1988.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9882-N	Benton Fibre Drum Co., Inc., Highstown, NJ.	49 CFR 173.119(a)(9), 173.154(a)(9), 173.245(a)(24), 173.245b(a)(5), 178.225-2.	To authorize manufacture, marking and sale of a non-DOT fiber drum, equivalent to DOT Specification 21P fiber drum, except the top and bottom will be polyethylene or polypropylene, for transport of certain oxidizers, peroxides, corrosives and flammables. (Mode 1.)
9883-N	Benton Fibre Drum Co., Inc., Highstown, NJ.	49 CFR 173.119(a)(9), 173.154(a)(9), 173.245(a)(24), 173.245b(a)(5), 178.224-1.	To authorize manufacture, marking and sale of a non-DOT fiber drum equivalent to DOT Specification 21C fibre drums except lid and bottom are constructed of polyethylene or polypropylene for transportation of certain oxidizers, peroxides, flammables and corrosives. (Mode 1.)
9884-N	Puritan-Bennett, Corporation, Indianapolis, IN.	49 CFR 173.316, 175.3, 178.57-8(c)	To authorize manufacture, marking and sale of a non-DOT specification cylinder equivalent to the DOT Specification 4L cylinder, except it will exceed the thermal performance of 178.57-8(c), for transport of liquid oxygen, classed as nonflammable gas. (Modes 1, 5.)
9885-N	Astro Containers, Inc., Evendale, OH	49 CFR 173.188	To authorize manufacture, marking and sale of non-DOT specification steel drums constructed in accordance with the requirements of former DOT Specification 6K metal drums for transporting of phosphoric anhydride classed as a corrosive material. (Modes 1, 2.)
9886-N	Clayton Mark Inc., Rogers, AR	49 CFR 173.306(g)	To authorize manufacture, marking and sale of non-DOT specification, single trip, steel tanks for shipment of compressed air and nitrogen classed as nonflammable gases. (Modes 1, 2, and 3.)
9887-N	Offshore Marine Engineering Limited, West Midlands, England.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(H).	To authorize manufacture, marking and sale of non-DOT specification portable tanks, enclosed in frame or skid mounted, for shipment of liquefied helium and liquefied hydrogen, classed as flammable gases. (Modes 1, 2, and 3.)
9888-N	Ford Motor Company, Dearborn, MI	49 CFR 173.202(a), 173.206(a), 173.207(a), (b).	To authorize shipment of a sodium-sulfur storage battery installed in a vehicle with spare battery module(s). (Mode 1.)
9889-N	Assmann Corporation of America, Garrett, IN.	49 CFR Part 173, Subparts E, F, Subparts K, L, M, O.	To authorize manufacture, marking and sale of a non-DOT specification 225 and 300 gallon rotationally molded polyethylene portable tank for shipment of various flammable, combustible, corrosive, and ORM-A, B, C and E liquids. (Modes 1, 2.)
9890-N	Liquid Carbonic Corporation, Chicago, IL	49 CFR 173.304(a), 177.840(a)(1), 178.57-2(a).	To authorize use of a DOT 4L300 cylinder with a maximum nominal water capacity of 1250 pounds, mounted horizontally, filled up to 90% of filling density, with liquefied carbon dioxide. (Mode 1.)
9891-N	Sonoco Fibre Drum, Inc., Lombard, IL	49 CFR 173.154, 173.156, 173.217, 173.365, 173.510, 175.3, 178.224-1.	To authorize manufacture, marking and sale of non-DOT specification fibre drums equivalent to DOT Specification 21C fibre drum except lid is constructed of high density polyethylene for transport of certain flammable solids, oxidizers, and Class B poison solid. (Modes 1, 2, 3, and 4.)
9892-N	Bergen Barrel & Drum Company, Kearny, NJ.	49 CFR 173.344, 173.345, 173.346, 173.363, 173.365, 178.224, Part 173, Subparts E, F.	To authorize manufacture, marking and sale of a non-DOT specification rotationally molded polyethylene drum equivalent to the DOT Specification 21C drum for transport of oxidizers; organic peroxides; flammable, corrosive, poison B solids and poison B liquids. (Modes 1, 2, and 3.)
9893-N	Poulet S.A., Pantin Cedex, France	49 CFR 173.315, 178.245-3	To authorize shipment of 4 spherical portable tanks, complying with the DOT Specification 51, except for design pressure, charged with a flammable compressed gas, n.o.s. (Modes 1, 3.)

NOTE.— Request revision to original application 9812-N published in **Federal Register** on Tuesday, July 14, 1987 on page 27390. To authorize those hazardous materials that are permitted for shipment by the IM Tank Table in steel tanks to be shipped in identical tanks except they are constructed of nickel.

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 4, 1987.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87-28556 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-60-M

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 December 29, 1987.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2787-X	U.S. Department of Defense, Falls Church, VA	2787
3121-X	U.S. Department of Defense, Falls Church, VA (See Footnote 1)	3121
3187-X	PPG Industries, Incorporated, Pittsburgh, PA (See Footnote 2)	3187
3302-X	Airco Industrial Gases, Murray Hill, NJ	3302
3302-X	Air Products and Chemicals, Inc., Allentown, PA	3302
4453-X	Alamo Explosives Company, Inc., Houston, TX	4453
4600-X	Great Lakes Chemical Corporation, El Dorado, AR	4600
4612-X	EM Science, Cincinnati, OH	4612
4884-X	Union Carbide Corporation, Danbury, CT (See Footnote 3)	4884
4990-X	Joseph E. Seagram & Sons, Inc., New York, NY	4990
5861-X	HTL Industries, Inc., Duarte, CA	5861
6016-X	Airco Distribution Gases, Murray Hill, NJ	6016
6325-X	Atlas Powder Company, Dallas, TX	6325
6325-X	Wampum Hardware Company, New Galilee, PA	6325
6325-X	Wampum Distributing Company, New Galilee, PA	6325
6325-X	Armstrong Explosives Company, New Galilee, PA	6325
6325-X	Belmont Mine Supply Company, Inc., New Galilee, PA	6325
6325-X	Northern Ohio Explosives, Inc., New Galilee, PA	6325
6563-X	Mada Medical Products, Inc., Carlstadt, NJ	6563
6602-X	Ethyl Corporation, Baton Rouge, LA	6602
6602-X	Great Lakes Chemical Corporation, El Dorado, AR	6602
6602-X	Jones Chemicals, Incorporated, Caledonia, NY	6602
6651-X	Park Chemical Company, Detroit, MI	6651
6691-X	Industrial Gas Distributors, Inc., Billings, MT	6691
6735-X	Great Lakes Chemical Corporation, El Dorado, AR	6735
6743-X	Atlas Powder Company, Dallas, TX	6743
6765-X	Teisan Kabushiki Kaisha, Tokyo, Japan	6765
6801-X	Phillips Petroleum Company, Bartlesville, OK	6801
6883-X	Hedwin Corporation, Baltimore, MD	6883
6908-X	Garrett Fluid Systems Company, Tempe, AZ	6908
7052-X	Flopetrol Johnston, a Division of Schlumberger, Houston, TX	7052
7052-X	ACR Electronics, Inc., Fort Lauderdale, FL	7052
7052-X	Hazeltine Corporation, Braintree, MA	7052
7052-X	ECO Energy Conversion, Somerville, MA	7052
7052-X	Toshiba Battery Company, Limited, Tokyo, Japan	7052
7052-X	ENDECO, Inc. Marion, MA	7052
7052-X	XCELATRON, Incorporated, Chimacum, WA	7052
7052-X	Ballard Technologies Corporation, North Vancouver, B.C., Canada	7052
7060-X	Central Skyport Inc. Columbus, OH	7060
7446-X	Kaiser Aluminum and Chemical Corporation, Erie, PA	7446
7465-X	State of Alaska, Department of Transportation, Juneau, AK	7465
7541-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	7541
7548-X	U.S. Department of Defense, Falls Church, VA	7548
7621-X	Great Lakes Chemical Corporation, El Dorado, AR	7621
7654-X	Tennessee Eastman Company, Kingsport, TN	7654
7654-X	Eastman Kodak Company, Rochester, NY	7654
7654-X	Texas Eastman Company, Longview, TX	7654
7654-X	J.T. Baker Chemical Company, Phillipsburg, NJ	7654
7657-X	Welker Engineering Company, Sugar Land, TX	7657
7674-X	U.S. Department of Defense, Falls Church, VA	7674
7891-X	Sigma-Aldrich Corporation, Saint Louis, MO	7891
7929-X	Austin Powder Company, Cleveland, OH	7929
7943-X	Alstar Company, Tracy, CA	7943
7943-X	All Pure Chemical Company, Inc., Tracy, CA	7943

Application No.	Applicant	Renewal of exemption
7945-X	HTL Industries, Inc., Duarte, CA	7945
7991-X	CSX Transportation, Inc., Jacksonville, FL	7991
8156-X	Union Carbide Corporation, Danbury, CT	8156
8156-X	Liquid Air Corporation, Walnut Creek, CA	8156
8214-X	Morton Thiokol, Incorporated, Ogden, UT (See Footnote 4)	8214
8269-X	Stenberg Bros, Inc., Bark River, MI (See Footnote 5)	8269
8299-X	HTL Industries, Inc., Duarte, CA	8299
8329-X	Texas Instruments, Inc., Dallas TX	8329
8390-X	J.T. Baker Chemical Company, Phillipsburg, NJ	8390
8427-X	U.S. Department of Defense, Falls Church, VA	8427
8445-X	Dow Consumer Products, Inc., Indianapolis, IN	8445
8445-X	Union Carbide Corporation, Danbury, CT	8445
8445-X	Monsanto Company, St. Louis, MO	8445
8453-X	Atlas Powder Company, Dallas, TX	8453
8453-X	Austin Powder Company, Cleveland, OH	8453
8552-X	Brenner Tank, Inc., Fond du Lac, WI	8552
8556-X	Union Carbide Corporation, Danbury, CT	8556
8620-X	Polar Tank Trailer, Inc., Holdingford, MN	8620
8645-X	Austin Powder Company, Cleveland, OH	8645
8770-X	Eastman Kodak Company, Rochester, NY	8770
8811-X	Hoechst Celanese Corporation, Somerville, NJ	8811
8843-X	GOEX, Inc., Cleburne, TX	8843
8871-X	Bulk Lift International, Inc., Carpenterville, IL	8871
8931-X	C-I-L, Inc., North York, Ontario (See Footnote 6)	8931
9072-X	Morton Thiokol, Inc. Brigham City, UT	9072
9132-X	Welchem, Inc., Houston, TX	9132
9136-X	Plasti-Drum Corporation, Lockport, IL	9136
9162-X	Sun Pipe Line Company, Longview, TX	9162
9176-X	Minnesota Valley Engineering, Inc., New Prague, MN	9176
9211-X	American Overseas Marine Corporation, Quincy, MA	9211
9340-X	Pioneer Plastics & Services Co. Ltd, Brampton, Ontario, CN (See Footnote 7)	9340
9364-X	Platte Chemical Company, Greeley, CO (See Footnote 8)	9364
9424-X	VTG Vereinigte Tanklager und Transportimittel GmbH, Hamburg, West Germany	9424
9525-X	American Cyanamid Company, Wayne, NJ	9525
9525-X	Cyanamid Canada, Inc., East Willowdale, Canada	9525
9533-X	B.A.G. Corporation, Dallas, TX	9533
9571-X	U.S. Department of Defense, Falls Church, VA	9571
9851-X	American Airlines, Inc., Dallas, TX (See Footnote 9)	9851
9880-X	G.E. Reuter-Stokes, Twinsburg, OH (See Footnote 10)	9880
9881-X	G.E. Reuter-Stokes, Twinsburg, OH (See Footnote 11)	9881

[1] To authorize a packaging arrangement that is similar to currently authorized packaging except a rupture disk assembly has been added.
[2] To authorize modification of the prescribed packaging that consists of cutting holes at the top and bottom of each face of the fiberboard overpack to improve air circulation.
[3] To authorize an additional packaging, non-DOT specification steel cylinders, having a greater nominal water capacity (1000 pounds) than is presently authorized (90 pounds).
[4] To authorize a new packaging arrangement for shipment of inflators and modules for passive restraint systems.
[5] To reissue for transporting or offering liquid and semi-solid waste materials in non-DOT specification cargo tanks.
[6] To authorize removal of restriction for origination and destination points for DOT Specification 111A100W2 tank cars containing sulfuric acid shipped in unit trains configuration.
[7] To modify exemption to reference the wall thickness of the polyethylene portable tanks as 1/4 inch thick instead of 3/4 inch thick.
[8] To authorize methyl parathion, classed as poison B liquid, as an additional material for shipment in the prescribed packaging.
[9] To reissue exemption originally issued on an emergency basis to authorize shipment of insulated dewars containing liquid nitrogen in the cabin of a passenger carrying aircraft with certain conditions.
[10] To renew exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT containers, hermetically sealed electron tubes, containing nonflammable gas.
[11] To reissue exemption originally issued on an emergency basis to authorize manufacture, marking and sale of non-DOT containers described as hermetically sealed electron tube devices, containing argon.

Application No.	Applicant	Parties to exemption
4453-P	W.A. Murphy, Inc., El Monte, CA	4453
4719-P	Ausimont, Morristown, NJ	4719
7052-P	Battery Pak, Inc., Spring, TX	7052
7052-P	Datachecker Systems, Santa Clara, CA	7052
7052-P	Wildlife Materials, Inc., Carbondale, IL	7052
7052-P	Synergistic Batteries, Inc., Marietta, GA	7052
7052-P	Siemens Corporate Research and Support, Inc., Jamaica, NY	7052
7052-P	Siemens, Ag, Munchen, West Germany	7052
7607-P	Dynamac Corporation, Fort Lee, NJ	7607

Application No.	Applicant	Parties to exemption
7943-P	T Chem Products, Santa Fe Springs, CA	7943
7945-P	U.S. Department of Defense, Falls Church, VA	7945
8426-P	Pacific Vacuum Truck Company, Inc, Gardena, CA	8426
8554-P	W.A. Murphy, Inc., El Monte, CA	8554
8554-P	Amos L. Dolby Co., Corsica, PA	8554
8554-P	ECONEX Incorporated, Wheaton, IL	8554
8723-P	Northern Ohio Explosives, Inc., Forest, OH	8723
8723-P	Armstrong Explosives Co, Kittanning, PA	8723
8723-P	Wampum Hardward Co., New Galilee, PA	8723
8845-P	Pro-Log Denver City TX	8845
9364-P	The Gowan Company, Yuma, AZ	9364
9507-P	Union Carbide Corporation, Danbury, CT	9507
9785-P	Winthrop Products Inc., East Brunkswick, NJ	9785
9841-P	Liquid and Gas Transport BV, Rotterdam-Botlek, Holland	9841

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on Deccember 10, 1987.

J. Suzanne Hedgepeth,

Chief Exemptions Branch Office of Hazardous Materials Transportation.

[FR Doc. 87-28525 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 4, 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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0061
Form Number: ATF F 703(5120.23)
Type of Review: Extension
Title: Transfer of Wine-in-Bond
Description: While wine is "in bond" the federal excise tax attached to the wine has not been paid. ATF requires that wineries use this form when wine is transferred in bond, so as to establish the liability for the wine excise tax at the time of the wine transfer. ATF needs this form to protect the collection of federal excise taxes
Respondents: Businesses or other for-profit, Small Businesses or organizations
Estimated Burden: 19,550 hours
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.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-28493 Filed 12-10-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 4, 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.

U.S. Customs Service

OMB Number: 1515-0055
Form Number: 3229
Type of Review: Extension
Title: Discrepancy Report and Declaration
Description: In order for an exporter/importer to receive preferential duty treatment on goods at least 30 percent produced or manufactured in insular possessions, and in order for the Customs Service to determine whether the claimed articles are subject to Customs duties, this Certificate is required and necessary from anyone so certifying.
Respondents: Businesses or other for-profit
Estimated Burden: 375 hours
Clearance Officer: B. J. Simpson, (202) 556-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-28494 Filed 12-10-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 4, 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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0052
Form Number: ATF F 5130.9(103)
Type of Review: Extension
Title: Brewer's Monthly Report of Operations
Description: ATF F 5130.9(103) is a periodic report detailing specific operations and activities to account for taxable commodities used in operations. For this reason, ATF F 5130.9(103) is a method to safeguard tax revenue. ATF F 5130.9(103) shows taxable and nontaxable removals, overages, shortages and losses at breweries. ATF is able to pinpoint difficulties at individual breweries and take appropriate steps on a timely basis to protect revenue
Respondents: Businesses or other for-profit, Small Businesses or organizations
Estimated Burden: 1,212 hours
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.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87–28495 Filed 12–10–87; 8:45 am]

BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The Department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 223–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

Dated: December 7, 1987.

By Direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

New Collection

1. Department of Medicine and Surgery
2. Client Outcome Pilot Study (COPS)
3. VA Form 10–20837(NR)
4. This information is used to evaluate vet centers effectiveness through client perceived outcome
5. One-time
6. Individuals or household
7. 17,500 responses
8. 1,750 hours
9. Not applicable.

Extension

1. Department of Medicine and Surgery Former Prisoner of War Medical History
3. VA Form 10–0048
4. This information is needed to ascertain the medical history of this group of veterans. It will aid the VA in meeting the needs of former Prisoners of War in areas of disability compensation, health care and rehabilitation
5. Non-recurring
6. Individuals or household
7. 1,500 responses
8. 1,500 hours
9. Not applicable.

[FR Doc. 87–28439 Filed 12–10–87; 8:45 am]

BILLING CODE 8320–01–M

Scientific Advisory Committee to the National Vietnam Veterans Readjustment Study; Establishment

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) and Office of Management and Budget Circular A–63, as revised, and after consultation with the Administrator, General Services Administration, the Administrator, Veterans Administration has determined that establishment of the Scientific Advisory Committee on the National Vietnam Veterans Readjustment Study is necessary and in the public interest in connection with the performance of duties imposed on the Veterans Administration by law.

The committee has been established to review and assess the conduct of the National Vietnam Veterans Readjustment Study and to assist the Veterans Administration in evaluating the scientific and technical merits of proposed courses of action within that investigation. The committee will be composed of authorities of national prominence in their respective fields of study. The members will be drawn from the following broad areas of expertise: Epidemiology, statistics and experimental design, psychiatric research, and clinical treatment of Vietnam veterans and post-traumatic stress disorders. This diverse group will permit the Veterans Administration to obtain balanced expertise on all crucial aspects of the National Vietnam Veterans Readjustment Study.

Comments of interested persons concerning the establishment of the Committee may be submitted to Thomas L. Murtaugh, Ph.D., Project Officer 1521 S. Edgewood St., Building A, Suite A, Baltimore, MD 21227, (301) 646–5604.

Dated: December 1, 1987.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–28527 Filed 12–10–87; 8:45 am]

BILLING CODE 8320–01–M

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Meeting

In accordance with Pub. L. 92–463, the Veterans Administration gives notice of a meeting of the Scientific Review and Evaluation Board for Rehabilitation Research and Development. This meeting will convene at the Vista International Hotel, 1400 M Street NW., Washington, DC 20005, January 12 through January 15, 1988. The session on January 12, 1987, is scheduled to begin at 6:30 p.m. and end at 10:30 p.m. The sessions on January 13, 14, and 15, 1987, are scheduled to begin at 8:00 a.m. and end at 5:00 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the January 12th session for approximately one–two hours to cover administrative matters and to discuss

the general status of the program and the administrative details of the review process. During the closed session, the Board will be reviewing research and development applications. This review involves oral comments, discussion of site visits, staff and consultant critiques of research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance, and competence of individual research investigator. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy.

Thus, the closing is in accordance with 5 U.S.C. 552b (c)(4)) and (c)(6) and the determination of the Administrator of Veterans Affairs under section 10(d) of Pub. L. 92–463 as amended by section 5(c) of Pub. L. 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Mr. Jon Peters, Program Manager, Rehabilitation Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420, (Phone: 202–233–5177), at least five days before the meeting.

Dated: December 1, 1987.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–28441 Filed 12–10–87; 8:45 am]

BILLING CODE 8320–01–M

Availability of Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the evaluation of the Veterans Administration's Department of Memorial Affairs has been completed.

Single copies of the Department of Memorial Affairs Report are available. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mr. H. Raymond Wilburn, Director, Studies and Evaluation Service, Veterans Administration (072), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: December 4, 1987.

By direction of the Administrator.

Raymond S. Blunt,

Director, Office of Program Analysis and Evaluation.

[FR Doc. 87–28440 Filed 12–10–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 238
Friday, December 11, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, December 15, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. Enforcement Matter OS# 4458

The Commission will consider Enforcement Matter OS#4458.

2. Enforcement Matter OS# 4119

The staff will brief the Commission on issues relating to Enforcement Matter OS#4119.

*Agenda revised 12/8/87 to change descriptions of item 2.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20807 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 87–28554 Filed 12–8–87; 4:31 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, December 17, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westward Avenue, Bethesda, MD.

STATUS:

MATTERS TO BE CONSIDERED:

Open to the Public

1. Cigarette Lighter Petition, PP 85–2

The staff will brief the Commission on Cigarette Lighter Petition, PP 85–2, from Diane Denton, Kosair Children's Hospital, which requests that all disposable lighters be required to be child-resistant.

2. Small Parts Petition, HP 87–2

The staff will brief the Commission on Small Parts Petition, HP 87–2, from the Consumer Federation of America and the New York State Attorney General's office, which requests amendment of the small parts regulation.

3. Pool Covers: Options

The staff will brief the Commission on pool cover safety options.

Closed to the Public

4. Enforcement Matter OS #5960

The staff will brief the Commssion on issues relating to Enforcement Matter OS #5960.

*Agenda revised 12/8/87 to add item 4.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westward Ave., Bethesda, MD 20207 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 87–28555 Filed 12–8–87 8:45 am]

BILLING CODE 6355–01–M

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 1:00 p.m., Monday, December 21, 1987.

PLACE: In the Board Room, 6th Floor, 1700 G St. NW., Washington, DC.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee, (202–377–6679).

MATTERS TO BE CONSIDERED:

Uniform accounting standards
Troubled debt restructuring
Appraisal policies and practices of insured institutions and service corporations
Classification of Assets

John M. Buckley, Jr.,

Secretary.

No. 15, December 8, 1987.

[FR Doc. 87–28580 Filed 12–9–87; 11:42 am]

BILLING CODE 6720–01–M

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: At 2:00 p.m., Tuesday, December 22, 1987.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, DC.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee, (202–377–6679).

MATTERS TO BE CONSIDERED:

Capital forbearance
Minimum capital regulatory requirements for individual insured institutions
Qualified thrift lender test; savings and loan holding company amendments; Federal Home Loan Bank advances

John M. Buckley, Jr.,

Secretary.

No. 16, December 8, 1987.

[FR Doc. 87–28581 Filed 12–9–87; 11:42 am]

BILLING CODE 6720–01–M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., December 16, 1987.

PLACE: Hearing Room One, 1100 L Street NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 85-20—Harrington & Company, Inc. and Palmetto Shipping & Stevedoring Company, Inc. v. Georgia Ports Authority—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking

Secretary.

[FR Doc. 87–28559 Filed 12–9–87; 9:47 am]

BILLING CODE 6730–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting; Amendment of Agenda

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: December 10, 1987.

PREVIOUS ANNOUNCED TIME AND DATE OF MEETING: A closed Executive Session will commence at 8:00 p.m. on Thursday, December 17, and continue until 11:00 p.m. in the Indigo Room. The open meeting will commence at 11:00 a.m. on Friday, December 18, 1987, and continue until 12:30 p.m. It will reconvene at 1:45 p.m. and continue until all official business is completed.

EXPLANATION OF CHANGE: Item number nine of the previously announced agenda (Update on the National Commission for Legal Services), has been deleted.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863–1839.

Date Issued: December 9, 1987.

Maureen R. Bozell,

Secretary.

[FR Doc. 87–28629 Filed 12–9–87; 3:14 pm]

BILLING CODE 6820–35–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 14, 1987:

A closed meeting will be held on Wednesday, December 16, 1987, at 2:30 p.m. An open meeting will be held on Thursday, December 17, 1987, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, December 16, 1987, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Formal order of investigation.
Opinion.

The subject matter of the open meeting scheduled for Thursday, December 17, 1987, at 10:00 a.m., will be:

1. Consideration of amendments to 17 CFR 200.735.5, which contains the restrictions on securities ownership and transactions applicable to Commission members and employees. For further information, please contact Myrna Siegel at (202) 272–2430.

2. Consideration of whether to adopt amendments to: (1) Eliminate filing requirements for preliminary proxy and information statements under certain circumstances; (2) delete the limitation in Exchange Act Rule 14a–8(a)(1)(ii) on the inclusion of shareholder proposals in registrants' proxy materials and make other changes with regard to shareholder proposals; and (3) make technical and clarifying changes to Schedule 14A. For further information, please contact Barbara J. Green or Elizabeth M. Murphy at (202) 272–2589.

3. Consideration of whether to issue an order amending Rule 45(b) under the Public Utility Holding Company Act of 1935 to exempt from the requirement of a declaration certain routine agreements whereby parent companies in registered holding company systems guarantee, assume joint liability upon, or act as surety or indemnitor for the obligations of their subsidiary companies. For further information, please contact Martha C. Baker (202) 272–2073.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Brent Taylor at (202) 272–2014.

Jonathan G. Katz,

Secretary.

December 8, 1987.

[FR Doc. 87–28626 Filed 12–9–87; 2:50 pm]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 52, No. 238
Friday, December 11, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Fire and Rescue Loans

Correction

In rule document 87-26395 beginning on page 43724 in the issue of Monday, November 16, 1987, make the following corrections:

§ 1942.1 [Corrected]

1. On page 43725, in the third column, in § 1942.1(a), in the sixth line, "firm" should read "fire".

§ 1942.17 [Corrected]

2. On page 43726, in the first column, in amendatory instruction 4, in the first line, "1942.7" should read "1942.17".

§ 1942.114 [Corrected]

3. On page 43728, in the third column, in § 1942.114(c)(1), in the second line, "equipments" should read "equipment".

§ 1942.126 [Corrected]

4. On page 43732, in the first column, in § 1942.126(l)(2)(iii), in the second line, "have significant" should read "have a significant"; in paragraph (l)(2)(iii)(B), in the third line "then" should read "than"; and in paragraph (l)(3), in the fourth line from the bottom of the column, after "rehabilitation" insert "of existing buildings, the project inspector should make inspections".

§ 1942.127 [Corrected]

5. On the same page, in the third column, in § 1942.127(e)(1), in the third line, "From" should read "Form".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

Department Hearings and Appeals Procedures

Correction

In rule document 87-28005 beginning on page 46355 in the issue of Monday, December 7, 1987, make the following correction:

PART 4—[CORRECTED]

§ 4.5 [Corrected]

On page 46355, in the third column, in § 4.5(a)(1), in the second line, "state" should read "stage".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-370]

Occupational Exposure to Hepatitis B Virus and Human Immunodeficiency Virus

Correction

In proposed rule document 87-27424 beginning on page 45438 in the issue of Friday, November 27, 1987, make the following correction:

On page 45438, in the first column, under **DATES**, the third line should read "January 26, 1988.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-220]

Organization and Delegation of Powers and Duties

Correction

In rule document 87-27971 beginning on page 46478 in the issue of Tuesday, December 8, 1987, make the following correction:

On page 46478, in the third column, in the heading, the docket no. should appear as set forth above.

BILLING CODE 1505-01-D

federal register

Friday
December 11, 1987

Part II

Federal Reserve System

12 CFR Parts 210 and 229

Availability of Funds and Collection of Checks; Proposed Rule

Federal Reserve Bank Services and Proposals for Long-Term Improvements to the Check Collection System; Notices

FEDERAL RESERVE SYSTEM

12 CFR Parts 210 and 229

[Docket No. R-0620]

Availability of Funds and Collection of Checks (Regulation CC) and Collection of Checks and Other Items and Transfers of Funds (Regulation J)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rules.

SUMMARY: The Board is publishing for comment a proposed new rule (Regulation CC) to implement the Expedited Funds Availability Act. The proposed rule sets out the requirements that banks and other depository institutions make funds deposited into accounts available according to specified time schedules and that institutions disclose funds availability policies to their customers. The proposed regulation also establishes rules designed to speed the return of unpaid checks.

The Board is also proposing to amend its existing Regulation J, which governs the collection of checks and other items by Federal Reserve Banks, to conform that regulation to the new standards proposed in Regulation CC.

DATES: Comments must be submitted on or before February 8, 1988. No extension of time for comment will be provided.

ADDRESSES: Comments, which should refer to Docket No. 0620, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to Room B-2223 between 8:45 a.m. and 5:00 p.m. All comments received at the above address will be included in the public file, and may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: For information regarding Subparts A and C of Regulation CC (Part 229) and Regulation J (Part 210), contact Joseph R. Alexander, Senior Attorney, Legal Division (202/452-2489).

For information on §§ 229.10 through 229.14 and §§ 229.19 through 229.21 of Subpart B of Regulation CC, contact Louise L. Roseman, Assistant Director, Division of Federal Reserve Bank Operations (202/452-2789).

For information on §§ 229.15 through 229.18 of Subpart B of Regulation CC, contact Gerald P. Hurst, Senior Attorney, Division of Consumer and Community Affairs (202/452-3667).

For the hearing impaired *only*: Telecommunications Device for the Deaf, Earnestine Hill or Dorothea Thompson (202/452-3254).

SUPPLEMENTARY INFORMATION: The Expedited Funds Availability Act, Title VI of Pub. L. 100-86, requires banks and other depository institutions (collectively referred to as "banks" in the proposed regulation) to make funds deposited into accounts available to depositors within time periods specified by the Act and to disclose funds availability policies to their depositors. The Board is given responsibility to prescribe regulations to implement the Act. The Act also provides the Board with broad authority to adopt regulations to improve the check processing system so that checks may be cleared and, if necessary, returned within the funds availability schedules mandated by the Act.

The Board is today requesting comment on a series of proposals, Docket Nos. R-0620, R-0621, and R-0622, that will exercise its responsibilities under the Act. Docket No. R-0620 consists of a proposed regulation (Regulation CC, 12 CFR Part 229) that will clarify the definitions of the Act, provide detailed rules to facilitate compliance with the availability and disclosure requirements, and make several substantive changes to the current law on the collection of checks to encourage faster return of unpaid checks, thus minimizing the losses that could result from compliance with the availability schedules. Docket No. R-0620 also proposes several changes to the Board's current Regulation J (12 CFR Part 210), which governs the collection of checks and other items by Federal Reserve Banks, so that it conforms to the new standards adopted in Regulation CC.

Docket No. R-0621 requests comment on proposed new services to be offered by the Federal Reserve Banks to assist in the new check collection rules established in Regulation CC. Docket No. R-0622 requests comment on some possible services that the Federal Reserve is studying as well as longer-term improvements to the nation's check collection system.

Overview

Delayed availability—the holds that some banks [1] place on checks deposited into their customers' accounts before the funds may be withdrawn—was a subject of growing concern in the Congress for a number of years. Many argued that the holds placed by many banks were unduly long, and that depositors have a right to prompter access to their funds. Banks that impose holds responded that their availability schedules reflect the time needed for the collection and return of checks dishonored by the paying bank and provide a measure of protection against the risk that the bank could not recover funds from the depositor if those funds had already been withdrawn from the depositor's account.

The Congress concluded that federal legislation was required to address delayed availability practices and passed the Expedited Funds Availability Act (the "Act") (Title VI of the Competitive Equality Banking Act, enacted on August 10, 1987). The Act seeks to ensure prompt availability of funds and to expedite the return of checks; the Board is directed to issue regulations to implement the Act, which becomes effective on September 1, 1988.

The Act includes specific and detailed provisions requiring banks to: (1) Make funds available to their customers within specified time frames, (2) pay interest on interest-bearing transaction accounts not later than the day the bank receives provisional credit, and (3) disclose their funds availability policy to their customers. These statutory provisions provide the Board with little flexibility in developing rules to implement the Act's requirements.

The Act requires that cash deposits, wire transfers, and certain check deposits that Congress believes pose little risk to the depositary bank, such as Treasury checks and cashier's checks, be made available for withdrawal by the business day after the day of deposit. The time when the depositary bank must make other check deposits available for withdrawal depends on whether the check is "local" or "nonlocal" to the depositary bank. A local check is a check deposited in a depositary bank that is located in the same Federal Reserve check processing region as the paying bank. A nonlocal check is a check deposited in a different check processing region than the paying bank. There are a total of 48 Federal Reserve check processing offices in the United States, and the territory served by each office constitutes a region.

Under the temporary schedule that becomes effective on September 1, 1988,

[1] The proposed Regulation CC terminology corresponds with the terminology of the Uniform Commercial Code, with some modifications. "Bank" is defined to include all depository institutions. A "paying bank" is the bank on which the check is drawn. In the case of payable through drafts, the payable through bank is the paying bank. A "returning bank" is an intermediary bank handling a returned check. A "depositary bank" is the bank in which the check was first deposited. (See § 229.2 of the proposed Regulation CC for the complete definitions of these terms.)

a depositary bank must make the proceeds of local checks available for withdrawal by the third business day following deposit; that is, the proceeds of local checks deposited on a Monday must be available for withdrawal by the following Thursday. The depositary bank must make the proceeds of nonlocal checks available for withdrawal by the seventh business day following deposit; that is, the proceeds of a Monday deposit must be available for withdrawal by Wednesday of the following week. On September 1, 1990, these time periods are reduced. At that time, proceeds of local and nonlocal checks must be available for withdrawal by the second and fifth business day following deposit, respectively. Special rules are provided for cash withdrawals, deposits at nonproprietary automated teller machines, and deposits made in banks outside the continental United States.

Although the proposed improvements to the check system will accelerate the return of most checks, many checks will not be returned to the depositary bank by the time funds must be made available for withdrawal under the temporary schedule—a number that will increase when the permanent schedule becomes effective. In order to reduce the risk to banks from making funds available to customers before learning that the check has not been paid, Congress provided several exceptions to the availability schedules. When a bank invokes one of these exceptions, it may extend the hold on its customer's account beyond the statutory schedule. Nevertheless, the Board must establish limits on the additional hold that may be placed on checks subject to these exceptions.

The statute requires banks to disclose their availability policies to their customers and inform their customers that deposited funds may not be available for immediate withdrawal. Banks are required to provide disclosures to new customers prior to opening an account, to existing customers, and to any person upon request. In addition, disclosures are required on preprinted deposit slips, at staffed locations where consumers make deposits, and at automated teller machines. Banks must also provide notice to their customers whenever their availability policies change.

The Act gives the Board authority to make improvements in the check collection and return system in order to shorten the time within which depositary banks learn of the nonpayment of checks, and thereby reduce the number of situations when the bank will be required by law to make funds available to its customers before it learns a check has been dishonored. The Board's authority is broad and general, and extends to checks that are not cleared through the Federal Reserve System. Previously, the Federal Reserve generally had the authority to regulate only those checks it collected.

Upon enactment of the Act, Board staff formed a Steering Committee to develop proposals to implement the law's requirements. The Steering Committee consists of representatives from three Divisions of the Board's staff and three Federal Reserve Banks. In developing these proposals, the Steering Committee considered: (1) Costs to the banking industry, businesses, and consumers; (2) the ability of banks to select from several alternative approaches to comply with the Act and the Board's regulation; (3) the ability of the private sector and the Federal Reserve to provide services to expedite the return of unpaid checks; and (4) the extent to which the improvements to the check collection system reduce risk.

In developing the proposals, Board relied heavily on imput from the private sector. The Board staff discussed the proposal with the Consumer Advisory Council and the Return Item Advisory Committee, which is a joint Federal Reserve/banking industry group. In addition, the staff met on over 20 occasions with representatives from consumer groups, banking and corporate trade associations, and individual banks. Two consulting firms were retained to assess the effect of certain aspects of its proposals on the banking industry. Many of the major concepts underlying the proposal have been suggested by the private sector.

The proposed Regulation CC (12 CFR Part 229), Availability of Funds and Collection of Checks, contains three subparts. Subpart A defines terms and provides for administrative enforcement. Subpart B specifies schedules within which banks must make funds available for withdrawal. Subpart B also includes rules regarding exceptions to the schedules, disclosure of funds availability policies, and payment of interest. Subpart C includes rules to expedite the collection and return of checks. These rules cover the means by which the paying and returning banks must return checks to the depositary bank, authorization of direct returns, notification of nonpayment of large-dollar returns by the paying bank, check indorsement standards, and other related changes to the check collection system.

Subpart A—Definitions

The Act defines a number of terms, many of which required little additional clarification in the regulation. Nevertheless, the definition of two terms in the regulation are significant. The Act applies to deposits in transaction accounts, but does not precisely define the term. The Board proposes to define "account" in terms of a transaction account as described in the Board's Regulation D (12 CFR 204.2(e)). The Board believes that using the transaction account definition in Regulation D—a definition already familiar to banks—will avoid confusion about the coverage of the regulation and is consistent with the statute. The Board proposes that the definition of "account" exclude correspondent accounts; that is, accounts held by a bank at another bank.

The definition of "paying bank" in the regulation is critical in determining whether a check is local or nonlocal, as well as determining the duties of the various parties to expedite returns. The Board proposes to define paying bank to include payable through banks for the purposes of the requirements of the regulation. As a result, payable through drafts that often are used by credit unions and insurance companies are considered local or nonlocal checks based on the location of the payable through bank. In addition, the payable through bank would be subject to the prompt return requirements imposed on paying banks, and thus would be required to return checks one or two days faster than may be the case today. The Board believes that this definition most accurately reflects the statutory requirement that schedules be based on where the check is sent for collection—the location of the payable through bank—and not the location of the organization on which the check is drawn.

Subpart B—Funds Availability and Disclosure Requirements

Availability schedules. The proposed regulation reflects the availability schedules provided in the Act. Thus, deposits of cash and electronic payments, as well as certain checks deposits, including Treasury checks, state and local government checks, and depository checks, must be made available for withdrawal on the next business day. Longer schedules are provided for other checks, based on whether the checks are local or nonlocal. The following charts depict the schedules for these checks. The Board proposes that: (1) The application of the

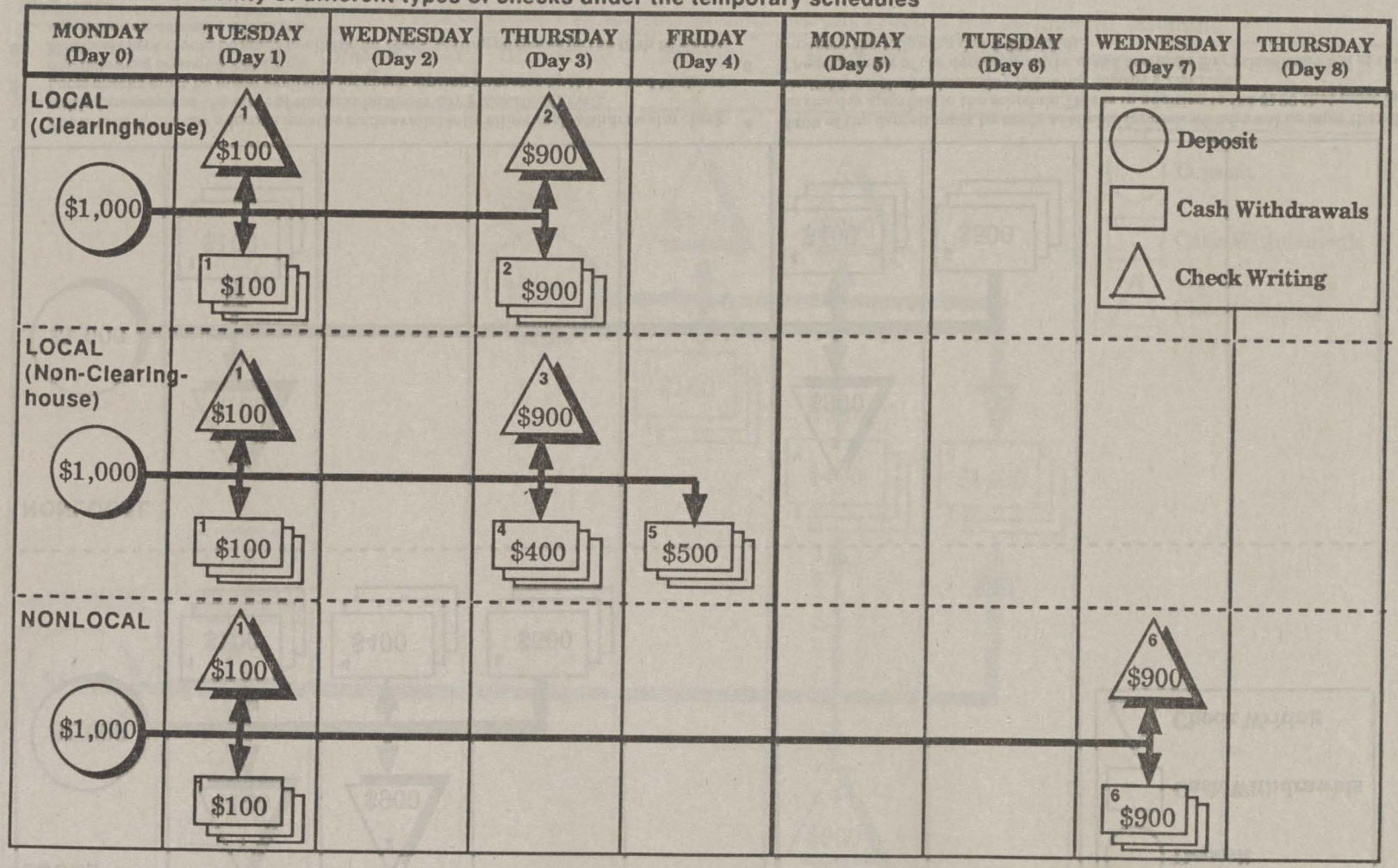
schedules to certain categories of checks be clarified; (2) the schedules for certain nonlocal checks be shortened; (3) the holds that can be placed on deposits subject to an exception provided in the Act be limited; and (4) the effect of this regulation on depositors' rights to withdraw cash be clarified.

BILLING CODE 6210-01-M

Temporary Funds Availability Schedules

Figure 1

Illustrates availability of different types of checks under the temporary schedules



1 The first $100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day § 229.10(c)(1)(vii).

2 For local checks cleared through a local clearinghouse, the remainder of the deposit must be made available for either cash withdrawal or check writing purposes by the third business day following the day of deposit § 229.11(b)(1).

3 For local checks cleared outside a local clearinghouse, the remainder of the deposit must be made available for check writing purposes by the third business day following the day of deposit § 229.11(b)(2).

4 For local checks cleared outside a local clearinghouse, $400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This amount is in addition to the $100 that must be made available on the business day following the day of deposit § 229.11(b)(2).

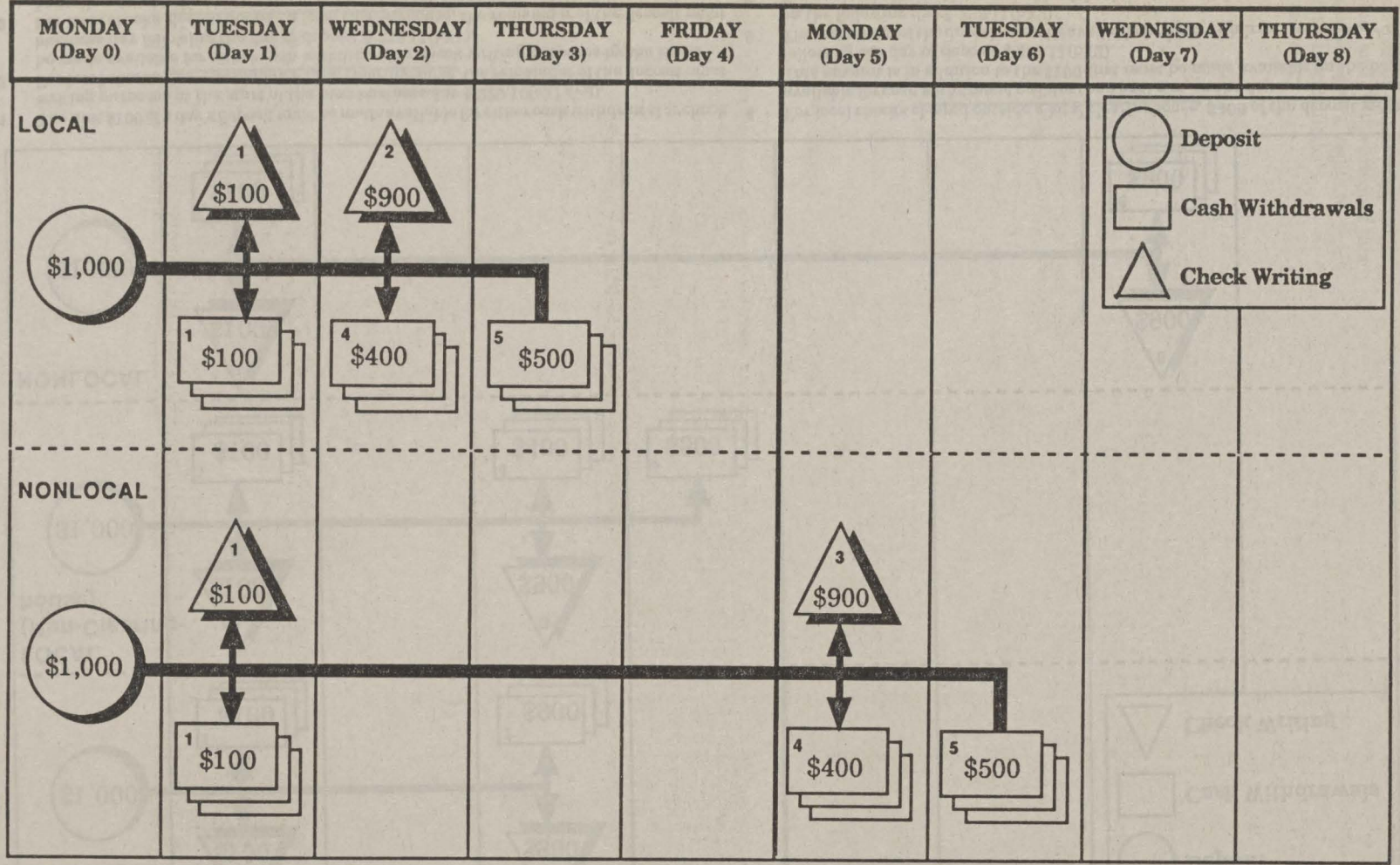
5 The remainder of the deposit must be available for cash withdrawal at the start of business on the following day § 229.11(b)(2).

6 For nonlocal checks, the remainder of the deposit must be made available for either cash withdrawal or check writing purposes by the seventh business day following the day of deposit § 229.11(b)(2).

Permanent Funds Availability Schedules

Figure 2

Illustrates availability of different types of checks deposited the same day, under the permanent schedules.



1 The first $100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day § 229.10(c)(1)(vii).

2 Local checks must be made available for check writing purposes by the **second** business day following deposit § 229.12(b).

3 Nonlocal checks must be made available for check writing purposes by the **fifth** business day following deposit § 229.12(c).

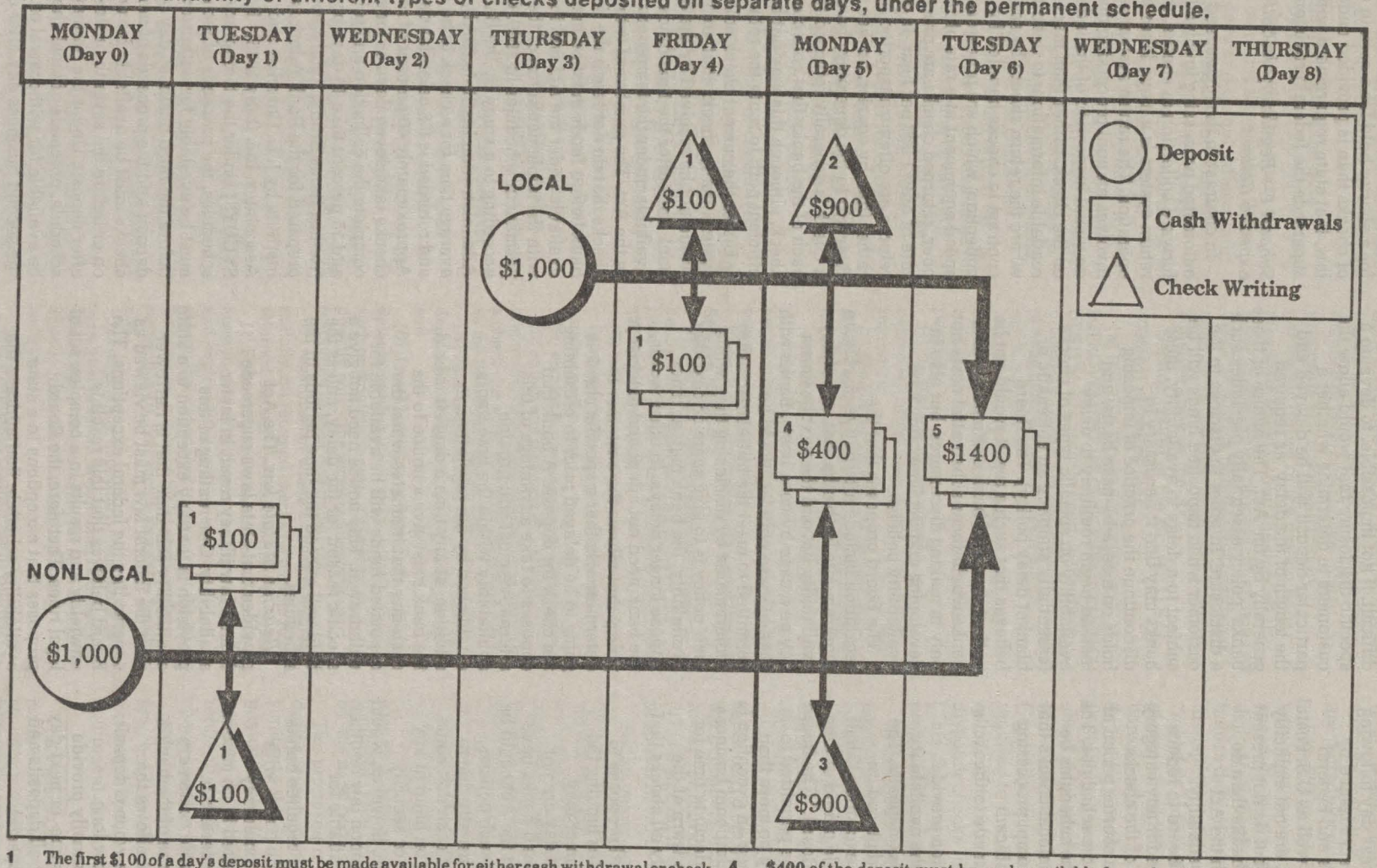
4 $400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This is in addition to the $100 that must be made available on the business day following deposit § 229.12(d).

5 The remainder of the deposit must be made available for cash withdrawal at the start of business the following day § 229.12(d).

Permanent Funds Availability Schedules

Figure 3

Illustrates availability of different types of checks deposited on separate days, under the permanent schedule.



1 The first $100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day § 229.10(c)(1)(vii).

2 Local checks must be made available for check writing purposes by the second business day following deposit § 229.12(b).

3 Nonlocal checks must be made available for check writing purposes by the fifth business day following deposit § 229.12(c).

4 $400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This applies to the aggregate amount of deposits that must be made available on a specified day, and is in addition to the $100 that must be made available on the business day following deposit § 229.12(d).

5 The remainder of the deposit must be made available for cash withdrawal at the start of business the following day § 229.12(d).

BILLING CODE 6210-01-C

The Board proposes that certain additional categories of checks not specified in the Act be subject to the requirement that funds be made available on the business day following the day of deposit. Checks issued by Federal Reserve Banks and Federal Home Loan Banks, as well as U.S. Postal Service money orders, are not explicitly addressed in the Act, but do not present greater risk of loss to banks than do other checks for which the Act mandates next day availability.

The Act directs the Board to reduce the statutory schedules for any category of checks where most of the checks would be returned in a shorter period of time than provided in the schedules. The Board proposes that the schedules be reduced for certain nonlocal checks that are subject to more prompt processing and return, where significant improvements can be made to the Act's schedules.

The Act and regulation provide certain exceptions to the availability schedules for higher-risk deposits. The Act states that the hold placed on deposits subject to an exception "shall not exceed a reasonable period of time as determined by the Board." The Board proposes that a bank be permitted to extend the schedule by no more than four business days when an exception is invoked. These four additional business days should provide adequate time for the depositary bank to learn of the nonpayment of virtually all checks that are returned.

In addition, the Board proposes to clarify that bank policies limiting the amount of cash a customer may withdraw on any given day are not affected by the Act. Small banks have expressed concern that the Act could be interpreted to prohibit such policies. These restrictions are usually due to limits on the amount of cash that some small banks may keep on hand at any one time for insurance or security reasons. The regulation, however, would not supersede any common law or other duty to make funds available for withdrawal by cash.

Disclosures. The Act requires banks to disclose their specific policy with respect to when a customer may withdraw funds deposited in an account. The regulation, as a general rule, requires banks to provide customers with an initial disclosure of the bank's availability policy that allows the customer to determine when a deposit will be held and for how long.

Numerous banks normally provide their customers with same- or next-day availability for almost all deposits and only impose holds in special circumstances, determined on a case-by-case basis. In many cases, the banks provide the customer with notice of the delay at the time the deposit is made.

Banks with such policies may find it difficult, if not impossible, to develop a specific disclosure that would allow the customers to determine whether a particular deposit will be delayed and the length of the delay, as required generally by the Act. The nature of these banks' policy essentially precludes such a disclosure. In order to disclose to the customer when deposited funds will be subject to a delay in availability, these banks may find it necessary to discontinue the practice of imposing holds on a case-by-case basis, and instead begin routinely to delay availability on specific types of checks (essentially adopting an automatic or blanket delay policy). The Board believes that such a result would not be in the interest of bank customers. Also, banks would incur substantial costs not only in making disclosures, but also in developing and implementing new availability policies.

The Board proposes that the regulation include alternative disclosure requirements for banks that only delay availability beyond the next business day on a case-by-case basis. Banks with case-by-case policies would be permitted to meet the initial disclosure requirements by disclosing that, while their policy is to give same or next-day availability, the bank may at times impose longer delays. In other words, the bank need not adopt and disclose a policy that allows the customer to determine whether a specific check is going to be delayed prior to presenting the check for deposit. A bank that chooses to take advantage of this alternative must still provide availability within the time limits established by the regulation. In addition, at any time a deposit is held, the bank must give a notice to the customer that indicates when the deposited funds will be available for withdrawal. This notice need not give a specific reason for the delay, unless the hold will exceed the time periods in the schedules.

Relation to state law. The Act provides that state laws supersede federal law if they result in faster availability. One reading of this provision is that any exception to a state availability schedule that is narrower than the federal law must be viewed as superseding the federal exceptions. The Board believes that this result is unwieldy and results in a complex set of legal rules. Therefore, the Board proposes that exceptions to a state availability schedule that address the same situation as the federal exceptions be preempted even if the exception might, under some circumstances, result in faster availability of a particular deposit. However, if state law provides for a shorter hold for a certain category of checks than is provided under federal law, that state requirement will supersede the federal provision.

Subpart C—Regulatory Initiatives To Expedite Returns

In contrast to the high-speed automated processing involved in the forward collection of checks, the check return system is a slow, labor intensive operation. The return system generally involves manual processing that relies on visual inspection of the indorsements on the check, rather than machine-readable information, to determine where the return should be sent. In contrast to checks handled for forward collection, which are processed on high-speed equipment at a rate of 100,000 per hour, returned checks are processed at a rate of only 1,000 per hour. In addition, returns are often transported by mail, rather than by courier, further slowing their trip to the depositary bank. Finally, a check is generally returned through each of the banks that collected the check, although this may not be the most efficient path to route the return.

Under the current check collection system, many checks that are returned would not be received by the depositary bank until after the time funds must be available under the temporary schedules in the Act. The number of returned checks that do not reach the depositary bank before funds must be made available under the Act will increase with the implementation of the permanent schedules in 1990. Currently, according to a study by the Bank Administration Institute (BAI), the average time for a check to be collected and returned is 6.8 calendar days. Approximately 40 percent of returned checks take seven days or longer to complete the collection and return cycle and 15 percent take 10 days or longer. (Return Items Study, Final Report, prepared for the Bank Administration Institute by J. D. Carreker and Associates, Inc. (May 1985) "BAI STUDY") Under the temporary schedules, the proceeds of local checks must be available for withdrawal on or before the third business day after deposit and the proceeds of nonlocal checks must be available for withdrawal on or before the seventh business day after deposit. Under the permanent schedule, proceeds of local checks must be available for withdrawal on or before the second business day after deposit and proceeds of nonlocal checks must

be available for withdrawal on or before the fifth business day after deposit. Approximately one-third of the checks handled by the Federal Reserve Banks would be considered nonlocal under the Act.

It is difficult to relate the data collected by the BAI to the statutory schedules because the BAI data are based on calendar days rather than business days and do not differentiate between local and nonlocal checks. Nevertheless, it is clear that large numbers of checks will be returned after funds must be made available for withdrawal under the schedules in the Act. The requirement to make funds available for withdrawal before many checks are returned exposes banks to risks if the proceeds of check deposits are withdrawn and the checks are subsequently returned. Further, the requirement to make funds available for withdrawal before some checks are likely to be returned may encourage check fraud. In recognition of these risks, the Act provides for certain exceptions to the statutory schedules and, in section 609(b), provides that the Board shall consider a number of proposals to improve the check processing system to speed the collection and return of checks. (12 U.S.C. 4008(b)). Further, section 609(c) of the Act (12 U.S.C. 4008(c)) provides that:

(c) REGULATORY RESPONSIBILITY OF BOARD FOR PAYMENT SYSTEM.—

(1) RESPONSIBILITY FOR PAYMENT SYSTEM.—In order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) REGULATIONS.—The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

Under this Board authority, the Board believes that it is appropriate to propose changes to the way that checks are collected and returned by both the Federal Reserve Banks and other banking institutions in order to speed the collection and return of checks and to improve the efficiency of the check collection system. Subpart C of the regulation contains proposed rules designed to reduce the risk to depositary banks resulting from the prompt availability requirements of the Act. In many cases, these regulations modify provisions of state law applicable to the collection of checks, including the Uniform Commercial Code as enacted in the various states. The proposals in Subpart C: (1) Expedite returns to the depositary bank; (2) expand the requirements for notification of large-dollar returned checks; and (3) provide banks with the ability to reduce the number of returned checks. These proposals are accomplished by modifying duties of the paying bank, returning bank(s), and the depositary bank in the return process. In arriving at these proposals, the Board considered each of the proposals listed for Board consideration in the Act.

Section 609(b) of the Act (12 U.S.C. 4008(b)) provides that:

(b) REGULATIONS RELATING TO IMPROVEMENT OF CHECK PROCESSING SYSTEM.—In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

(1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;

(2) the Federal Reserve banks and depositary institutions provide for check truncation;

(3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit;

(4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks,

(5) each depository institution and Federal Reserve bank—

(A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and

(B) take such actions as are necessary to—

(i) automate the process of reading endorsements; and

(ii) eliminate unnecessary endorsements;

(6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution determine whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;

(7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;

(8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

The proposals contained in Subpart C either implement or are closely related to many of the proposals listed in the Act, and the Board is studying many of the other proposals as potential longer-term improvements to the check collection system. The Board's proposals are more fully described below.

Expediting returns. A number of the regulatory proposals are designed to speed the return of checks to the depositary bank. Today, the paying bank's duty of prompt return is limited to dispatching a returned check by its "midnight deadline." [2] The proposal places an additional duty on the paying bank to return the check to the depositary bank in a manner similar to the efficient manner used to collect a check deposited in the paying bank and drawn on the depositary bank. Generally, the paying bank would be required to dispatch returns using the means of transportation used to dispatch checks for forward collection. (This duty is similar to the third proposal listed in the Act.)

To facilitate prompt returns, the paying bank would not be required to return a check to the bank that presented it. Instead, the paying bank could return a check directly to the depositary bank or to a Reserve Bank or other bank providing check return services. To encourage direct returns, the depositary bank would be required to pay for returns on the day of receipt. (This proposal is similar to the ninth proposal listed in the Act.)

Today, many banks do not dispatch their returned checks by courier with the checks that are being sent for forward collection, if the courier leaves after midnight. Instead, they mail their returns by their midnight deadline in order to meet their legal responsibility under the U.C.C., but by doing so delay the completion of the return process. The proposed regulation encourages the use of couriers to handle returned checks by allowing banks to dispatch returns after midnight if the returns will be received by the next bank that day.

The proposed regulation imposes duties on returning banks that are similar to the duties imposed on the paying banks to expedite the return process. A returning bank must handle a returned check as expeditiously as a check handled for forward collection.

One way to speed the return process is to prepare the returned check for automated processing by high-speed equipment. Returned checks can be

[2] The Uniform Commercial Code requires a paying bank to dispatch checks it is returning unpaid by midnight of the next banking day following the banking day on which the checks were presented for payment.

automated by either the paying bank or returning bank by placing the return in a carrier envelope or by placing a strip on the bottom of the check, and encoding the envelope or strip with the routing number of the depositary bank, the amount of the check, and a special returned check identifier. Automated returns allow for far more efficient processing by returning banks. The proposed regulation facilitates the preparation by returning banks of automated returned checks by providing an additional business day to the bank's time for prompt return. (This proposal is similar to the fourth proposal listed in the Act.)

One of the obstacles to efficient processing of returns is the lack of uniformity in depositary banks' indorsements. Today, clerks often have difficulty determining the bank to which the check will be returned. The indorsements on the back of the check are often faint, blurred, incomplete, and overlapping. Under the proposal, this difficulty would increase since many checks will not be returned through the same banks that handled the checks during forward collection. The determination of a remote depositary bank would often be difficult if its indorsement were not readily distinguishable from the other indorsements on the check.

Therefore, the proposal requires the depositary bank to provide specific information in its indorsement, including its nine-digit routing number. In addition, the depositary bank's indorsement must be readily identifiable through the use of a unique color ink and by placement in a specified area on the back of the check. Subsequent indorsements may not be in the same color, or be placed in the same location as the indorsement of the depositary bank. (This proposal is similar to the fifth proposal listed in the Act.)

Notification of nonpayment. Even with improvements to the check return system, the depositary bank will not receive all returned checks by the time it must make the proceeds available to the customer for withdrawal. The depositary bank's risk is larger in the case of large-dollar returns. Therefore, the Board proposes to require paying banks to provide notification of nonpayment for all large-dollar returned checks.

Notification of large-dollar returns is now required only for those checks collected through the Federal Reserve. The proposal expands the large-dollar notification requirement to include all checks of $2,500 or more, regardless of the channel though which they were cleared. In addition, the proposal reduces the time period within which notification must be provided. Under the proposal, the paying bank must ensure that notification is received by the depositary bank by 4:00 p.m. (local time of depositary bank) on the second business day following presentment. Federal Reserve regulations currently require notice to be received by midnight on the third business day following presentment. (This proposal is similar to the sixth proposal listed in the Act.)

Reducing the volume of returns. The Board proposes extending the paying bank's midnight deadline for low-dollar checks. Over one-half of all returned checks are in amounts of $100 or less. Many depositary banks routinely redeposit that portion of these returns that are returned due to insufficient or uncollected funds (or direct the Federal Reserve to redeposit the checks on their behalf) in an effort to obtain payment. On average, over 60 percent of these redeposited checks are paid on the second presentment. A significant number of returned checks could be eliminated entirely if the paying bank held low-dollar checks several days beyond its midnight deadline. This concept has received the long-standing support of several banking industry trade groups. The proposal permits a paying bank to hold checks of $100 or less for two business days beyond its midnight deadline in an effort to secure payment.

Regulation J Amendments

Changes are also proposed to Regulation J so that it conforms to the proposed requirements of Regulation CC, Subpart C. Regulation J governs the collection and return of checks by Federal Reserve Banks.

Proposed Federal Reserve Bank Services (Docket No. R–0621)

Returned check services. In order to achieve the objectives of the proposed regulatory requirements to speed the return of checks, it is essential that the Federal Reserve Banks and private-sector correspondent banks provide new return services. The Board proposes a wide array of Reserve Bank services to facilitate bank compliance with these requirements. The Board anticipates that a number of correspondent banks will offer similar services.

Several of the proposed service changes are designed to facilitate direct returns permitted in proposed Regulation CC. Under the proposal, Reserve Banks would accept and process any returned check; today the Federal Reserve only accepts returned checks that it collected. The Federal Reserve would return checks directly to the local depositary bank, bypassing any intermediary collecting banks in the indorsement chain. A depositary bank may designate its correspondent bank or service bureau as the location to which the Federal Reserve should send that bank's returns. Reducing the number of banks handling a returned check will shorten the length of time required for the return process. The Federal Reserve Bank of Dallas is conducting a pilot program of the direct return process, which indicates that, in the case of 43 percent of local returned checks handled by the Bank, at least one collecting bank in the forward collection indorsement chain is bypassed by delivering the return directly to the depositary bank. (This proposal is similar to the seventh proposal listed in the Act.)

Reserve Banks would accelerate their processing of returned checks. New returned check deposit deadlines are proposed that are similar to the deadlines for checks handled for forward collection. By September 1988, local returns will be processed on an overnight basis and dispatched with the forward collection checks the next morning. In contrast, today the returns are processed during the day and dispatched one day later. Nonlocal returns that have been automated for high-speed processing by the paying bank or a prior returning bank will be processed and dispatched to the second Reserve Bank office on the night of the day the Reserve Bank received them. Most other nonlocal returns will be automated by the Reserve Bank and sent to the second Reserve Bank office the following night. Today, both Reserve Bank offices manually process the returned check, which adds an extra day to the return process.

Currently, the Federal Reserve does not explicitly price returned checks; instead, the costs of handling returns are incorporated in the Reserve Banks' forward collection fees. The Board is proposing to price returns explicitly, imposing returned check fees on the paying or returning bank depositing returns with the Federal Reserve. Under this proposal, return costs cannot be recovered through the Reserve Banks' forward collection fees as they are today, since some returned checks handled by the Federal Reserve will not follow the same route that they followed in the process of collection, and thus may not be subject to the Reserve Banks' forward collection fees. In addition, paying and returning banks could deposit returned checks with the Federal Reserve in various ways that result in different costs being incurred

by the Reserve Bank. For example, automated returns would be less expensive for the Federal Reserve to handle than nonautomated returns. Reserve Banks would initially charge a fee for returned checks that have been prepared for automated processing similar to that charged for similar checks handled in forward collection. A higher fee would be charged for "raw" returns that require manual processing. The Board estimates that the charge for returned checks that require manual processing will range from $0.25 to $1.00.

The proposal also addresses modifications to the Reserve Banks' notification services for large-dollar returns. Reserve Banks will offer same-day notification services for all large-dollar checks to facilitate bank compliance with the proposed requirements to provide notice of nonpayment for all large-dollar checks within shorter time periods. The Board proposes that beginning on January 1, 1989, any depositary bank that has an on-line electronic connection with the Federal Reserve be required to receive large-dollar notifications electronically.

Cost of proposed services. Reserve Banks have provided preliminary estimates of the costs of offering the proposed new returned check services. They have projected that the proposed initiatives would require an additional 1988 capital expenditure of approximately $15,000,000, and additional 1988 operating expenditures of approximately $15,000,000. The costs of providing these services will be recovered by the Reserve Banks through the fees assessed for the services.

Truncation and extended MICR capture services. The Board proposes expansion of the Federal Reserve's truncation pilot program to a permanent service. In truncation, the physical checks are not delivered to the paying bank; instead, the MICR-line information on the checks is captured and presented to the paying bank electronically. The benefits of truncation include expeditious check processing and return and a reduction in the number of times the paper check is handled. Truncation may also create savings in transportation costs, and storage, equipment, and personnel costs for the paying bank.

Initially, it is proposed that the Reserve Banks offer truncation services to interested local paying banks. However, the benefits of truncation increase as checks are truncated earlier in the collection process. Therefore, the Board believes that after more experience is gained, Reserve Banks will be able to provide inter-bank truncation services; that is, truncation at the Federal Reserve Bank of first deposit. One Reserve Bank is now engaged in inter-bank truncation on a pilot basis under the rules of the National Association for Check Safekeeping. (The truncation proposal is similar to the first and second proposals listed in the Act.)

The Board also proposes a service that offers many of the same benefits of truncation without stopping the flow of the paper check—the extended MICR capture service. Under this service, which is now provided on a pilot program basis, Reserve Banks would deliver payment information by electronic transmission or magnetic tape, provide returned check and retrieval services, and deliver the checks to the paying bank several days later using less time-critical transportation.

Extended MICR capture would provide the paying bank and its customers an opportunity to test all aspects of the truncation services without giving up receipt of the physical check. The benefits of extended MICR capture are not as great as those of truncation; however, extended MICR would serve as a stepping stone for developing broader acceptance of truncation.

For a further discussion of these services see Docket R–6021, Federal Reserve Bank Services.

Longer-term initiatives (Docket No. R–0622). In addition to these proposed initiatives to expedite returned checks, which would be implemented by September 1988, the Federal Reserve is also exploring various new technologies to improve the check system in the longer term. One such effort involves testing of digitized image processing in a high-speed environment to determine the feasibility of using this technology to transmit check images to the paying bank and the depositary bank, and also as a substitute for microfilming checks.

Further, the Board is requesting comment on a variety of initiatives, including: (1) The feasibility of a machine-readable depositary bank indorsement, possibly by inclusion of a bar code of the nine-digit routing number, to facilitate further automation of returned check processing; (2) the feasibility of an electronic clearinghouse concept; (3) the feasibility of establishing electronic clearing zones, in which all banks in a specified area agree to accept electronic presentment of their checks; (4) further actions that should be considered to address delayed disbursement practices of certain corporations and banks; (5) an alternative method of preparing returned checks for automated processing that does not require the MICR-encoding of the returned check with the amount and routing number of the depositary bank; and (6) concepts for several potential future Federal Reserve services to depositary banks, specifically, a service to ascertain the authenticity of cashier's, certified, and teller's checks and a service to communicate information regarding returned checks to depositary banks prior to the physical delivery of the checks. (The electronic clearing-house proposal is based on the eighth proposal listed in the Act.)

Impact of the Proposal

Cost impact. The requirements of the Act and the proposed regulation will result in several benefits to the public. Transaction account customers will be given specific information on when funds will be made available for withdrawal, which should help them better manage their accounts. In addition, many customers will gain earlier access to their funds. However, it is difficult to quantify these benefits.

The overall cost impact on the banking industry may be quite significant. The disclosure and funds availability provisions in the Act may result in higher operating expenses, lost investment income due to earlier withdrawal of collected balances, and increased bad check losses. It is also difficult to estimate the cost impact of these changes.

On the other hand, the improvements to the check collection system may actually reduce overall bank costs. The proposed regulations would change the duties of the paying bank, returning banks, and depositary bank, and would require modifications to the operations of each bank in the return process. Initially, these new initiatives may increase costs. Some of these costs are one-time transition costs, such as the costs to the depositary bank to modify its check processing equipment to comply with the new standard indorsement. Other costs are ongoing, such as costs for expedited handling of returns at returning banks.

However, the proposals in the aggregate have the potential for substantial longer-term cost reductions in the return process. Returns will be received by the depositary bank more quickly than they are today, reducing the bank's risk from providing prompt availability of funds to its customers. The number of returns may be significantly reduced due to the authority granted to paying banks to extend their midnight deadline for small-dollar returns. The regulation's availability and disclosure requirements may also result in reduced returns

because funds may be made available for withdrawal sooner and customers would know more precisely when they may withdraw funds from their accounts. The proposal would encourage more direct exchange of returned checks, reducing the number of intermediary banks involved in the return process. Most importantly, the new indorsement standard should, over the long term, reduce the cost of return processing by facilitating the more efficient processing of returns. Future enhancements to the indorsement standard would allow all parties in the check collection system to automate completely their return processing.

Competitive impact. An important factor considered in the development of the regulatory framework for expedited returns and related Reserve Bank services was the impact on competition in the check collection system. The public has benefited from the competitive environment that has existed between the Federal Reserve and correspondent banks, and among correspondent banks in providing check collection services. The Board has sought to ensure that the proposed regulatory requirements and Federal Reserve service offerings were designed to provide options to banks in the return process and to facilitate a competitive environment.

Although a number of the Reserve Bank services proposals—such as acceptance of any returned checks, the explicit pricing of returns and corresponding decrease in the forward collection fees, and direct return by the Federal Reserve to the depositary bank—may have significant competitive implications, it is difficult to determine what that impact would be. For example, lower Federal Reserve check collection fees could make the Reserve Banks' forward collection check services more attractive, and acceptance of all returns could increase return volume. On the other hand, a bank that uses the Federal Reserve for both forward collection and return services may experience an increase in its total charges for check services. In addition, the acceptance of universal returns by the Federal Reserve has the potential to result in a reduction of Federal Reserve forward collection check volume, since returns are often viewed as nuisance items in the collection process that have deterred banks from competing for forward collection volume.

Correspondent banks will have the opportunity to compete with the Federal Reserve in providing returned check services. For example, approximately 4,000 banks that do not collect checks through the Federal Reserve currently mail returned checks to their Reserve Bank. Under this proposal, these paying banks may deliver these returned checks along with their forward collection checks to their correspondent bank, rather than establishing separate transportation to deliver their returns to the Federal Reserve. This practice could result in additional volume of returned checks for correspondents.

For a further discussion of these initiatives see Docket R–6022, Proposals for Long-Term Improvements to the Check Collection System.

Educational Efforts

During the public comment period, Federal Reserve Banks plan to conduct seminars designed to increase the understanding of depository institutions regarding the implications of the Act and better prepare the public to comment on the Board's proposed regulations and operating issues. Reserve Banks will sponsor another series of seminars after approval of the final regulations by the Board to assist the industry in preparing for the regulatory and operational changes to be effective on September 1, 1988. In addition, Federal Reserve staff is working closely with various industry groups as they prepare to offer similar seminars to their constituencies.

Summary of Proposals

The Board is issuing for public comment the following proposals to implement the provisions of the Expedited Funds Availability Act:

(1) Docket R–0620, Proposed Regulation CC and Amendments to Regulation J, which

(a) Requires banks to provide for availability of deposits within specified time periods, to disclose their availability policies to customers, and to begin to accrue interest on deposits to accounts not later than the day they receive provisional credit for the deposits; and

(b) Requires banks to expedite the return of checks, including authorizing direct return, and requires the depositary bank to use a standard indorsement.

This docket also includes amendments to Regulation J, which governs the collection of checks by Federal Reserve Bank so that it conforms to the proposed rules to expedite the return of checks.

(2) Docket R–0621, Federal Reserve Bank Services, which proposes Reserve Bank services to facilitate bank compliance with the proposed requirements to expedite returns and improve the check collection system, including expansion of Reserve Bank check truncation and extended MICR capture services from pilot programs to permanent services.

(3) Docket R–0622, Proposals for Long-Term Improvements to the Check Collection System, which requests public comment on longer-term initiatives to improve the check system.

Effect of the Proposals on the Check Collection System

The following is an explanation of the current process for returning checks and a description of the responsibilities of paying, returning, and depositary banks now and in the future, if the Board's proposals are adopted. This overview should assist the reader in better understanding the impact of the proposed changes to expedite the return of checks on paying banks, returning banks, and depositary banks.

In contrast to the forward collection process, the returned check process is a slow, relatively labor intensive, and costly operation. The BAI study concluded that, while the forward collection process takes an average of 1.6 days to complete, the return process takes an average of 5.2 days. The BAI study found that, during the return process, the average returned check is handled by 3.4 banks: The paying bank, an average of 1.4 returning banks, and the depositary bank. Even though less than one percent (the study estimated 0.86 percent) of all checks are returned, the absolute volume of returns (the study estimated 350 million annually) is relatively large.

Both correspondent banks and Federal Reserve offices frequently act as returning banks between the paying and depositary banks in the return process. Correspondent banks may route forward collection checks for payment either through the Federal Reserve or through private channels. Thus, the return process currently may include one or more correspondents and the Federal Reserve before the returned check reaches the depositary bank. The more intermediate processing steps a returned check must pass through on its route to the depositary bank, the greater the probability that additional time will be necessary to complete the process.

Many checks are collected through local clearing arrangements, clearinghouses, and direct exchange arrangements. Such arrangements consist of two or more banks agreeing to exchange checks drawn on each other. There are many such arrangements, and they are a very efficient and fast means of collecting and returning certain checks. The returned check processes of

local clearinghouses should be largely unaffected by the Board's proposals, although the individual participants are subject to the provisions of the Act.

The Paying Bank

Current. Today, the paying bank's principal duty when dishonoring a check is to assure timely dispatch of the check back to the presenting bank. The U.C.C. and the Federal Reserve's Regulation J specify that the paying bank must dispatch a check it has determined not to pay by midnight of the banking day following the day the paying bank received the check for payment (the "midnight deadline"). This obligation may be satisfied by dispatching the returned check by courier or U.S. mail. The return of checks presented for payment through clearinghouses is usually subject to the rules of the clearinghouse and these checks are dispatched accordingly.

Typically, paying banks receive checks for payment throughout the day: From correspondents, the Federal Reserve, or through a clearinghouse. Checks received on a Monday, for example, would be posted to customers' accounts on Monday night and any checks that are not to be paid (due to insufficient funds, account closed, etc.) are rejected from the system and reports are prepared for management review. The decision to actually return a check can be made automatically as a matter of bank policy or following review by management on Tuesday. The checks to be returned are then sent by courier with the bank's forward collection checks, by mail or courier to other collecting banks, or by messenger to the clearinghouse. The return process in this example must begin by midnight Tuesday to conform to the U.C.C. Because the return process must begin by midnight, many paying banks return checks by mail when a courier leaving after midnight would be faster. If a check to be returned was presented by the Federal Reserve and is $2,500 or more, the paying bank is also obligated to provide notice of return to the depositary bank by midnight of the third banking day following receipt (Thursday in this example). Receipt of the physical check by the depositary bank within this time frame would fulfill this notification requirement.

Many paying banks currently receive checks from more than one collecting bank and, therefore, dispatch returned checks to each of those banks. If the paying bank does not deposit checks for collection with the bank to which it is returning checks, these checks are usually returned through the mail. In some cases, mail is also used by paying banks to transport returns to the bank to which it sends its forward collection checks in order to ensure compliance with the midnight deadline. The paying bank currently has little incentive to make an effort to speed the return process and is generally not concerned about the return process after a returned check has been dispatched timely.

Proposed. A major impetus for change in the role of the paying bank will be the responsibility placed on the paying bank by § 229.30 of the proposed regulation. This section states that the return process must be accomplished in an "expeditious manner," thus providing the incentive to the paying bank to take steps to speed the flow of returned checks. Under this proposed new duty, once the paying bank decides not to pay a check, the paying bank must dispatch returned checks with the same speed and diligence that it would dispatch forward collection checks received for deposit before noon on the banking day after the day of presentment of the returned check. This means that a check presented to the paying bank on Monday that is not paid must be dispatched as quickly as a check deposited in that bank on Tuesday morning that is drawn on the depositary bank. The Federal Reserve would provide new deadlines for deposit of returned checks and other new or enhanced services, which would assist paying banks in meeting the proposed new duties.

Some of the changes in the return process from the perspective of the paying bank are anticipated to be:

1. In many cases, paying banks will dispatch returns by the same manner, and at the same time, as they send forward collection checks. This will usually mean that returns will be sent via courier rather than mail. The paying bank will be required to meet the deposit deadlines and sorting requirements set by any returning bank to which the returned check is sent.

2. Additional options will be available to send returns. Returns would not be required to follow the indorsement chain through which the check was originally collected. This means that the paying bank could return all checks to a single returning bank rather than sending them to multiple presenting banks. Paying banks could return checks to the depositary bank or to a bank agreeing to process returns, including the Federal Reserve. If the paying bank cannot identify the depositary bank from the indorsement, it may find it necessary to send that returned check back to the presenting bank. The Federal Reserve would accept returned checks from all paying banks and explicitly charge for this service. Other returning banks are likely to establish similar services.

3. Under the proposal, using the example above, checks for $100 or less, which a paying bank would normally return, may be held for two business days beyond the paying bank's midnight deadline without the paying bank incurring additional liability. The paying bank must attempt to obtain payment on the day the check is actually returned. If widely implemented by paying banks, this procedure is expected to reduce the total number of checks that would be returned unpaid.

4. Paying banks will have the option to prepare a returned check for automated processing by high-speed equipment. This option will be used only when the paying bank is sending the returned check to a returning bank. The bank can produce a "qualified returned check" (QRC) by enclosing a returned check in a carrier envelope or attaching a strip to the bottom of the check, and encoding the carrier or strip with the nine-digit routing number of the depositary bank, a special returned check identifier, and the amount of the check. By creating QRCs, the paying bank facilitates expeditious return of the check to the depositary bank. Preparation of QRCs by paying banks also reduces the cost of the overall return process because returning banks will be able to handle these checks more efficiently. To encourage paying banks to prepare QRCs, the Federal Reserve will provide later deposit deadlines at lower prices for QRCs than for returned checks that are not qualified. The Board believes that correspondent banks will adopt a similar strategy.

5. Paying banks will be required to provide notification of nonpayment on all returned checks of $2,500 or more, regardless of the channel of collection, at an earlier time than required today. Notifications will have to be received by the depositary bank by 4:00 p.m. (local time) on the second business day following presentment of a check to the paying bank. This means that if a decision is made to return a check of $2,500 or more that was presented on Monday, the paying bank must ensure that the notification is received by the depositary bank no later than 4:00 p.m. Wednesday. The Federal Reserve will provide timely notification to the depositary bank provided that the message is originated by Fedwire by noon on the due date or that the physical returned check or a telephone message is given to the Federal Reserve by 9:00 a.m. on the due date.

Returning Banks, Including Federal Reserve Banks

Current. Returning banks currently receive returned checks from paying banks and from other returning banks, and subsequently send those returned checks to depositary banks and to other returning banks. Banks that act as collecting banks during the forward collection process also act as returning banks during the return process. Generally, a returning bank receives a returned check from the bank to which it sent the check for collection or payment. The returning bank then sends the returned check to its prior indorser. In sending the returns to its prior indorser, returning banks are under a duty similar to the duty applicable to paying banks to dispatch returned checks by the midnight deadline. One of the advantages to the practice of returning through the indorsement chain is that parties in the return process have established account relationships that were used during the forward collection process. The payment for the returned check is typically a reversal of the payment made during the forward collection process.

The Federal Reserve functions as a returning bank in the current return process only for checks that it handled in the forward collection process. The Federal Reserve receives returned checks from paying banks and sends them to depositary banks and other returning banks. Approximately 43 percent of the returns currently handled by the Federal Reserve are sent to correspondent banks acting as returning banks. In some Federal Reserve regions, where correspondent banking is particularly active, the Federal Reserve office currently sends well over 50 percent of the returns it handles to correspondents in their role as returning banks.

Proposed. Under the proposal, returning banks will be held to a standard similar to paying banks. That is, returning banks must handle returned checks in an "expeditious manner", i.e., returned checks must be processed and dispatched in the same general manner as forward collection checks. This means that returning banks must process returned checks in a much shorter time frame than is typical today.

Federal Reserve Banks will establish new deposit deadlines for returned checks that closely parallel those for forward collection checks. It is expected that other returning banks will also establish new deposit deadlines for returned checks. While these deadlines need not be the same as for checks received for forward collection, returning banks may wish to establish these deadlines so as to permit paying or other returning banks to send returned checks to them on the same courier as forward collection checks. Returning banks may return a check directly to the depositary bank or to another returning bank as long as the route chosen for the return is expeditious. Generally, it would not be expeditious for a returning bank to send returned checks to another returning bank if it sends forward collection checks drawn on that depositary bank directly to the depositary bank.

Returning banks would have the option, but not be required, to convert returns to QRCs. If a returning bank chooses to prepare a QRC, it may take a day to do so beyond the time when the check would otherwise have been dispatched. An extra day is not available when returning directly to the depositary bank, because preparation of a QRC would not speed the return of such checks.

It is anticipated that one of the most significant changes in the return processing system for non-Federal Reserve returning banks will be the effect of the Federal Reserve's direct return policy. Federal Reserve offices will no longer send returned checks to other non-Federal Reserve returning banks. This potential shift in volume (about 43 percent of current Federal Reserve return volume) could significantly reduce the number of returned checks that are handled by these returning banks.

The Depositary Bank

Current. The depositary bank receives returned checks from both paying and returning banks. Generally, a returned check is received from the bank used by the depositary bank for forward collection. Depositary banks also receive notifications of nonpayment on checks of $2,500 or more collected through the Federal Reserve. Some depositary banks currently redeposit low-dollar returned checks for collection because a significant proportion of these checks are paid upon second presentment.

Proposed. The depositary bank's requirement to place a standard indorsement on the check is critical to improvements in the return process. By following the proposed new indorsement standard and imprinting a complete, legible indorsement on the check, the depositary bank will greatly assist paying and returning banks in identifying the depositary bank and, therefore, in processing the return promptly. To comply with the standard, depositary banks may have to install new indorsement plates and may need to modify some equipment. Some banks may want to work with corporate customers that encode checks prior to deposit to have the corporate customer place the depositary bank's indorsement on the check according to the new standard. Failure to follow the indorsement standard may increase the risk of loss to the depositary bank because paying and returning banks may be relieved of liability for delay in return if the delay is due to a nonstandard indorsement.

Depositary banks may receive returns from returning banks with which the depositary bank currently does not have a forward check collection relationship. Many depositary banks will, for the first time, begin receiving returned checks directly from the Federal Reserve. If the depositary bank requests courier delivery of its returned checks at a location where the Federal Reserve does not currently provide courier service, the depositary bank may be charged for the transportation.

Some depositary banks that currently are charged by a returning bank for returned checks will begin receiving returned checks without a per item charge. Depositary banks must pay, in same-day funds, for returned checks on the day the checks are received. If paying banks and returning banks that return checks directly do not wish to receive same-day payment by wire transfer, cash, or Federal Reserve net settlement, or if the paying or returning bank does not maintain an account relationship with the depositary bank, the banks may agree as to the form of payment. The form of payment may be a check or an ACH payment.

Depositary banks that have an on-line connection with the Federal Reserve will have to receive notifications of nonpayment through that terminal after January 1, 1989.

It is anticipated that depositary banks will experience fewer returns, faster receipt of those checks that are returned, and more comprehensive notification of nonpayment on large-dollar returned checks. It is also anticipated that fewer returns will be redeposited for collection by depositary banks because some paying banks will have retained the small-dollar checks for an extra two days to attempt to secure payment.

Regulation CC

Section-by-Section Analysis

The Board intends to include a section-by-section analysis with the final regulation that will be an official

commentary on the regulation and will be an official Board interpretation within the meaning of section 611(e) of the Act (12 U.S.C. 4010(e)). Accordingly, the Board requests commenters to address issues raised by the commentary as well as making comments on the regulation itself.

Subpart A—General

Section 229.1 Authority and purpose; organization.

This section summarizes the Board's authority to adopt this regulation and provides a description of how the regulation is organized.

Section 229.2 Definitions.

This section defines the terms used in the regulation. For the most part, terms are defined as they are in section 602 of the Expedited Funds Availability Act (12 U.S.C. 4001). The Board is, however, proposing changes for the sake of clarity or to conform the terminology to that which is familiar to the banking industry and defining terms that are not defined in the Act. The Board proposes to incorporate by reference the definitions of the Uniform Commercial Code where appropriate, continuing a practice adopted for Regulation J (12 CFR Part 210). Some of the Regulation CC's definitions are self explanatory and therefore are not discussed in this commentary.

Account. The Act defines account to mean "a demand deposit account or similar transaction account at a depository institution." The proposed regulation defines "account" in terms of the definition of "transaction account" in the Board's Regulation D (12 CFR Part 204). Thus the definition applies to accounts with general third party payment powers but does not cover time deposits or savings deposits, including money market deposit accounts, even though they may have limited third party payment powers. The Board believes that it is appropriate to exclude these accounts because of the reference to demand deposits in the Act, which suggests that the Act is intended to apply only to accounts that permit unlimited third party transfers. The definition proposed for Regulation CC differs from the definition of "transaction account" found in Regulation D, as the Regulation CC definition excludes deposits, such as nondocumentary obligations (see 12 CFR 204.2(a)(1)(vii)), that are not represented by accounts but that are covered under Regulation D.

The Board also proposes to exempt inter-bank deposits and accounts from Regulation CC.

Automated clearinghouse (ACH). The Board proposes to define automated clearinghouse as a facility that processes debit and credit transfers under rules established by a Federal Reserve Bank operating circular governing automated clearinghouse items or the rules of an ACH association. ACH credit transfers are included in the definition of "electronic payment."

The reference to "credit transfers" and "debit transfers" is not meant to refer to the corresponding credit and debit entries that are part of the same transaction, but the kinds of ACH payments. In an ACH credit transfer, the originator orders that its account be debited and another account credited. In an ACH debit transfer, the originator, with prior authorization, orders another account to be debited and its account to be credited.

A facility that handles only "wire transfers" (defined elsewhere) would not be an ACH, although some organizations, for example, the New York Clearing House, operate both an ACH and a wire transfer network.

Automated teller machine (ATM) is not defined in the Act. The Board proposes to define an ATM as an electronic or mechanical device at which a natural person may make deposits to accounts by cash or check and perform other transactions. Point-of-sale terminals, machines that only dispense cash, night depositories, and lobby deposit boxes are not ATMs within the meaning of the proposed definition, either because they do not accept deposits (point-of-sale terminals) or because they only accept deposits (night depositories) and cannot perform other transactions. Deposits to night depositories and lobby boxes are treated as deposits at the teller windows of the branches of the depositary banks where they are located for the purpose of determining when funds must be made available for withdrawal.

Available for withdrawal. The Act does not define what it means for funds to be "available for withdrawal." The Board proposes to define this phrase in order to clarify the Act. Under the proposal, when funds become "available for withdrawal," it means that funds may be put to any use for which the depositor may use actually and finally collected funds in the depositor's account under the depositor's account agreement with the bank. Examples of such uses include payment of checks drawn on the account, electronic payments, and cash withdrawals.

Bank. The Act uses the term "depository institution," which it defines by reference to section 19(b)(1)(A) (i) through (vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A) (i) through (vi)). The Board proposes to use the term "bank," a term that conforms to the usage the Board has previously adopted in Regulation J. "Bank" is also the operative term in Article 4 of the Uniform Commercial Code.

"Bank" is defined to include depository institutions, as defined in the Act, and U.S. branches of foreign banks.

Unless otherwise specified, the term bank includes all of a bank's offices in the United States.

Banking day and *Business day.* The Act defines only "business day" and that only as any day excluding Saturdays, Sundays, and legal holidays. "Legal holiday," however, is not defined, and the variety of local holidays, together with the practice of some banks to close midweek, makes the Act's definition difficult to apply. The Board believes that two kinds of business days are relevant. First, when dealing with the day a deposit is made or a bank's duty to perform some action (such as returning a check), the focus should be on a day that the bank is actually open for business. Second, when counting days for purposes of determining when funds must be available under the regulation or for the time limits banks must meet in returning checks, there would be confusion and uncertainty in trying to follow the schedule of a particular bank, and there is less need to identify a day when a particular bank is open. Most banks that act as intermediaries (large correspondents and Federal Reserve Banks) follow the same holiday schedule. Accordingly, the Board proposes to adopt two definitions: "business day" is defined to follow the standard Federal Reserve holiday schedule (which is followed by most large banks), and "banking day" is defined to mean a business day on which a bank is open for substantially all of its banking activities.

The definition of banking day follows the definition of banking day in U.C.C. 4–104(1)(c), but changes it by defining a banking day in terms of a "business day." Thus, if a bank is open on Saturday, Saturday might be a banking day for purposes of the U.C.C., but it would not be a banking day for purposes of Regulation CC because Saturday is never a "business day" under the regulation.

Under the proposal, a bank may observe a banking day on a per branch basis. The fact that one branch is open to the public for substantially all of its banking business does not necessarily mean that that day is a banking day for other branches. For deposits made at an

ATM, if the branch of the depositary bank that holds the account of the person making the deposit is open for substantially all of its banking activities on the day of deposit, that day is considered a banking day for that deposit.

Cash means U.S. coins and currency. The phrase in the Act "including Federal Reserve notes" has been deleted as unnecessary. (See 31 U.S.C. 5103.)

Cashier's check. The Board proposes to add to the second item in the Act's definition of "cashier's check" the language, "on behalf of the bank as drawer," to clarify that the term "cashier's check" is intended to cover only checks that a bank draws on itself.

Certified check. The Act defines a certified check as one to which a bank has certified that the drawer's signature is genuine and that the bank has set aside funds to pay the check. Under the Uniform Commercial Code, certification of a check means the bank's signed agreement that it will honor the check as presented (U.C.C. 3–410, 3–411). The Board proposes to define "certified check" to include both the Act's and U.C.C.'s definitions.

Check is defined in the Act as a negotiable demand draft drawn on or payable through an office of a depository institution located in the United States, excluding noncash items. The Act also mandates prompt availability for drafts drawn on the U.S. Treasury and state governments. The Board proposes to define "check" to include these items as well.

Principal and interest payments on federal debt instruments are often paid with checks drawn on a Federal Reserve Bank as fiscal agent of the United States, and these "fiscal agency checks" are indistinguishable from other checks drawn on Federal Reserve Banks. Federal Reserve checks are also used by some banks as substitutes for cashier's checks and therefore are analogous to depository checks under the regulation. Similarly, savings and loan associations often use checks drawn on Federal Home Loan Banks as substitutes for cashier's checks. The Board proposes to treat checks drawn on Federal Home Loan Banks and Federal Reserve Banks in the same manner as it treats depository checks.

The Act treats drafts payable through a bank as checks, even though under the U.C.C. the payable through bank is a collecting bank to make presentment and is generally not authorized to make payment (U.C.C. 3–120). The Act does not address items that are payable at a bank.[3] For purposes of this regulation, the Board proposes to treat both payable through and payable at demand drafts as payable by the bank designated as the payable through or payable at bank. The Board believes that treating demand drafts payable at a bank as checks will not have a substantial effect on the operations of payable at banks—by far the largest proportion of payable at items are not negotiable demand drafts, but time items, such as commercial paper, bonds, notes, bankers' acceptances, and securities. These time items are not covered by the requirements of the Act or of this regulation. (The treatment of payable through drafts is discussed in greater detail in connection with the definitions of "local check" and "paying bank.")

The Board proposes to include negotiable demand drafts, or warrants, drawn on a state government in the definition of check. The Board has not proposed to address checks drawn on local governments under paragraph (3) in the definition of check because it is not aware of any local government that draws drafts directly on itself. If any commenter is aware of a local government that draws drafts directly on itself, it should include this information in its comment.

The Board proposes to treat U.S. Postal Service money orders as checks even though under Postal Service regulations they are not negotiable. The Board does not propose to provide specific rules for other types of money orders; these instruments are generally drawn on or payable through or payable at banks and are treated as checks on that basis.

The Board proposes to treat nonnegotiable cash items as checks for purposes of Subpart C. The Board requests comment on how to treat cash items drawn on entities that are not banks for purposes of this regulation (for example private banks and industrial banks).

Check clearinghouse association follows the definition in the Act, but makes it clear that using the premises of a Federal Reserve Bank to exchange checks does not constitute the handling of checks for collection by the Reserve Bank. This provision was added because several clearinghouses meet at Reserve Banks to exchange checks among their members.

The Act defines a clearinghouse as serving "a local area, including a metropolitan area." Some clearinghouses (for example, the California Bankers Clearing House Association), however, cover wide areas, including whole states that are served by more than one Federal Reserve office. The members of these clearinghouses may not all be "local paying banks" as contemplated by the Act. The Board requests comment on how to treat clearinghouses covering large geographic areas, and whether all participants in a clearinghouse should be regarded as local paying banks with respect to all other clearinghouse participants regardless of whether they are all located in the same check processing region.

Check processing region. The Act defines this term as "the geographic area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations." The Board proposes to adopt as the relevant check processing regions those territories served by one of the 48 Federal Reserve head offices, branches, or regional check processing centers. Appendix A lists all the Federal Reserve offices and gives the Federal Reserve routing symbols associated with each office territory. The definition of check processing region is key to determining whether a check is considered local or nonlocal.

Depositary bank. The Board proposes to use this term rather than the term "receiving depository institution." "Receiving depository institution" is a term unique to the Act, while "depositary bank" is the term used in Article 4 of the U.C.C. and Regulation J. "Depositary bank" is therefore more familiar to the banking industry than is the Act's terminology.

A depositary bank includes the bank in which the check is first deposited. If a customer deposits a check in its account at a bank, that bank is the depositary bank with respect to the check. If a foreign bank sends checks to its U.S. correspondent bank for forward collection, the U.S. correspondent is the depositary bank.

A bank may act as both the depositary bank and the paying bank with respect to a check, if the check is drawn on, payable at, or payable through the bank in which it was deposited.

A bank is also considered a depositary bank with respect to checks it receives as payee. For example, a

[3] The U.C.C. provides alternative treatment for payable at items (U.C.C. 3–121). In 32 states, the payable at bank, like the payable through bank, is not authorized to pay the item solely because it is designated as the payable at bank. In 18 states, the District of Columbia, and the U.S. Virgin Islands, an item that is payable at a bank is treated as a draft drawn on that bank. Thus, under current law, a large number of payable at items are treated as drafts drawn on the payable at bank.

bank is a depositary bank with respect to checks it receives for loan repayment, although these checks are not deposited in an account at the bank.

Depository check is defined in the Act to include cashier's checks, certified checks, teller's checks, "and any other functionally equivalent instrument as determined by the Board." The Board does not propose to include any other instruments in this definition.

Electronic payment is defined to mean a wire transfer or an ACH credit transfer. The Act makes no mention of ACH transfers, but the Board believes that ACH credit transfers have some of the characteristics of wire transfers and should be treated in the same manner as wire transfers. ACH debit transfers, even though they may be transmitted electronically, are not defined as electronic payments because the receiver of an ACH debit transfer has the right to return the transfer, which would reverse the credit given to the originator. Thus, ACH debit transfers are more like checks than wire transfers. Further, those that receive funds by originating ACH debit transfers are primarily large corporate customers who would generally be able to negotiate with their banks for prompt availability.

Forward collection is a term used in Subpart C. It is defined to mean the process by which a depositary bank sends a check to the paying bank for payment as distinguished from the process by which the check is returned after nonpayment. Noncash collections are not included in the term "forward collection."

Local check is defined as a check drawn on, payable through, or payable at a local paying bank. A bank may rely on the routing number on a check in identifying a local check; consequently, a person can determine which checks are local by reference to the routing number. A routing number is generally printed in magnetic ink near the bottom of the check (the "MICR strip"; see American National Standards Committee on Financial Services, *Specification for the Placement and Location of MICR Printing, X9.13* (Sept. 8, 1983) hereinafter referred to as "ANSI X9.13–1983").

A check, such as a check drawn on a local bank but payable through a nonlocal bank, could have two paying banks, one local and one nonlocal, depending on how the check is collected. This definition allows the depositary bank to rely on the routing number on the check, generally the payable through bank's routing number, in determining whether the check is local or nonlocal.

Appendix A is a list of routing numbers arranged by Federal Reserve Bank office to enable persons to determine whether or not a check is local.

Local paying bank is defined as a paying bank to which a check is sent for forward collection located in the same check processing region as the branch or proprietary ATM of the depositary bank. (*See* comments on definition of "paying bank".)

Noncash item. The Act's definition of "check" states that noncash items are excluded, and defines noncash items as checks to which another document is attached or accompanied by special instructions. Under the Act, "noncash item" also includes other items as determined by the Board's regulations. The Board proposes to define "noncash item" in terms of the Federal Reserve Banks' uniform operating circular on the collection of noncash items. The proposal also defines noncash item to include checks that consist of more than a single thickness of paper (except checks that qualify for handling by automated check processing equipment, e.g. those placed in carrier envelopes) and checks that have not been preprinted or post-encoded in magnetic characters with the paying bank's routing number.

A photocopy of a check is neither a check nor a noncash item, but may be treated as either. The Federal Reserve Banks generally agree to handle a properly prepared photocopy of a check as a check if it contains a guarantee of authenticity and an indemnity by the depositary bank or a collecting bank.

Paying bank. The Board proposes to use this term in lieu of the Act's "originating depository institution," and to define it, as in Regulation J (12 CFR Part 210), to include the payor bank, the payable at bank, and the payable through bank.

Under other provisions of the proposal, a bank designated as a "payable through bank" would be responsible for performing all of the duties (payment, return, notice, etc.) of the payor bank and within the same time frames. The Board believes that the Act makes a clear connection between availability and the time it takes for checks to be cleared and returned. Allowing the payable through bank additional time to forward checks to the payor, and await return or pay instructions from the payor, would delay the return of these checks, increasing the risks to depositary banks.

Federal Reserve Banks and Federal Home Loan Banks are also treated as paying banks with respect to checks drawn on them, even though they are not defined as "banks" in the regulation. A state government that issues warrants drawn on itself would also be a paying bank for purposes of the regulation, and thus would be subject to the paying bank's duties under Subpart C.

Proprietary ATM. Under the temporary schedule, all deposits at nonproprietary ATMs are treated like deposits of nonlocal checks and deposits at proprietary ATMs are generally treated like deposits at banking offices. The Conference Report on the Act indicates that the special availability rules for deposits received through nonproprietary ATMs are provided because "nonproprietary ATMs today do not distinguish among check deposits or between check and cash deposits" (H.R. Rep. No. 261, 100th Cong., 1st Sess. at 179 (1987)). Thus, during the temporary schedule, a deposit of any combination of cash and checks at a nonproprietary ATM may be treated like a deposit of nonlocal checks, because the depositary bank does not know the makeup of the deposit and consequently is unable to place different holds on cash, local check, and nonlocal check deposits made at the ATM.

A colloquy between Senators Proxmire and Dodd during the floor debate on the Competitive Equality Banking Act (133 Cong. Rec. S11289 (Aug. 4, 1987)) indicated that whether a bank operates the ATM is the primary criterion to determining whether the ATM is proprietary to that bank. Since a bank should be capable of ascertaining the composition of deposits made to an ATM operated by that bank, an exception to the availability schedules is not warranted for these deposits.

The Board believes that generally ATMs are owned or operated by one bank and should be considered proprietary to that bank, even if deposits can be made by customers of other banks at that ATM. Nonetheless, the Act also includes location as a factor in determining whether an ATM that is neither owned nor operated by a bank is proprietary to that bank. Thus, the Board has included, as criteria for what constitutes a proprietary ATM, an ATM located on the premises of the bank—either inside the branch or on its outside wall. Since the Act also defines a proprietary ATM as one that is "in close proximity" to the bank, the Board proposes to define an ATM located within 50 feet of a bank to be proprietary to that bank. The Board believes that the statutory proximity test was designed to apply to situations where it would appear to the depositor that the ATM was run by its bank,

because of the proximity of the ATM to the bank. The Board believes that ATMs located within 50 feet of a banking office would be presumed proprietary to that bank unless they are clearly identified as being owned or operated by another bank.

The Board proposes to limit the applicability of this definition by stating that an ATM is not considered to be proprietary to more than one unaffiliated bank. If more than one bank meets the criteria set forth in the definition, the ATM will be considered proprietary to the bank that satisfies the criterion stated in the lowest numbered paragraph. Thus, generally an ATM will be proprietary to the bank that owns or operates it. If more than one bank meets the owns or operates criterion, the ATM shall be considered proprietary to the bank that operates it.

Qualified returned check. The proposal provides for the return of checks to the depositary bank by the paying bank by the same general means used for forward collection of a check from the depositary bank to the paying bank. One way to speed the return process is to prepare the returned check for automated processing. Returned checks can be automated by either the paying bank or a returning bank by placing the return in a carrier envelope or by placing a strip on the bottom of the return, and encoding the envelope or strip with the routing number of the depositary bank, the amount of the check, and a special return identifier. Returns may be identified by placing a "2" in position 44 of the MICR line. (*See* ANSI X9.13–1983.) Generally, under the standard of care imposed by § 229.38, a paying or returning bank would be liable for any damages incurred due to misencoding of the routing number, the amount of the check or return identifier on a qualified returned check unless the error was due to problems with the depositary bank's indorsement. (*See also* discussion of § 229.38(c).) A qualified returned check need not contain the elements of a check drawn on the depositary bank, such as the name of the depositary bank, as is required under the direct return provision of U.C.C. 4–212(2). Because indorsements on carrier envelopes will not appear on a returned check itself, banks will wish to retain carrier envelopes with their check records.

Returning bank is defined to mean any bank (including a Federal Reserve Bank or a Federal Home Loan Bank, but excluding the paying bank) handling a returned check under the return procedures established in Subpart C. A returning bank may or may not be a bank that handled the returned check in the forward collection process.

Routing number. Each bank is assigned a routing number by Rand McNally & Co. as agent for the American Bankers Association. The routing number takes two forms: A fractional form and a nine-digit form. A paying bank is identified by both the fractional form routing number (which normally appears in the upper right-hand corner of the check) and the nine-digit form (which is printed in magnetic ink in a strip along the bottom of the check). Subpart C proposes to require banks to place their routing numbers in nine-digit form in their indorsements.

Uniform Commercial Code is defined as the version of the Code adopted by the individual states. Citations in the regulation are to the official text published by the Code's sponsors.

Wire transfer. The Act delegates to the Board the authority to define the term "wire transfer." The Board proposes to define wire transfer as an order to a bank to pay a fixed or determinable amount of money to a beneficiary. The order must unconditionally permit the bank receiving the wire transfer to pay the beneficiary. A wire transfer may be transmitted by electronic or other means. "Electronic means" include computer-to-computer links, on-line terminals, telegrams (including TWX, TELEX, or similar methods of communication), telephone calls, or other similar methods. The Board believes that Fedwire (the Federal Reserve's wire transfer network), CHIPS (Clearing House Inter-bank Payments System, operated by the New York Clearing House), and book transfers among banks or within one bank would be covered by this definition.

Subpart B—Availability of Funds

Section 229.10 Next-day availability for certain deposits.

(a) *Cash deposits.* The Act provides next-day availability for cash deposits to accounts at a depositary bank "staffed by individuals employed by such institution." [3] In its proposal, the Board has eliminated this condition for receipt of next-day availability for cash deposits as well as for checks subject to next-day availability under paragraph (c). Current law generally provides for next-day availability for cash deposits. (*See* U.C.C. 4–213(5).) The Board is not aware of any impediments to providing next-day availability for cash deposits received at a proprietary ATM, night depository, lobby deposit box, or through the mail, but requests comment on any problems this requirement may pose for depositary banks.

This provision, as well as other provisions in this subpart governing the availability of funds, provides that funds must be made available for withdrawal not later than a specified number of "business days" following the "banking day" on which the funds are deposited. Thus, a deposit is only considered made on a banking day, i.e., a day that the bank is open to the public for carrying on substantially all of its banking functions. For example, if a deposit is made at an ATM on a Saturday, Sunday, or other day on which the bank is closed to the public, the deposit is considered received on that bank's next banking day. Nevertheless, "business days" are used to determine the number of days following the banking day of deposit that funds must be available for withdrawal. For example, if a deposit of a local check were made on a Monday under the temporary schedule, which calls for availability on the third business day after deposit, funds must be made available on Thursday regardless of whether the bank was closed on Wednesday for other than a standard legal holiday as specified in the definition of "business day."

Under this provision, cash deposited in an account on a Monday, except for cash deposited at a nonproprietary ATM, must become available for withdrawal by the start of business on Tuesday.

(b) *Electronic payments.* The Act provides next-day availability for funds received for deposit by wire transfer. The regulation uses the term "electronic payment," rather than "wire transfer," because the Board is proposing that ACH credit transfers also be accorded next-day availability. (*See* discussion of definition of "electronic payment.")

The Act requires that funds be available for withdrawal not later than the business day following the day a wire transfer is received. This provision clarifies what constitutes receipt of an electronic payment. For the purposes of this section, receipt is determined by when the bank receives payment in finally collected funds. For example, finally collected funds generally are received for an ACH credit transfer when they are posted to the receiving bank's account on the settlement day. In the case of Fedwire, the bank receives finally collected funds at the time the payment is made. (*See* 12 CFR 210.36.)

[3] Nothing in this regulation or in the Act affects terms of account arrangements, such as negotiable order of withdrawal accounts, that require prior notice of withdrawal. See 12 CFR 204.2(e)(2).

This provision establishes when an electronic payment is considered received. The "to the extent" language in the provision is intended to address cases where a participant on a private network fails to settle, and the bank receives finally settled funds representing only a partial amount of the payment.

(c) *Government checks, depository checks, checks drawn on the depositary bank, and certain other checks.* The Act generally requires that funds be made available on the business day following deposit for Treasury checks, state and local government checks, depository checks, and "on us" checks under specified conditions. One condition to receipt of next-day availability placed on Treasury checks, state and local government checks, and depository checks is that the check must be "endorsed only by the person to whom it was issued." The Act could be interpreted to include a check that has been indorsed in blank and deposited into an account of a third party that is not named as payee. The Board believes that such a check presents greater risks than a check deposited by the payee and, therefore, proposes that funds should be available on the business day following deposit only if the check "is deposited in an account of a payee of the check."

The Board is proposing to require next-day availability for additional types of checks not addressed in the Act. Under the proposal, checks drawn on a Federal Reserve Bank or a Federal Home Loan Bank and U.S. Postal Service money orders must be made available on the next business day following deposit if the check is deposited in an account of a payee of the check.

A check deposited in a branch of the depositary bank, and drawn on the same or another branch of the same bank, must be made available at the start of the next business day if both branches are located in the same state or the same check processing region.

The Act and proposed regulation also require that $100 of the aggregate deposit by check(s) or checks on any one banking day be made available on the next business day. For example, if $70 were deposited in an account by check(s) on a Monday, the entire $70 must be available for withdrawal at the start of business on Tuesday. If $200 were deposited by check(s) on a Monday, the Act requires that $100 of the funds be available for withdrawal at the start of business on Tuesday.

Under the Act, a depositary bank may require the use of a special deposit slip as a condition to providing next-day availability for certain types of checks. This condition was included in the Act because a number of banks determine the availability of their customers' check deposits in an automated manner by reading the MICR-encoded routing number on the deposited checks. Using these procedures, a bank can determine whether a check is a local or nonlocal check; is a check drawn on the Treasury, a Federal Reserve Bank, a Federal Home Loan Bank, or a branch of the depositary bank; or is a U.S. Postal Service money order. The bank cannot require a special deposit slip for these checks. The bank, however, would not be able to distinguish whether the check was a state or local government check or a depository check by reading the MICR-encoded routing number, because these checks bear the same routing number as other checks drawn on the same bank that are not accorded next-day availability. Therefore, a bank may require a special deposit slip for these checks.

The regulation specifies that, if a bank decides to require the use of a special deposit slip as a condition to granting next-day availability and the deposit slip that must be used is different from the bank's regular deposit slips, the bank must either provide the special slips to its customers or inform its customers how such slips may be obtained and make the slips reasonably available to the customers. Providing customers with an order form for the special deposit slips and allowing sufficient time for the customer to order and receive the slips before this condition is imposed, is one way this requirement may be met. If a bank provides deposit slips in its branches for use by its customers, it should also provide the special deposit slips in the branches. If the bank simply requires the customer to segregate the checks subject to next-day availability and indicate on a regular deposit slip that government checks and/or depository checks are being deposited, the bank should so instruct its customers.

Section 229.11 Temporary schedule.

(a) *Effective date.* Checks, other than those that must be accorded next-day availability, are categorized as either local or nonlocal, with different availability schedules attached to each. These schedules will become effective on September 1, 1988, and will be superseded by more stringent schedules on September 1, 1990.

(b) *Local checks.* This paragraph sets forth the maximum hold period that can be placed on local checks during the temporary schedule. The regulation refers to the day on which funds must be available for withdrawal as within a specified number of business days after deposit, rather than after a specified number of intervening business days, as provided in the Act. A depositary bank must make funds from the deposit of a local check available on the third business day following the banking day on which the check is deposited. This requirement corresponds to the two intervening business days specified in the Act. Thus, under the temporary schedule, a local check deposited on a Monday must be available for withdrawal on Thursday, except in the case of deposits at nonproprietary ATMs and deposits to accounts in banks located outside the 48 contiguous states.

The Act provides a further adjustment to the availability rules for cash withdrawals. During the temporary schedule, the Act provides that funds from local checks collected outside a check clearinghouse arrangement need not be available for cash withdrawal until 5:00 p.m. on the day specified in the schedule. This special rule does not apply to deposits of nonlocal checks under the temporary schedule. At 5:00 p.m., $400 of the deposit must be made available for cash withdrawal. This $400 is in addition to the first $100 of a day's deposit, which must be made available for withdrawal, including cash withdrawal, at the start of business on the next business day following deposit. The remainder of the funds must be available for cash withdrawal at the start of business on the business day following the business day specified in the schedule.

The Act recognizes that the $400 that must be provided on the day specified in the schedule may exceed a bank's daily ATM cash withdrawal limit, and explicitly provides that the Act does not supersede the bank's policy in this regard. The Board believes that the rationale for accommodating a bank's ATM withdrawal limit also applies to other cash withdrawal limits established by that bank. In the proposed regulation, the relation between a bank's cash withdrawal limit (for over-the-counter cash withdrawals as well as ATM cash withdrawals) and the requirements of this subpart is addressed in § 229.19(c)(4).

The Board believes that the Congress included this special cash rule to provide a depositary bank with additional time to learn of the nonpayment of a check before it must make funds available to its customer. If a customer deposits a local check on a Monday, and that check is returned by the paying bank, the depositary bank may receive the check on Thursday (the

day funds must be made available under the temporary schedule), but would most likely not receive the return by the opening of business on Thursday, even with the payments improvements proposed in Subpart C of this regulation. Checks written by the customer that are presented to the depositary bank on Thursday are typically not posted to the customer's account until late Thursday night. Any returns that have been received on that day are debited to the customer's account before these checks are posted. Thus, for the purpose of checks written by the customer, the fact that a return is not received until sometime during the day on which funds must be made available does not increase the bank's risk. However, the depositary bank's risk does increase significantly if the customer withdraws the funds in cash, because the withdrawal may occur before the return is received and posted. The intent of the special cash withdrawal rule is to minimize this risk to the depositary bank.

For this rule to minimize the depositary bank's risk, it must apply not only to cash withdrawals, but also to withdrawals by other means that result in an irrevocable debit to the customer's account or commitment to pay by the bank on the customer's behalf during the day. Thus, the Board proposes to expand the cash withdrawal rule to also include withdrawals by electronic payment, issuance of a depository check, or other irrevocable commitment to pay, such as authorization of an on-line point-of-sale debit. The cash withdrawal rule does not apply to checks and other provisional debits presented to the bank for payment that the bank has the right to return.

The regulation provides that Treasury checks and U.S. Postal Service money orders be treated as local checks, where the conditions to receiving next-day availability are not met. These checks are treated as local checks because they are payable at any Federal Reserve office. Thus, under this rule a Treasury check or a postal money order that is indorsed and deposited in an account not held by the payee must be made available in accordance with the schedule for local checks. Other types of checks described in § 229.10(c), such as checks drawn on a Federal Reserve Bank or Federal Home Loan Bank, state and local government checks, and depository checks, for which next-day availability does not apply (e.g., because they were not deposited in an account of a payee of the check), are treated as either local or nonlocal checks, depending on the check processing region in which they are payable.

(c) *Nonlocal checks.* Under the temporary schedule, funds deposited by nonlocal checks must be made available for withdrawal not later than the seventh business day following the banking day the funds are deposited, except in the case of deposits at nonproprietary ATMs or in accounts of banks located outside the 48 contiguous states. Thus, funds from a nonlocal check deposited on a Monday must be available for withdrawal by Wednesday of the following week. The Act does not establish a special rule for cash withdrawals for nonlocal checks under the temporary schedule. Therefore, subject to § 229.19(c), the full amount of the deposit becomes available for cash withdrawal on the business day specified in the schedule.

Section 603(d)(1) of the Act (12 U.S.C. 4002(d)(1)) requires the Board to reduce the statutory schedules for any category of checks where most of those checks would be returned in a shorter period of time than provided in the schedules. The conferees indicated that "if the new system makes it possible for two-thirds of the items of a category of checks to meet this test in a shorter period of time, then the Federal Reserve must shorten the schedules accordingly." H.R. Rep. No. 261, 100th Cong., 1st Sess. at 179 (1987).

Reduced schedules are proposed for certain nonlocal checks, where significant improvements can be made to the Act's schedules. Specifically, shorter schedules are provided for checks deposited in banks located in certain Federal Reserve cities and drawn on banks located in certain other Federal Reserve cities, where transportation arrangements allow for faster collection and return. In addition, shorter schedules are proposed for checks drawn on certain banks that are served by two Federal Reserve offices, and certain checks deposited in and drawn on banks in the New York City metropolitan area, where the proximity of the Federal Reserve offices facilitates faster clearing and return of these checks.

Appendix B–1 sets forth the specific reduction of schedules applicable to banks located in each check processing region.

(d) *Deposits at nonproprietary ATMs.* The Act provides a special rule for deposits made at nonproprietary ATMs. During the temporary schedule, a depositary bank may treat all deposits made by its customers at a nonproprietary ATM as though the deposits were nonlocal checks. A deposit at a nonproprietary ATM on a Monday, including a deposit by cash or checks that would otherwise be subject to next-day availability, must be made available for withdrawal not later than Wednesday of the following week.

This rule does not apply to deposits made at proprietary ATMs. Availability of deposits at proprietary ATMs is governed by the same rules as deposits made directly at branches of depositary banks.

(e) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.* The Act provides an extension of the availability schedules for banks located in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. The schedules for local checks, nonlocal checks, and deposits at nonproprietary ATMs are extended by one business day for checks deposited to accounts in banks located in these jurisdictions that are drawn on or payable at or through a paying bank not located in the same jurisdiction as the depositary bank. For example, a check deposited in a bank in Hawaii and drawn on a San Francisco paying bank must be made available for withdrawal not later than the fourth business day following deposit. This extension does not apply to deposits that must be made available for withdrawal on the next business day.

The Congress did not provide this extension of the schedules to checks drawn on a paying bank located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands and deposited in an account at a depositary bank in the 48 contiguous states. Therefore, a check deposited in a San Francisco bank drawn on a Hawaii paying bank must be made available for withdrawal not later than the third business day following deposit.

The availability rules of § 229.11 are illustrated in Figure 1.

Section 229.12 Permanent schedule.

(a) *Effective date.* The permanent schedule will supersede the temporary schedule on September 1, 1990. The Board requests comment on whether the permanent schedule should be made effective on an earlier date.

(b) *Local checks.* When the permanent schedule becomes effective, local checks and Treasury checks and U.S. Postal Service money orders not subject to next-day availability under § 229.10(c) must be made available for withdrawal not later than the second business day following deposit. Exceptions are made for withdrawals by cash or similar means, deposits at nonproprietary ATMs, and deposits in banks located

outside the 48 contiguous states. Thus, the proceeds of a local check deposited on a Monday must be made available for withdrawal on Wednesday.

(c) *Nonlocal checks.* Under the permanent schedule, the time period for availability of nonlocal checks is also reduced. Nonlocal checks must be made available for withdrawal not later than the fifth business day following deposit, i.e., proceeds of a nonlocal check deposited on a Monday must be made available for withdrawal on the following Monday. Adjustments are made to the schedule for withdrawals by cash or similar means, deposits at nonproprietary ATMs, and deposits in banks located outside the 48 contiguous states.

As described in the discussion of § 229.11(c), the Board is required to shorten the schedules for any category of check where most of those checks can be returned to the depositary bank in a shorter period of time than provided in the schedule. Appendix B sets forth the reductions to the schedule for certain nonlocal checks.

(d) *Time period adjustment for withdrawal by cash or similar means.* Unlike the temporary schedule, the Act applies the special cash withdrawal rule to both local and nonlocal checks under the permanent schedule. The Board's proposed regulation implementing this rule is described in the discussion of the temporary schedule at § 229.11(b). In the permanent schedule, if the proceeds of local and nonlocal checks become available for withdrawal on the same business day, the withdrawal limitation applies to the aggregate amount of the funds.

(e) *Deposits at nonproprietary ATMs.* This provision provides a limited exception to the permanent schedule for deposits at nonproprietary ATMs. Cash and checks subject to next-day availability under § 229.10 that are deposited in an account at a nonproprietary ATM must be available for withdrawal not later than the second business day following the banking day on which the deposit was made. Other deposits at nonproprietary ATMs must be made available in accordance with the schedule in the regulation applicable to the category of check being deposited.

Section 603(e)(4) of the Act directs the Board to "establish and maintain a dialogue" with banks and ATM vendors regarding the ability of ATM systems to communicate to the depositary bank the composition of a deposit made at a nonproprietary ATM. The Board requests comment on how depositary banks plan to comply with the availability schedules for deposits made at nonproprietary ATMs under the permanent schedule.

(f) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.* The extension of the availability schedules provided to banks located in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands under the temporary schedule also applies when the permanent schedule becomes effective. Explanation of this provision is provided in the discussion of § 229.11(d).

The availability rules of § 229.12 are illustrated in Figures 2 and 3.

Section 229.13 Exceptions.

While certain safeguard exceptions (such as those for new accounts and checks the bank has reasonable cause to believe are uncollectible) are established in the Act, the Congress gave the Board the discretion to determine whether certain other exceptions should be included in these regulations. Specifically, the Act gives the Board the authority to establish exceptions to the schedules for large or redeposited checks and for accounts that have been repeatedly overdrawn. These exceptions do not apply to checks or other deposits that must be accorded next-day availability under § 229.10.

Although proposed improvements to the check collection system will accelerate the return of most checks, many checks will not be returned to the depositary bank by the time funds must be made available for withdrawal under the temporary schedule—a number that will likely increase when the permanent schedule is adopted. In order to reduce risk to depositary banks, the Board believes that it is appropriate to adopt the exceptions to the schedules permitted by the Act in the regulation to allow the bank to extend the time within which it is required to make funds available. The exceptions provided in this section apply to the schedules for local and nonlocal checks during the temporary and permanent schedules, and, in some cases, to the next-day availability requirement for certain check deposits.

The Act also gives the Board the authority to suspend the schedules for any classification of checks, if the schedules result in an unacceptable level of fraud losses. The Board will adopt regulations to implement this statutory authority, if and when circumstances requiring its implementation arise.

(a) *New accounts.* The Act provides an exception to the availability schedule for new accounts. An account is defined as a new account during the first 30 calendar days after the account has been established. However, if the customer opening the account has an established transaction account relationship with the bank, or has had an established transaction account relationship with the bank within 30 calendar days of opening the other account, the newly established account would not be subject to this exception.

Thus, if a customer that has had one account with a bank for more than 30 days opens a second account with that bank, that customer would not be considered a new depositor during the first 30-day period following the establishment of the second account.

If a customer's account was closed and another account established as a successor to the original account (due, for example, to the theft of checks or a debit card used to access the original account), the customer would not be considered a new depositor with regard to the successor account, assuming the original account relationship is at least 30 days old. Similarly, if a customer closed an established account and opens a separate account within 30 days, the new account is not subject to this exception, if the closed account was at least 30 days old.

A customer that has a joint account at a depositary bank and subsequently establishes an individual account with that bank would not be a new depositor, assuming the joint account relationship is at least 30 days old.

If a customer establishes an account with a depositary bank with which it has no other current or recent account relationship, that customer is considered a new depositor and may be subject to the new account exception for the first 30 days of the account relationship. During the new account period, the schedules for local and nonlocal checks do not apply, but deposits received by cash and electronic payment must be given next-day availability in accordance with § 299.10. The first $5,000 of funds deposited to a new account on any one banking day by Treasury checks, checks drawn on Federal Reserve Banks or Federal Home Loan Banks, U.S. Postal Service money orders, state and local government checks, and depository checks must be made available for withdrawal at the start of business on the following business day. Funds in excess of the first $5,000 deposited by these types of checks on a banking day must be available for withdrawal not later than at the start of business on the ninth business day following the banking day of deposit. For the purposes of new accounts only, traveler's checks are treated as depository checks.

(b) *Large deposits.* A depositary bank may extend the hold placed on local and nonlocal check deposits only to the extent that the amount of the aggregate deposit on any banking day exceeds $5,000. While the first $5,000 of a day's deposit is subject to the availability provided for local or nonlocal checks, the amount in excess of $5,000 may be held for an additional four business days, as provided in § 229.13(h). Deposits by cash, electronic payment, or checks that must be granted next-day availability under the regulation are not subject to this exception for large deposits.

Where a customer has multiple accounts with a depositary bank, the bank may apply the large-dollar deposit exception to the aggregate deposits to all of the customer's accounts, if the holders of the accounts to be aggregated are the same. Thus, a depositary bank may aggregate the deposits made to two separate accounts at that bank held by the same individual. A bank, however, may not aggregate the deposits of an individual and a joint account for the purpose of applying the large-dollar deposit exception, because the holders of the accounts are not the same. Aggregation of deposits to multiple accounts is proposed because the Board believes that the risk to the depositary bank associated with large deposits is similar regardless of how the deposits are allocated among the customer's accounts.

(c) *Redeposited checks.* The Act gives the Board the authority to promulgate an exception to the schedule for checks that have been returned unpaid and redeposited. The proposal provides such an exception for checks that have been returned unpaid and redeposited by the customer or the depositary bank.

The Board proposes this exception because there is an increased risk to the depositary bank that checks that have been returned once will be uncollectible when they are presented to the paying bank a second time. The Board, however, does not believe that this increased risk is present for checks that have been returned due to a missing indorsement. Thus, the exception being proposed does not apply to checks returned unpaid due to missing indorsements and redeposited after the missing indorsement has been obtained, if the reason for return stamp on the check states that it was returned due to a missing indorsement. For the same reasons, this exception does not apply to a check returned because it was postdated (future dated), if it is no longer postdated when redeposited. In the cases of both checks with missing indorsements and postdated checks, the time for making the funds available begins to run again as of the date of redeposit.

(d) *Repeated overdrafts.* The Act gives the Board the authority to establish an exception for "deposit accounts which have been overdrawn repeatedly." While the Act does not indicate how this rule should operate, the conferees stated that they

> believe that a reasonable definition would be one that specifies that an account (or a successor account) be overdrawn at least on 3 separate and distinct occasions within any 6 month period. The funds availability schedule would not apply to any such account for a period of six months following the last occasion involved.

H.R. Rep. No. 261, 100th Cong. 1st Sess. at 181. (1987).

The proposed regulation generally adopts this standard for determining the accounts that are subject to the repeated overdraft exception. The Board proposes that, if on three instances in any six-month period any account or combination of accounts of the customer goes from a positive balance to a negative balance, or would have done so if checks or other charges against the account were paid rather than returned, the exception would apply. Any three consecutive banking days during which the account had a negative balance due to a continuing overdraft, or would have had a negative balance due to the presentment of additional checks on any of the three days, are considered part of the same instance. If the account has or would have had a negative balance for more than three consecutive banking days, each consecutive three banking-day period constitutes a separate instance. Thus, an overdraft continuing for four banking days is two instances. The Board requests comment on this approach to determining whether an account is subject to the repeated overdraft exception.

The exception relates not only to accounts subject to check overdrafts, but also accounts subject to check or other debit items (such as ACH debits or point of sale transactions) of amounts in excess of available funds, regardless of whether the items were paid or returned unpaid. The exception excludes accounts with overdraft lines of credit, unless the credit line has been exceeded.

(e) *Reasonable cause to doubt collectibility.* A depositary bank may extend the hold placed on funds in a customer's account from the deposit of a local or nonlocal check, a check drawn on a Federal Reserve Bank or Federal Home Loan Bank, or a depository check, if the bank has reasonable cause to believe the check is uncollectible. For example, if the bank received a notification from the paying bank that a check was not paid and is being returned to the depositary bank, the depositary bank would have a basis to apply this exception. The exception could be invoked even if the notice were incomplete, if the bank had reasonable cause to believe that the notice applied to a particular check. The fact that a check is deposited more than six months after the date on the check is a reasonable indication that the check may be uncollectible, because under U.C.C. 4–404 a bank has no duty to its customer to pay a check that is more than six months old. A bank could also reasonably conclude that a check being deposited is uncollectible based on its reasonable belief that the depositor is engaging in kiting activity. Reasonable belief as to the insolvency of the drawer or drawee may also trigger this exception. Other facts may give a bank reasonable cause to doubt the collectibility of a check. The Board does not intend to provide a comprehensive list of the cases in which this exception may be invoked. If this exception is invoked, the bank must include in the notice to its customer, required by § 229.13(g), the reason that the bank believes that the check is uncollectible.

The regulation provides that the determination that a check is uncollectible shall not be based on a class of checks or persons. For example, a depositary bank cannot invoke this exception simply because the check is drawn on a paying bank in a rural area and the depositary bank knows it will not have the opportunity to learn of nonpayment of that check before funds must be made available under the availability schedules. Similarly, a depositary bank cannot apply the reasonable cause exception based on the race or national origin of the depositor.

If a depositary bank invokes this exception with respect to a particular check and does not provide a written notice to its customer at the time of deposit, the depositary bank may not assess any overdraft fee (such as an NSF charge) or charge interest for use of overdraft credit, if the check is finally paid by the paying bank and these charges would not have occurred had the exception not been invoked.

(f) *Emergency conditions.* Certain emergency conditions may arise that delay the collection or return of checks, or delay the processing and updating of customer accounts. In the circumstances specified in this paragraph, the

depositary bank may extend the holds that are placed on deposits of local and nonlocal checks that are affected by such delays, if the bank exercises such diligence as the circumstances require.

(g) *Notice of exception.* If a depositary bank invokes any of the safeguard exceptions to the schedules listed above, other than the new account exception, and extends the hold on a deposit beyond the time periods permitted in §§ 229.10, 229.11, and 229.12, it must provide a notice to its customer stating the reason the exception was invoked and the day funds will be available for withdrawal.

The requirement that the notice state the day the funds shall be made available may be satisfied if the date the deposit is received and the number of days until funds are available for withdrawal are provided in the notice. Appendix C contains a model form of this exception notice.

For deposits made in person to an employee of the depositary bank, the notice generally must be given to the customer at the time of deposit. For other deposits, such as deposits received at an ATM, lobby deposit box, night depository, or through the mail, notice must be mailed to the customer not later than the close of the business day following the banking day on which the deposit was made.

Notice to the customer may be provided at a later time, if the facts upon which the determination to invoke the exception do not become known to the depositary bank until after notice would otherwise have to be given. In these cases, the bank must mail the notice to the depositor as soon as practicable, but not later than the business day following the day the facts become known. The Board has clarified in the regulation when a depositary bank is deemed to have knowledge of the facts upon which the determination is made. A bank is deemed to have knowledge when the facts are brought to the attention of the persons in the bank responsible for making the determination, or when the facts would have been brought to their attention if the bank had exercised due diligence.

If the depositary bank extends the hold placed on a deposit due to an emergency condition, the regulation provides that the bank need not provide a notice if the funds would be available for withdrawal before the notice must be sent. For example, if on the last day of a hold period the depositary bank experiences a computer failure and customer accounts cannot be updated in a timely fashion to reflect the funds as available balances, notices are not required, if the funds are made available before the notices must be sent.

(h) *Availability of deposits subject to exceptions.* Section 604(f) of the Act (12 U.S.C. 4003(f)) provides that holds placed on deposits subject to an exception (other than the new account exception) "shall not exceed a reasonable period of time as determined by the Board." If a depositary bank invokes any exception other than the new account exception, the bank may extend the period of time within which funds must be made available under the schedule by four business days. With respect to checks subject to the next-day availability requirement, the depositary bank may extend the time funds must be made available for withdrawal by four business days beyond the delay that would have been applicable had the checks not been subject to the next-day availability requirement. Thus, for depository checks, state and local government checks, and checks drawn on Federal Reserve Banks or Federal Home Loan Banks, the four business days are added to the local or nonlocal schedule that would apply based on the location of the paying bank.

Under an improved check collection system, these four business days, in addition to the time period provided in the schedule, should provide adequate time for the depositary bank to learn of the nonpayment of virtually all checks that are returned.

In the case of the application of the emergency conditions exception, the depositary bank may extend the hold placed on a check by not more than four business days following the end of the emergency.

Section 229.14 Payment of interest.

(a) *In general.* This section requires that a depositary bank begin accruing interest on interest-bearing accounts not later than the day on which the depositary bank receives provisional credit for the funds deposited. Because "account" includes only transaction accounts, other interest-bearing accounts of the depositary bank, such as money market deposit accounts, savings deposits, and time deposits, are not subject to this requirement. The Board intends the term interest to refer to payments to or for the account of any depositor as compensation for the use of funds, but to exclude the absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service. (*See* 12 CFR 217.2(d).)

It may be difficult for a depositary bank to track which day the depositary bank receives provisional credit for specific checks in order to accrue interest properly on the account to which the check is deposited. This difficulty may be pronounced if the bank uses different means of collecting checks based on the time of day the check is received, the dollar amount of the check, and/or the paying bank to which it must be sent. The Board proposes that, for the purpose of the interest accrual requirement, a bank may rely on an availability schedule from its Federal Reserve Bank, Federal Home Loan Bank, or correspondent in determining when the depositary bank receives provisional credit. A bank that accrues interest from the day of deposit, or from the day following deposit, meets this payment of interest requirement.

(b) *Special rule for credit unions.* The Act provides an exemption from the payment of interest requirements for credit unions that do not begin to accrue interest or dividends on their customer accounts until a later date than the day the credit union receives provisional credit for those deposits, including cash deposits. These credit unions are exempt from the payment of interest requirements, as long as they provide notice of their interest accrual policies in accordance with § 229.18(f). For example, if a credit union has a policy of computing interest on all deposits received by the 10th of the month from the first of that month and all deposits received after the 10th of the month from the first of the next month, that policy is not superseded by this regulation, if the credit union provides proper disclosure of this policy to its customers.

The Act limits this exemption to credit unions; other types of depository institutions must comply with the payment of interest requirements. In addition, credit unions that now compute interest from the day of deposit or day of provisional credit should not change their existing practices in order to avoid compliance with the requirement that interest accrue from the day of provisional credit.

(c) *Exception for checks returned unpaid.* This provision is based on section 606(c) of the Act (12 U.S.C. 4005(c)) and provides that interest need not be paid on funds deposited in an interest-bearing account by check that has been returned unpaid.

Section 229.15 General disclosure requirements.

(a) *Form of disclosures.* This paragraph sets forth the general requirements for the disclosures required under Subpart B. All of the disclosures must be given in a clear and conspicuous manner, be in writing, and, in most cases, be in a form the customer

may keep. The required disclosures at branch locations, at ATMs, and on preprinted deposit slips need not be in a form that the customer may keep.

The regulation requires that the availability disclosures be grouped together and not contain any information that is not directly related to the disclosures required by this subpart. Therefore, banks may not intersperse the required availability disclosures with other account disclosures or include other account information that is not related to their availability policy within the text of the required disclosures. Banks may, however, include information related to their availability policies. For example, a bank may include a notice to their customers stating that, even though the bank has made funds available, the customer is still responsible if there is a problem with the deposit, such as the return of a deposited check.

The regulation does not require that the disclosures be segregated from other account terms and conditions. Banks may include the required disclosures in a booklet or pamphlet that sets out the terms and conditions of the bank's accounts. The required disclosures must, however, be grouped together and highlighted or identified in some manner, for example, by use of a separate heading for the disclosures.

(b) *Uniform reference today of availability.* This paragraph requires banks to disclose their availability policies to customers in a uniform manner. Banks that delay availability must disclose when deposited funds are available for withdrawal by stating the business day on which the customer may begin to withdraw funds. The business day funds will be available must be disclosed as "on the business day after" the day of deposit, or substantially similar language. The business day of availability is determined by counting the number of business days starting with the business day following the banking day on which the deposit is received, as determined under § 229.19(a), through the business day on which the customer may begin to withdraw funds. For example, an institution that imposes delays of four intervening business days for nonlocal checks must describe those checks as being available "on the fifth business day after" the day of the deposit. This requirement is intended to enable customers to compare more easily the availability policies of different banks and minimize the possibility of confusion about the policies of various banks.

(c) *Multiple accounts and multiple account-holders.* This paragraph clarifies that banks need not provide multiple disclosures under the regulation. A single disclosure to a customer that holds multiple accounts, or a single disclosure to one of the account holders of a jointly-held account, satisfies the disclosure requirements of the regulation.

(d) *Dormant or inactive accounts.* This paragraph provides that banks need not provide disclosure of their specific availability policy to accounts that are dormant or inactive, and thus do not receive mailings from the bank. The Board believes that this provision will avoid imposing significant costs on banks, while not significantly reducing the protections of the law. The other disclosure requirements—disclosures at locations where deposits may be made, disclosures at ATMs, and disclosures on preprinted deposit slips—should ensure that these customers are made aware of the possibility of delays in availability, if they choose to use the dormant or inactive account in the future. The regulation also requires that the customer be given a full statement of the bank's availability policy upon an oral or written request.

Section 229.16 Content of specific availability policy disclosure.

(a) *Specific availability policy disclosure.* This section describes the information that must be disclosed by banks to comply with §§ 229.17 and 229.18(d) requiring that banks furnish a notice of their specific policy regarding availability of deposited funds. The information that must be disclosed by banks will vary considerably depending upon a bank's particular availability policy. For example, a bank that does not delay availability beyond the next business day need simply disclose that deposited funds will be available for withdrawal on the business day following the banking day of deposit, the bank's business days, and when deposits are considered received. On the other hand, a bank that routinely delays availability on a blanket basis up to the maximum time allowed under the federal law—that is, automatically imposes delays on most check deposits, with the length of the delay determined by the type and routing number of the check being deposited—must provide a more complex disclosure. These latter banks must provide all of the information set forth in this section, including the types of deposits that will be subject to delays, how the customer can determine the type of deposit being made, and the corresponding length of any delay. The bank is also required to include a brief summary of its policy at the beginning of the disclosure and to describe any circumstances when actual availability may vary from the schedules disclosed. Such circumstances would arise, for example, when the bank invoked one of the exceptions set forth in the statute and regulation.

(b) *Alternate disclosure for banks that have case-by-case hold policies.* The Board believes that numerous banks currently do not routinely delay the availability of deposited funds. Normally, these banks provide customers with immediate or next-day availability for deposited funds, and impose delays only in special circumstances—determined on a case-by-case basis. Often these banks provide the customer with notice of any delay at the time the deposit is made.

Banks with case-by-case hold policies may find it difficult, if not impossible, to develop a disclosure that tells the customer specifically when a deposit will be subject to a delay—in fact, the nature of the bank's policy essentially precludes such a disclosure. In order to be able to give a specific notice to the customer of when deposited funds will be subject to a delay in availability, as required, for example, before opening new accounts, these banks may find it necessary to discontinue the practice of imposing holds on a case-by-case basis and instead begin routinely to delay availability on specific types of checks (essentially adopting an automatic or blanket delay policy). The Board believes that such a result would be adverse to many bank customers. Also, banks would incur substantial costs not only in making disclosures, but also in developing and implementing new availability policies.

Accordingly, this paragraph allows banks that delay availability of deposited funds on a case-by-case basis to continue the practice by setting forth a disclosure alternative for such banks. Banks with case-by-case hold policies must still provide a specific policy disclosure; but, their disclosure need not be as detailed as that required by paragraph (a). Specifically, these banks need not give disclosures that allow customers to determine when a hold, in fact, will be placed on a deposit. In addition to disclosure of their specific availability policy, banks with case-by-case hold policies must give customers a notice when availability of funds from a deposit will be delayed. The bank must give the notice at the time of the deposit, if the deposit is made directly to a bank employee. If the deposit was not made directly to a bank employee—for example, if the deposit were by mail—the bank must send customers a notice on the day the deposit is received. This

notice must indicate both that a delay is being imposed and the day the funds will be available. By requiring that banks provide a notice of delay at the time a deposit is made, the Board intends to ensure that customers will know with specificity when deposited funds that are being delayed will be available.

In some situations a bank employee accepting a deposit from a customer may not know whether a deposit will, in fact, be held, but knows that the deposit needs to be reviewed by another bank employee that is unavailable at that time. The regulation includes special rules to avoid placing the bank in the position of refusing to accept the deposit, or requiring the customer to wait for notice of whether the deposit will be subject to a delay. A bank may notify the customer that availability of funds will be delayed after the time of the deposit, even though the deposit was made directly to a bank employee, if two conditions are met. First, the bank must notify the customer at the time of the deposit that the deposit may be subject to a delay. Second, the bank must notify the customer on the day of the deposit if a delay is imposed and tell the customer the day funds will be available for withdrawal. The bank may not meet this notification requirement by mailing a notice to the customer; the customer must receive the notice of the delay on the day of the deposit.

A bank that imposes holds on a case-by-case basis is still subject to the availability requirements of this subpart. If the bank imposes a hold on a particular deposit that is not longer than the availability required by §§ 229.11 or 229.12 for local and nonlocal checks, the reason for the hold need not be based on the exceptions provided in § 229.13. If the hold exceeds the time periods permitted under §§ 229.11 or 229.12, however, it must be based on an exception provided in § 229.13, and the bank must comply with the § 229.13 notice and time requirements.

Section 229.17 Initial disclosures.

(a) *Notice for new accounts.* This paragraph requires banks to provide a notice of their availability policy to all potential customers prior to opening an account. The Board believes that the requirement of a notice prior to opening an account requires banks to provide disclosures prior to accepting any deposit to open an account. If a bank, however, receives a written request by mail from a person asking that an account be opened that includes an initial deposit, the bank may open the account provided the bank mails the required disclosures to the customer not later than the business day following the banking day on which the bank receives the deposit.

(b) *Existing accounts.* This section requires banks to send a notice of their specific policy with respect to the availability of deposited funds to all existing account customers in the first scheduled mailing to customers occurring after September 1, 1988. The notice must be sent not later than October 31, 1988 (60 days after the effective date of the law). Thus, banks must include a notice in the first statement mailing to customers after September 1, 1988, unless the bank has provided a notice to its customers of its availability policy that meets the requirements of § 229.16 prior to the mailing of this statement.

Banks may not furnish the required notice to customers by including the notice with promotional material, such as a solicitation for health or hospitalization insurance, unless that material is included with the account statement. A bank is permitted to provide the notice by furnishing the customer with a booklet or pamphlet that describes the terms and conditions of the bank's accounts generally. The bank, however, must then direct the customer's attention to the disclosures required by this section of the regulation by, for example, use of a special insert or a letter.

Section 229.18 Additional disclosure requirements.

(a) *Notice on deposit slips.* This paragraph requires banks that delay availability on deposits to include a notice on all preprinted deposit slips furnished to customers. This notice must indicate that deposited checks may not be available for immediate withdrawal. The notice is required only on preprinted deposit slips—those printed with the customer's account number and name. A bank need not include the notice on those special deposit slips that are used to identify deposits that will be available the next business day after deposit under § 229.10(c).

(b) *Notice at branch locations.* This paragraph describes the statutory requirement that a bank post a notice of availability policies pertaining to consumer accounts at each location where its employees receive consumer deposits. The notice that is required must specifically state the availability periods for the various deposits that may be made to consumer accounts. A notice need not be posted at each teller window, but the notice must be posted in a place where consumers seeking to make deposits will likely see it before making their deposit. For example, the notice might be posted in the lobby at the point where the line forms for teller service. A notice is also required to be posted at any drive-through teller windows. The notice need not be provided at locations where consumer deposits are not accepted.

(c) *Notice at or on ATMs.* This paragraph sets forth the required notices for ATMs. An owner or operator of an automated teller machine, at which deposits may be made that may be subject to delays in availability, must post or provide a notice at each ATM location or on each ATM. This notice may be posted on a sign, may be shown on the screen, or may be included on the deposit envelopes that must be used to make deposits into the machine. This disclosure must be given before the customer has made the deposit. Therefore, a notice provided on the customer's deposit receipt or appearing on the ATM's screen after the customer has made the deposit would not satisfy this requirement.

If an ATM is nonproprietary with respect to some users of the ATM, a notice must be provided at the ATM that identifies the bank(s) for which the ATM is proprietary, and that deposited funds may not be available until the seventh business day after the day of deposit.

(d) *Disclosure upon request.* This paragraph requires banks to provide written notice of their specific availability policy to any person upon that person's oral or written request. This provision does not contain a time period within which such notice shall be given, but it should be sent within a reasonable period of time following receipt of the request.

(e) *Changes in policies.* This paragraph sets forth the Act's requirement that banks send notice to their customers when they change their availability policies. Generally, banks must send a notice at least 30 calendar days before implementing any change in their availability policy. If the change results in faster availability of deposits—for example, if the bank changes its availability for nonlocal checks from the fifth business day after deposit to the fourth business day after deposit—the bank need not send advance notice. The bank must, however, send notice of the change within 30 calendar days after the change is implemented. A change-in-terms notice may be given in any form as long as it is clear and conspicuous. If the bank gives notice of a change by sending the customer a new availability disclosure, the bank must direct the customer to the changed terms in the disclosure by use of a letter or insert, or

by highlighting the changed terms in the disclosure.

(f) *Notice of interest payment policy.* This paragraph sets forth the special disclosure requirement for credit unions that delay accrual of interest or dividends for all cash and check deposits beyond the date of receiving provisional credit for checks being deposited. (The interest payment requirement is set forth in § 229.14(a).) The credit union is required to describe its policy with respect to accrual of interest or dividends on deposits.

Section 229.19 Miscellaneous.

(a) *When deposits are considered made.* The time funds must be made available under the regulation is determined by the day the deposit is made. This paragraph provides that a deposit mailed to the depositary bank is considered made when it is received by the depositary bank. This paragraph also provides that a deposit received on a day that the bank is closed, or after the bank's cut-off hour, is considered made on the next banking day. Different cut-offs may be established for different types of deposits. For example, a bank may establish a 2:00 p.m. cut-off for the receipt of check deposits, but a later cut-off for the receipt of wire transfers. Different cut-offs may also be established for deposits received at different locations. For example, a different cut-off time may be established for ATM deposits than for over-the-counter deposits. However, no cut-off hour can be earlier than 2:00 p.m. local time.

(b) *Availability at start of business day.* Except for withdrawals governed by the special rule for withdrawal by cash or similar means set forth in §§ 229.11(b)(2) and 229.12(d), if funds must be made available for withdrawal on a business day, the funds must be available for withdrawal by the later of 7:00 a.m. or the time the depositary bank's teller facilities, including ATMs, are available for customer transactions. Thus, if a bank has no ATMs and its branch facilities are available for customer transactions beginning at 9:00 a.m., funds must be available for customer withdrawal beginning at 9:00 a.m. If the bank, however, has ATMs that are available 24 hours a day, rather than establishing 12:01 a.m. as the start of the business day, this paragraph sets 7:00 a.m. as the start of the day with respect to ATM withdrawals. The Board believes that this rule provides banks with sufficient time to update their accounting systems to reflect the available funds in customer accounts for that day.

(c) *Effect on policies of depositary bank.* This subpart establishes the maximum hold that may be placed on customer deposits. A depositary bank may provide availability to its customers in a shorter time than prescribed in this subpart. A depositary bank may also adopt different funds availability policies for different segments of its customer base, as long as each policy meets the schedules in the regulations. For example, a bank may differentiate between its corporate and consumer customers, or may adopt different policies for its consumer customers based on whether the customer has an overdraft line of credit associated with the account.

This regulation does not affect a depositary bank's right to accept or reject a check for deposit. If a check is accepted for deposit and subsequently returned, the depositary bank has the right to charge-back its customer's account, or to recover the amount of the check from the customer if sufficient funds are not in the customer's account to cover the amount of the returned check.

Nothing in the regulation requires a depositary bank to have facilities open for customers to make withdrawals at specified times or on specified days. For example, even though the regulation states that a bank must make up to $400 available for cash withdrawals no later than 5:00 p.m. on specific business days, if a bank does not participate in an ATM system and does not have any teller windows open at or after 5:00 p.m., the bank need not join an ATM system or keep offices open. The bank complies with this regulation if the funds that are required to be available for cash withdrawal at 5:00 p.m. on a particular day are available for withdrawal at the start of business on the following day. Similarly, if a depositary bank is closed for customer transactions, including ATMs, on a day funds must be made available for withdrawal, the regulation does not require the bank to open.

The special cash withdrawal rule in the Act recognizes that the $400 that must be made available for cash withdrawal by 5:00 p.m. on the day specified in the schedule may exceed a bank's daily ATM cash withdrawal limit and explicitly provides that the Act does not supersede a bank's policy in this regard. As a result, if a bank has a policy of limiting cash withdrawals from automated teller machines to $250 per day, the regulation would not require that the bank dispense $400 of the customer's deposit that must be made available for cash withdrawal.

Even though the Act clearly provides that the bank's ATM withdrawal limit is not superseded by the federal availability rules on the day funds must first be made available, the Act does not specifically apply this rule to withdrawals made at ATMs on subsequent days, when the entire amount of the deposit must be made available for withdrawal. The Board believes that the rationale behind the Act's provision that a bank's ATM withdrawal limit is not superseded by the requirement that funds be made available for cash withdrawal applies on subsequent days and to other types of cash withdrawal. A number of small credit unions, due to lack of secure facilities, keep no cash on hand and hence offer no cash withdrawal capability to their customers. Other institutions limit the amount of cash on their premises due to bonding requirements and consequently reserve the right to limit the amount of cash each customer can withdraw on a given day. Nothing in the regulation is intended to prevent a bank from limiting the amount of cash withdrawals if the bank has a policy limiting the amount of cash that may be withdrawn, and that policy is applied equally to all customers of the bank, is based on security or bonding requirements, and is not dependent on the length of time the funds have been in the customer's account, as long as the hold has expired. This limitation could apply to staffed teller facilities as well as ATMs. The regulation, however, does not authorize such policies if they are otherwise prohibited by statutory, regulatory, or common law.

(d) *Use of calculated availability.* Depositary banks may provide availability to their nonconsumer accounts, or determine the day from which interest must accrue on those accounts, on a calculated availability basis. Under calculated availability, a specified percentage of funds from check deposits may be made available to the customer on the next business day, with the remaining percentage deferred until subsequent days. The determination of the percentage of deposited funds that will be made available each day is based on the customer's typical deposit mix. Use of calculated availability is permitted in order to determine when interest must be paid on deposited funds only if, on average, the calculated availability results in interest being computed from the time provisional credit is actually received on the average deposit of the nonconsumer customer.

(e) *Limitation on placing holds on certain funds in accounts.* Section 607(d) of the Act (12 U.S.C. 4006(d)) provides that once funds are available for withdrawal under the Act, such funds shall not be frozen solely due to the subsequent deposit of additional checks that are not yet available for withdrawal. This provision of the Act is designed to prevent evasion of the Act's availability requirements.

The regulation clarifies that, if the customer deposits a check, the bank may place a hold on any of the customer's funds to the extent that the funds held do not exceed the amount of the check deposited, and the funds that are held are made available for withdrawal within the times required in this subpart.

If a customer cashes over-the-counter a check drawn on another bank, the bank may hold funds in the customer's account for the amount of the check, as long as the hold does not exceed the hold that could be placed on that check, if the check had been deposited in the account.

(f) *Employee training and compliance.* The Act requires banks to take such actions as may be necessary to inform fully each employee that performs duties subject to the Act of the requirements of the Act, and to establish and maintain procedures reasonably designed to assure and monitor employee compliance with such requirements.

This provision provides guidance to banks regarding their employee training and compliance requirements. Each bank must provide a statement of the requirements of this subpart to all employees that perform duties that relate to the bank's compliance with these requirements. Banks must also establish procedures to ensure compliance with these requirements and provide these procedures to the employees responsible for carrying them out. In addition, a bank must conduct an audit at least annually to determine its compliance with the procedures it established.

Section 229.20 Relation to state law.

(a) *In general.* A number of states have enacted laws that govern when banks in those states must make funds available to their customers. The Act provides that any state law in effect on September 1, 1989, that provides for more prompt availability than provided in this regulation will supersede the time periods in the Act and the regulation. The Conference Report on the Act clarifies this provision by stating that any state law enacted on or before September 1, 1989, may supersede federal law to the extent that the law relates to the time funds must be made available for withdrawal. H.R. Rept. No. 261, 100th Cong. 1st Sess. at 182 (1987).

Thus, if a state wishes to adopt a law governing funds availability, it must do so by September 1, 1989. Laws adopted after that date will not supersede federal law, even if they provide for shorter availability periods than are provided under federal law. If a state that has a law governing funds availability in effect before September 1, 1989 amends its law after that date, the amendment will not supersede federal law. If a state provides for a shorter hold for a certain category of checks than is provided for under federal law, that state requirement will supersede the federal provision. For example, most state laws base their holds on whether the check being deposited is drawn on an in-state or out-of-state institution. If a state is located in more than one check processing region, the state's hold period for in-state checks may be shorter than the federal maximum hold period for nonlocal checks. Thus, the state schedule would supersede the federal schedule to the extent that it applies to in-state, nonlocal checks.

The Act also provides that any state law that provides for availability in a shorter period of time than required by federal law is applicable to all federally insured institutions in that state, including federally chartered institutions. This provision subjects federally chartered institutions only to those provisions of state law governing the time funds must be available for withdrawal; it does not subject federally chartered institutions to state disclosure requirements. Federally chartered institutions will be subject to state availability requirements on September 1, 1988, when the Act becomes effective.

(b) *Preemption of inconsistent law.* This paragraph reflects the statutory provision that other provisions of state law are preempted that are inconsistent with federal law.

(c) *Preemption determinations.* The Board will issue preemption determinations upon the request of an interested party in a state. The determinations will relate only to the provisions of Subpart B; generally the Board will not issue individual preemption determinations regarding the relation of state U.C.C. provisions to the requirements of Subpart C.

(d) *Standards for preemption.* The Board has proposed certain standards that will be used in making determinations on whether federal law will preempt state laws governing funds availability in effect prior to September 1, 1989. State law will be considered inconsistent with federal law if it provides for a longer hold than is provided for under federal law.

State law will also be deemed inconsistent, and thus will be preempted, if it provides for an exception to its availability schedule that addresses the same situation as the federal exception, but in a different manner. For example, if a state provides an exception to its schedules to address risk related to large-dollar checks or large-dollar deposits that is different from the federal exception for deposits in excess of $5,000, the state exception is preempted by the federal exception. Thus, a state law that provides an exception for checks of $2,500 or greater would be preempted by the federal large-dollar deposit exception.

(e) *Procedures for preemption determinations.* This provision sets forth the information that must be included in a request by an interested party for a preemption determination by the Board. Given the short lead time between spring 1988, when the Board anticipates that it will finalize this proposed regulation, and the September 1, 1988 effective date, the Board will accept requests for preemption determinations before the regulation becomes final. If an interested party requests a preemption determination prior to the final approval of this regulation, the comparison of the state law provisions with the provisions of the Act and regulation should be based on the requirements of this proposed regulation.

Section 229.21 Civil liability.

(a) *Civil liability.* This paragraph sets forth the statutory penalties for failure to comply with the requirements of this subpart.

(b) *Class action awards.* This paragraph sets forth the provision in the Act concerning the factors that should be considered by the court in establishing the amount of a class action award.

(c) *Bona fide errors.* A depositary bank is shielded from liability under this section for a violation of a requirement of this subpart if it can demonstrate, by a preponderance of the evidence, that the violation resulted from a bona fide error and that it maintains procedures designed to avoid such errors. Examples of what constitutes, and does not constitute, a bona fide error are provided.

(d) *Jurisdiction.* This paragraph provides the jurisdiction and statute of limitations for civil actions for violations of this subpart.

(e) *Reliance on Board rulings.* This provision shields banks from civil

liability if they act in good faith in reliance on any rule, regulation, or interpretation of the Board, even if it were subsequently determined to be invalid. Banks may rely on the commentary to this regulation, which will be issued as an official Board interpretation, as well as on the regulation itself.

(f) *Exclusions.* This provision clarifies that liability under this § 229.21 does not apply to violations of the requirements of Subpart C of this regulation, or to actions for wrongful dishonor of a check by a paying bank's customer.

(g) *Record retention.* Banks must keep records to show compliance with the requirements of this subpart for at least two years. This record retention period is extended in the case of civil actions and enforcement proceedings.

Subpart C—Collection of Checks

Section 229.30 Paying bank's responsibility for return of checks.

(a) *Return of checks or notice of nonpayment.* This paragraph requires a paying bank that determines not to pay a check to return the check more expeditiously than is currently required. Generally, the paying bank may use the same transportation method and banks for return that it would ordinarily use for forward collection of checks and satisfy the requirement of an "expeditious" return, provided that the bank selected to process the return agrees to handle the return under the standards for returning banks in § 229.31. The paying bank's normal method of sending a check for collection would not be expeditious, however, if it is materially slower than that of other banks of similar size in its community. In effect, the paying bank acts as an agent or subagent of the depositary bank in selecting the means of return.

The paying bank must handle, route, and transport a check being returned in a way that returns the check back to the depositary bank in a manner designed to be at least as fast as the paying bank would collect a forward collection check (1) of similar amount, (2) drawn on the depositary bank, and (3) received by the paying bank for forward collection before noon on the banking day following the banking day of presentment of the returned check. This section refers to similarly situated banks to indicate a general minimum community standard. A similarly situated bank is defined as a bank of similar asset size, in the same community and with similar check payments activity as a paying or returning bank. For example, a paying bank returning a check has similar payments activity to other banks that handle similar volumes of checks for collection. The Board believes that under this standard banks that use inefficient means of handling returned checks will have to improve their procedures. Under this standard, ordinarily paying banks may not use less efficient means of routing or transporting returned checks than they use for forward collection checks.

A number of examples will illustrate the application of this duty to paying banks. First, if a check is presented to a paying bank on Monday and the depositary bank and the paying bank are participants in the same clearinghouse, the paying bank should deliver the returned check to the depositary bank by Wednesday, which would be the same day it would deliver a forward collection check drawn on the depositary bank that the paying bank received for deposit by noon on Tuesday.

Second, if a check is presented to a paying bank on Monday and the depositary bank is a bank in another city, but the paying bank ordinarily sends its forward collection checks drawn on the depositary bank direct to the depositary bank, ordinarily the paying bank would be expected to send the returned check to the depositary bank with the forward collection checks drawn on the depositary bank that the paying bank received for deposit early on Tuesday.

Third, if a check is presented to a paying bank on Monday and the paying bank would ordinarily collects forward collection checks drawn on the depositary bank by sending the forward collection checks to a correspondent or a Federal Reserve Bank by courier, the paying bank could send the returned check to its correspondent or Federal Reserve Bank provided that the correspondent has agreed to handle returned check under the standards established for returning banks in § 229.31. The paying bank must deliver the returned check to the correspondent or Federal Reserve Bank by the correspondent's or Federal Reserve Bank's cut-off hour for returned checks that corresponds to its cut-off hour for forward collection checks drawn on the depositary bank that the paying bank received for deposit early on Tuesday. A returned check cut-off hour corresponds to a forward collection cut-off hour if it applies to checks destined for the same banks and has similar sorting requirements. Delivery to the correspondent or a Federal Reserve Bank by the appropriate cut-off hour satisfies the paying bank's duty even if use of the correspondent or Federal Reserve Bank is not the most expeditious means of returning the check. Thus a paying bank may send a returned check to a correspondent instead of a Federal Reserve Bank even if the correspondent then sends the returned check to a Federal Reserve Bank as a qualified returned check. Where forward collection checks are delivered by courier to the correspondent or the Federal Reserve Bank, mailing returned checks would not meet the duty established by this section for paying banks.

Fourth, if a paying bank ordinarily mails its forward collection checks to its correspondent or Federal Reserve Bank in order to avoid the costs of a courier delivery, but other banks of similar size and handling similar volumes of checks for collection in the paying bank's community use a courier to deliver checks to their correspondent or Federal Reserve Bank, the paying bank would have to send its returned checks by courier to its correspondent or Federal Reserve Bank. (The Board believes that these situations will be unusual.)

The dollar amount of the returned check has a bearing on how it must be returned. Thus, if the paying bank presents large dollar checks drawn on the depositary bank directly to the depositary bank, but uses the Federal Reserve to collect small dollar checks, the ordinarily paying bank would be expected to send its large dollar returns directly to the depositary bank but could use the Federal Reserve for its small dollar returns.

In meeting the requirements of this section, the paying bank is responsible for its own actions but not for those of the depositary bank or returning banks. For example, if the paying bank starts the return of the check in a timely manner but return is delayed by a returning bank, generally the paying bank has met its requirements (See § 229.38).

The paying bank is free to use alternate methods of return if the method results in delivery of the returned check to the depositary bank as quickly as the forward collection of a check drawn on the depositary bank. The paying bank is authorized to route the returned check in a variety of ways:

1. It may send the returned check to the bank that presented the check or through the clearinghouse through which it was presented as currently required by section 4–301(4) of the U.C.C.;

2. It may send the returned check directly to the depositary bank, bypassing intermediaries;

3. It may send the returned check to any returning bank willing to handle the

returned check under the standards established for returning banks in § 229.31; or

4. It may send the returned check to a Federal Reserve Bank, whether or not the Federal Reserve Bank handled the check during forward collection. (Docket No. R–0621 discusses proposed Reserve Bank services to enable paying banks to return checks through the Federal Reserve Banks.)

If the paying bank elects to return the check directly to the depositary bank, it is not necessarily required to return the check to the branch of first deposit. The check may be returned to the depositary bank at any location permitted under § 229.32.

Except for the exceptions discussed below, this section does not relieve a paying bank from the requirement for timely return (i.e., midnight deadline) under sections 4–301 and 4–302 of the U.C.C., which continue to apply. Under section 4–302 a paying bank is "accountable" for the amount of a demand item other than a documentary draft if it does not pay or return the item or send notice of dishonor by its midnight deadline. Under section 3–418 of the U.C.C., late return constitutes payment and would be final in favor of a holder in due course or a person who has in good faith changed his position in reliance on the payment. Thus, retaining this requirement gives the paying bank an additional incentive to make a prompt return.

This regulation creates a number of exceptions to the paying bank's midnight deadline in the U.C.C.:

1. Under § 229.30(a), a paying bank may satisfy the U.C.C. midnight deadline by sending notice of nonpayment;

2. Under § 229.30(b), a paying bank may extend the midnight deadline for small-dollar checks; and

3. Under § 229.30(c), a paying bank may extend the midnight deadline in a good faith effort to expedite delivery.

If the paying bank cannot start return of the check soon enough to comply with this section, it may send a notice of nonpayment that meets the requirements of § 229.33, including the timeliness of the notice, and the notice may be given on checks of less than $2,500.

The liability section of this regulation (§ 229.38) provides that a paying bank is not subject to both "accountability" for missing the midnight deadline under the U.C.C. and liability for missing the timeliness requirements of this regulation.

This paragraph directly affects the following provisions of the U.C.C., and may affect other sections or provisions:

1. Section 4–212(2), in that direct return by the paying bank is now permitted in all jurisdictions even though not all jurisdictions have adopted this optional provision. Also the paying bank does not have to create a draft on the depositary bank.

2. Section 4–301(4), in that in addition to returning a check through a clearinghouse or to the presenting or last collecting bank, a paying bank may return a returned check to the depositary bank, to a returning bank, or to a Federal Reserve Bank.

3. Section 4–301(1), in that time limits specified in that section may be shortened by the additional requirement to make an expeditious return.

The Board requests comment on:

1. Whether the duty of the paying bank should be stated in a more concrete manner, such as that a paying bank must return a check so that it reaches the depositary bank on the second business day following the day of presentment for local checks and the third business day following the day of presentment for nonlocal checks;

2. Whether paying banks should be required to prepare qualified returned checks for all checks being returned through a returning bank; and

3. Whether the option allowing a paying bank to send notice of nonpayment should be retained as an effective alternative to expeditious return of the actual check. (*See also* the discussion of returning banks' duties under § 229.31.)

(b) *Extension of deadline for small-dollar checks.* Over one half of all returned checks are in amounts of $100 or less. Today, many of these returned checks that are returned due to insufficient or uncollected funds are routinely redeposited in an effort to obtain payment. On average, over 60 per cent of these redeposited checks are paid on the second presentment. Thus, a significant number of checks returned today would not be returned if the paying bank could hold the check for an additional period of time without becoming accountable for it under section 4–302 of the U.C.C. If the drawer of the check funds its account shortly after the paying bank's midnight deadline, the paying bank could pay it at that time and avoid the necessity of returning the check and possible subsequent representment. This paragraph permits the paying bank to hold small-dollar checks (under $100) to achieve this efficiency. The extension is not limited to checks drawn on insufficient funds and could be used by the paying bank to hold checks to be returned for other reasons. The Board believes that this extension of the time for return will help to reduce the number of returned checks, thereby allowing the remaining returned checks to be handled more efficiently.

This extension applies to the time for return or notice of nonpayment under § 229.30(a) as well as the paying bank's midnight deadline under the U.C.C. 4–301 and 4–302. The paying bank may extend these time limits on a check-by-check basis; that is, it need not treat all checks under $100 the same. This provision allows the paying bank to extend the time limits by one day rather than two days. A one-day extension may be operationally easier to implement than a two-day extension. This right to extend is similar to a provision (section 4–108(1)(b)) in a proposed revision of the U.C.C. being developed by the National Conference of Commissioners on Uniform State Laws ("NCCUSL").[4]

If the paying bank elects to extend its deadline for return, it must reexamine the basis on which the check was not paid as of the day on which it returns the check or sends notice of nonpayment. The bank need not pay the check on reexamination under this provision, however, even if the original basis for nonpayment no longer exists. If the paying bank did not comply with the requirements of this section, such as the requirement to review its initial decision to return the check, it could be accountable for the amount of the check for exceeding the time for return under U.C.C. 4–301, § 210.12 of Regulation J (12 CFR 210.12), or this section. The requirement to reexamine the original decision not to pay is similar to a provision in draft section 4–402(2) of the NCCUSL proposal.

This small-dollar extension may be used by the paying bank in combination with the extension for expedited delivery (§ 229.30(c)).

This paragraph directly affects sections 4–301 and 4–302 of the U.C.C. (and § 210.12 of Regulation J, 12 CFR 210.12) at the option of the paying bank for checks of $100 or less and may affect other sections.

(c) *Extension of deadline for expedited delivery.* Many paying banks do not dispatch their returned checks by

[4] The NCCUSL is the organization responsible for drafting and revising the Uniform Commercial Code. It has commissioned an effort to draft amendments to U.C.C. Articles 3 and 4, which address many of the issues raised in Regulation CC. The NCCUSL proposal has been helpful in drafting this regulation and the commentary to the regulation refers to the parallel provisions in the NCCUSL proposal. The NCCUSL proposal referred to is the draft prepared for the NCCUSL meeting on July 31—August 7, 1987. This proposal has not been approved by the Commissioners on Uniform State Laws.

courier with the checks that are sent for forward collection if the courier leaves after midnight. Instead, they mail their returns by their midnight deadline in order to meet their legal responsibility under the U.C.C., but by doing so delay the completion of the return process. This paragraph removes the constraint of the midnight deadline if the check reaches either the depositary bank or the returning bank to which it is sent on the banking day following the expiration of the midnight deadline or other applicable time for return. The extension also applies if the check reaches the bank to which it is sent later than the close of that bank's banking day, if highly expeditious means of transportation are used. For example, west coast banks may use this further extension to ship returned checks by air courier directly to east coast banks even if the checks arrive after the close of the east coast banks' banking day.

The time limits that the paying bank may extend are the paying bank's midnight deadline in sections 4–301 and 4–302 of the U.C.C. (and § 210.12 of Regulation J, 12 CFR 210.12) and the time for the start of return in § 229.30(a). The paying bank may use this provision to add to the extended midnight deadline for checks of $100 or less in § 229.30(b) of this regulation. Even if the return deadlines are not extended, the paying bank satisfies its midnight deadline under the U.C.C. by dispatching returned checks to another bank by courier, including a courier under contract with the paying bank, prior to expiration of the midnight deadline.

This paragraph directly affects sections 4–301 and 4–302 of the U.C.C. (and § 210.12 of Regulation J, 12 CFR 210.12) to the extent that this paragraph applies by its terms and may affect other provisions.

(d) *Identification of returned check.* Most paying banks currently use some form of stamp indicating the reason for return. This paragraph makes this practice mandatory. No particular form of stamp is required; but the stamp must indicate the reason for return.

(e) *Depositary bank without accounts.* The Act and this regulation apply only to "checks" deposited in transaction-type "accounts." Thus, a depositary bank with only time or savings accounts need not comply with the availability requirements of Subpart B. Collecting banks will not have couriers delivering checks to these depositary banks because they do not have checks drawn on them to present. Consequently, the costs of using a courier or other expedited means to deliver returned checks directly to the depositary bank may not be justified. Thus, the expedited return requirement of § 229.30(a) does not apply to checks being returned to banks that do not hold accounts. The paying bank's midnight deadline in sections 4–301 and 4–302 of the U.C.C. (and § 210.12 of Regulation J, 12 CFR 210.12) would continue to apply to these checks. Returning banks would also be required to act on such checks within their midnight deadline. Further, in order to avoid complicating the process of return of checks generally, banks without accounts are required to use the standard indorsement, and their checks are returned by returning banks and paid for by the depositary bank under the same rules as checks deposited in other banks, with the exception of the expeditious return requirements of §§ 229.30 and 229.31.

(f) *Notice in lieu of return.* A check that is lost or otherwise unavailable for return may be returned by sending a notice of nonpayment complying with § 229.33 that clearly indicates it is a substitute for the returned check. However, the time and amount limits of § 229.33 do not apply to a notice in lieu of return. The indication that the notice is a substitute for the returned check is necessary so that the returning and depositary banks are informed that the notice carries value. The requirement of this section supersedes the requirement of section 4–301(1) of the U.C.C. as to the form and information required of a notice of dishonor or nonpayment. A photocopy of the returned check would constitute a notice in lieu of return if identified as such. Reference in the regulation and this commentary to a returned check includes a notice in lieu of return unless the context indicates otherwise.

The notice in lieu of return is subject to the provisions of § 229.30 and is treated like a returned check for settlement purposes. If the original check was over $2,500, the notice of nonpayment under § 229.33 is still required, but may be satisfied by the notice in lieu of return if the notice in lieu meets the time and information requirements of § 229.33.

The Board requests comment on whether any additional information would be desirable on the notice in lieu of return to make it useful to the depositary bank, and whether the transmission of an electronic notice in lieu of return could cause accounting problems for the returning and depositary banks that must settle for these notices as they settle for returned checks.

(g) *Reliance on routing number.* Although § 229.35 and Appendix D require that the depositary bank indorsement contain its nine-digit routing number, it is possible that a returned check will bear the routing number of the depositary bank in fractional, eight-digit, nine-digit, or other form. The routing number may also be in regular ink or, especially on qualified returned items, in magnetic ink. This paragraph permits paying banks to rely on the routing number of the depositary bank as it appears on the check (in the depositary bank's indorsement or in magnetic characters on a qualified returned check) when it is received by the paying bank.

If there are inconsistent routing numbers, the paying bank may rely on any routing number designating the depositary bank. That is, the paying bank is not required to resolve the inconsistency prior to processing the check. The paying bank remains subject to the requirement to act in good faith and use ordinary care under § 229.38(a).

Section 229.31 Returning bank's responsibility for return of checks.

(a) *Return of checks.* The standards for return of checks established by this section are similar to the requirements on paying banks in § 229.30(a). A returning bank must handle a returned check or notice of nonpayment in the same manner that it (or a similarly situated collecting bank) would handle a similar check for forward collection. As in the case of a paying bank, a similarly situated bank is one of similar asset size and check payments activity in the same community. For a returning bank, another bank has similar payments activity if it handles a similar volume of checks for collection. In effect, the returning bank is an agent or subagent of the paying bank and a subagent of the depositary bank.

Under this section, a returning bank must accept returned checks including both qualified and other returned checks ("raw returns") at the same general times and process them according to the same general schedules as checks handled for forward collection. Thus, a returning bank generally must process even raw returns on an overnight basis, unless it extends its time limit by one day to convert the raw return to a qualified returned check as provided in § 229.31(b). A returning bank may establish earlier cut-off hours for receipt of returned checks than it established for receipt of forward collection checks provided that the cut-off hour for returned checks is not earlier than 2:00 p.m. The returning bank also may set different sorting requirements for returned checks than those applicable to other checks. Thus, a returning bank need not accept returned checks as late

in the day as it accepts forward collection checks and may set an earlier cut-off hour to allow extra processing time for returns. All returned checks received by that cut-off hour on that banking day must be processed and dispatched by the returning bank by the time that it would dispatch forward collection checks received at that time on the same banking day that are drawn on the depositary bank. Generally, the returning bank should send the returned checks by the same route and by the same means of transportation used for forward collection of checks that are drawn on the depositary bank. The Board requests comment on whether the 2:00 p.m. limit on the cut-off hours established by returning banks is adequate to avoid delays in the return process or whether a later limit is necessary in order to ensure the expeditious handling of returns.

A number of examples will illustrate the application of this duty to returning banks. First, if a returning bank receives a returned check by its cut-off hour for returned checks on Monday and the depositary bank and the returning bank are participants in the same clearinghouse, the returning bank should deliver the returned check to the depositary bank in a clearinghouse exchange on Tuesday, which would be the same day that it would deliver a forward collection check drawn on the depositary bank and received by the returning bank at the same time on Monday.

Second, if a returning bank receives a returned check by its cut-off hour for returned checks on Monday and the depositary bank is a bank in another city, but the returning bank ordinarily sends its forward collection checks drawn on the depositary bank direct to the depositary bank, ordinarily the returning bank would be expected to send the returned check to the depositary bank with forward collection checks drawn on the depositary bank received by the returning bank for collection at the same time on Monday.

Third, if a returning bank receives a returned check by its cut-off hour on Monday, and the returning bank would ordinarily collect forward collection checks drawn on the depositary bank by sending the forward collection checks to a correspondent or a Federal Reserve Bank by courier, the returning bank could send the returned check to its correspondent or Federal Reserve Bank, provided that the correspondent has agreed to handle the returned check under the standards established for returning banks in this § 229.31. The returning bank must deliver the check to the correspondent or Federal Reserve Bank by the correspondent's or Federal Reserve Bank's cut-off hour for returned checks that corresponds to its cut-off hour for forward collection checks drawn on the depositary bank and received by the returning bank for collection at the same time on Monday. However, a returning bank may take a day to convert a check to a qualified returned check. Where the forward collection checks are delivered by courier, mailing the returned checks would not meet the duty established by this section for returning banks.

The returning bank may convert the returned check to a qualified returned check and thus extend its time limits under § 229.31(b) by one day, but may not satisfy its duty to return in an expeditious manner by substituting a notice of nonpayment for the returned check. A returning bank must handle a notice in lieu of return within the same time limits as for returned checks.

The returning bank is authorized to route the returned check in a variety of ways:

1. It may send the returned check to the bank that had sent the check to it during forward collection (if the returning bank handled the check for forward collection) as currently required by U.C.C. 4–212;

2. It may send the returned check directly to the depositary bank;

3. It may send the returned check to any returning bank willing to handle the returned check under the standards established for returning banks under this § 229.31; or

4. It may send the returned check to a Federal Reserve Bank, whether or not the Federal Reserve Bank handled the check during forward collection.

If the returning bank elects to return the returned check directly to the depositary bank, it is not required to return the check to the branch of first deposit. The returned check may be returned to the depositary bank at any location permitted under § 229.32.

In meeting the requirements of this section, the returning bank is responsible for its own actions but not those of the paying bank, other returning banks, or the depositary bank. For example, if the paying bank has delayed the start of the return process, but the returning bank acts timely, the returning bank has satisfied the requirements of this section even if the delayed return results in a loss to the depositary bank. (*See* § 229.38.)

The Board recognizes that the duty imposed on returning banks by this section will require operational changes at returning banks. If the returning bank accepts returns as late in the day as it accepts forward collection checks, the duty established by this section could require returning banks to process unsorted, raw returns in only a few hours unless the returning bank creates a qualified returned check, in which case it will have a day to create the qualified returned check. The Board considered alternate approaches to expediting the return of checks. Under one alternative, the paying bank would have to convert all returns sent to returning banks into qualified returned checks. This alternative might result in faster returns in some cases. This requirement would impose burdens on paying banks, including many small banks that may be ill-equipped for the conversion process. This alternative would facilitate compliance for returning banks at the expense of paying banks. The Board does not believe that the benefits in terms of reduction in risk to depositary banks and reductions in processing requirements on returning banks, clearly warrant the increased burden on paying banks.

A second alternative would be to rely on the incentive for prompt return created by the removal of the right of charge-back. Currently, banks returning checks often charge-back prior collecting banks' accounts even before the checks reach the prior collecting banks. Under the proposal, payment is made for returned checks upon their delivery to the depositary bank. Therefore a paying or returning bank has an incentive to send returned checks to the depositary bank expeditiously. Under this alternative, a returning bank's time to process and dispatch returns would be limited only by its midnight deadline. This alternative would also reduce the burden on returning banks but would result in fewer checks being returned to depositary banks before funds must be made available for withdrawal under the Act. The Board requests comment on whether the proposal strikes the appropriate balance between the interests of depositary banks in receiving prompt returns and the burdens imposed on paying and returning banks.

This paragraph directly affects the following provisions of the U.C.C., and may affect other sections or provisions:

1. Section 4–212(2), in that direct return by the returning bank is now permitted in all jurisdictions even though not all jurisdictions have adopted this optional provision;

2. Section 4–202(2), to the extent that this subsection states a shorter time

limit for action than the midnight deadline.

(b) *Extension of deadline for qualified returned checks.* This paragraph authorizes the returning bank to extend its time limits to prepare a check for automated handling (a qualified returned check). A returned check prepared for automated handling will be handled by subsequent returning banks more efficiently than a returned check that must be handled manually. This paragraph gives a returning bank a day beyond the time otherwise required to handle the returned check to prepare a qualified returned check. If the returning bank is sending the returned check direct to the depositary bank, this day is not available because preparing a qualified returned check will not expedite handling by other banks. The Board recognizes that returning banks may have difficulty in identifying those returned checks that are eligible for this extension. The Board requests comment on whether returning banks should be permitted a day to create qualified returns for checks returned directly to depositary banks. Although paying banks also may wish to prepare qualified returned checks because they will be handled at a lower cost by returning banks, the extension is not available to paying banks because of the longer time that a paying bank has to dispatch the check. Ordinarily, paying banks will be able to convert a check to a qualified returned check at any time after the determination is made to return the check until late in the day following presentment, while a returning bank may receive returned checks late on one day and be expected to dispatch them early the next morning.

This paragraph directly affects the returning bank's midnight deadline in section 4–202(2) of the U.C.C. and may affect other sections or provisions.

(c) *Acceptance by collecting bank.* This paragraph provides that a collecting bank may not refuse to accept the return of a check that it handled for forward collection. This is consistent with section 3–414 of the U.C.C., which requires an indorser to take up a check that has been dishonored. Further, if a paying bank cannot identify the depositary bank, return of the check to the presenting bank may be its most expeditious means of return, as each bank in the collection chain should be best able to identify the bank sending the check to it.

(d) *Settlement.* Under the U.C.C., a collecting bank receives settlement for a check when it is presented to the paying bank. The paying bank may recover the payment when the paying bank returns the check to the presenting bank. Under this regulation, however, the paying bank may return the check directly to the depositary bank or through returning banks that did not handle the check for forward collection. On these more efficient return paths, the paying bank does not recover the payment made to the presenting bank. Thus, this paragraph requires the returning bank to settle for a returned check (either with the paying bank or another returning bank) in the same way that it would settle for a similar check for forward collection. Thus, any returning bank, including one that handled the check for forward collection, may provide availability for returned checks pursuant to an availability schedule as it does for forward collection checks. To achieve uniformity, this paragraph applies even if the returning bank handled the check for forward collection. Under § 229.32(b), provisional credits between banks for the forward collection of the check become final upon expiration of the time for payment for a returned check by the depositary bank.

A special rule applies to checks returned by insolvent banks. (*See* § 229.39(a).)

This paragraph affects section 4–212(1) of the U.C.C. in that a paying or collecting bank does not have a right to charge-back against the bank from which it received the returned check, although it is entitled to settlement if it returns the returned check to that bank, and may affect other sections or provisions.

(e) *Charges.* This paragraph permits any returning bank, even one that handled the check for forward collection, to impose a fee on the paying bank for its service in handling a returned check. The depositary bank may not charge such a fee to a prior returning bank.

(f) *Reliance on routing number.* This paragraph is similar to § 229.30(g) and permits a returning bank to rely on routing numbers appearing on a returned check. (*See* the comment to § 229.30(g).)

(g) *Depositary bank without accounts.* This paragraph is similar to § 229.30(e) and relieves a returning bank of its obligation to make expeditious return to a depositary bank that does not maintain any accounts. (*See* the comment to § 229.30(e).)

(h) *Notice in lieu of return.* This paragraph is similar to § 229.30(f) and authorizes a returning bank to originate a notice in lieu of return if the returned check is unavailable for return. (*See* the comment to § 229.30(f).)

Section 229.32 Depositary bank's responsibility for returned checks.

(a) *Acceptance of returned checks.* This regulation seeks to encourage direct returns by paying and returning banks and may result in a number of banks sending checks to depositary banks with no preexisting arrangements as to where the returned checks should be delivered. This paragraph states where the depositary bank is required to accept returned checks and written notices of nonpayment. (These locations differ from locations at which a depositary bank must accept electronic notices.) It is derived from section 3–504(2) of the U.C.C., which specifies that presentment for payment may be made at the place specified in the instrument or, if there are none, at the place of business of the party to pay. In the case of returned checks, the depositary bank does not print the check and can only specify the place of "payment" of the returned check in its indorsement.

The paragraph specifies four locations at which the depositary bank must accept returned checks:

1. If the depositary bank indorsement states the name and address of the depositary bank, it must accept returned checks at the branch or head office indicated by the address. If the address is too general to identify a particular branch or the head office then the depositary bank must accept returned checks at any branch or head office, consistent with the address. If, for example, the address was "New York, New York," each branch in New York City must accept returned checks. The address may be a processing center.

2. If no address appears in the depositary bank's indorsement, the depositary bank must accept returned checks at any branch or head office associated with the depositary bank's routing number. The offices associated with the routing number of a bank are found in a publication of Rand McNally, *Key to Routing Numbers,* which lists a city and state address for each routing number.

3. If no routing number or address appears in its indorsement, the depositary bank must accept a returned check at any branch or head office of the bank. The indorsement requirement of § 229.35 and Appendix D requires that the indorsement contain both a routing number, name, and location. Consequently, this provision, as well as provision (2), only applies where the depositary bank has failed to comply with its responsibility for indorsement.

4. In addition to (1), (2), or (3), the depositary bank must accept returned

checks at the location at which it accepts checks as a paying bank.

(b) *Payment.* As discussed in the comment to § 229.31(e), under this regulation, a paying or returning bank does not obtain credit for a returned check by charge-back but by, in effect, presenting the returned check to the depositary bank. This paragraph imposes an obligation to "pay" a returned check that is similar to payment of a check, except that the depositary bank may not return a returned check for which it is the depositary bank and certain means of payment such as remittance drafts can only be used with the agreement of the returning bank.

The depositary bank must pay for a returned check by the close of the banking day on which it received the returned check. The day on which a returned check is received is determined pursuant to section 4–107 of the U.C.C., which permits the bank to establish a cut-off hour, generally not earlier than 2:00 p.m., and treat checks received after that hour as being received on the next banking day.

Payment must be made so that the funds are available for use by the bank returning the check to the depositary bank on the day the check is received by the depositary bank. For example, a depositary bank meets this requirement if it wire transfers funds to the Federal Reserve or correspondent bank account of the returning bank on the day it receives the returned check, even if the returning bank has closed for the day or net settles with the returning bank on that day. Banks with current Federal Reserve net settlement agreements could net the appropriate credits and debits for returned checks with the accounting entries for cash items if they so desired. If, for purposes of establishing additional control or to establish a new settlement arrangement, the banks involved desired a separate settlement for returned checks, a separate net settlement agreement would have to be established with the local Federal Reserve office.

If payment is not made, the depositary bank is accountable, i.e., liable, to the paying or returning bank for the amount of the returned check. If the returned check is returned to a bank that is not the depositary bank, that bank has no obligation to pay under this paragraph, but must pay for the check as a returning bank would pay for the check—it should handle the misrouted item as indicated in § 229.32(d). A returning bank may agree to accept payment at a later date if, for example, it does not believe that the amount of the returned check or checks warrants the costs of same day payment. Thus, a returning bank may agree to accept payment through an automated clearinghouse credit or debit that settles the day after the returned check is received instead of a wire transfer that settles on the same day.

This paragraph is similar to draft section 4–301(5) of the NCCUSL proposal, which in turn is based on optional section 4–212(2) of the U.C.C. concerning direct return of checks.

The Board requests comment on whether a penalty is required to ensure that payment is made as required by this paragraph.

(c) *Recovery by depositary bank from collecting bank.* A depositary bank may not have received full provisional settlement for the check when it was sent for collection or may have received no settlement at all. When the depositary bank pays the returning bank for the returned check, it will have lost the difference between what it paid the returning bank and what it received from the bank to which it sent the check for forward collection. This paragraph permits the depositary bank to recover the difference from the bank that did not make full settlement. This rule applies whether the depositary bank sold the check to the next bank or merely transferred it to that bank as an agent for collection.

(d) *Misrouted returned checks.* Today a bank receiving a misrouted returned check often sends the check back to the party that sent it so that party can research it and identify the correct bank. This paragraph attempts to hasten the process by requiring a bank that received the misrouted returned check to send it to the correct depositary bank if it can identify the correct depositary bank. Failing that, the bank receiving the misrouted returned check would return it to the returning or paying bank sending the check to it. In either case the bank to which the returned check was misrouted could receive settlement for the check. If the check was originally received "free," that is, without a charge for the check, the bank incorrectly receiving the check would have to return the check, without a charge, to the bank from which it came.

Section 229.33 Notice of nonpayment.

(a) *Requirement.* Notice of nonpayment serves several different functions in this regulation, but each notice provided for must follow the general requirements of this section:

1. The paying bank may send a notice of nonpayment as a way of meeting its duty to initiate return under § 229.30. If the notice is used to comply with § 229.30, nevertheless it must be provided within the time limits prescribed by this section. This notice carries no value and does not relieve the paying bank of the requirement to return the check;

2. The paying bank must send a notice of nonpayment complying with this section if it decides not to pay a check of $2,500 or more. The notice carries no value, and the check itself must be returned: and

3. A paying or returning bank may send notice in lieu of return if the check itself is unavailable for return under §§ 229.30(f) and 229.31(h) regardless of the amount of the check. This notice is subject to the content requirements of this section but to the timing requirements of §§ 229.30 and 229.31 rather than this section. The notice in lieu of return carries value and substitutes for the returned check itself, which is not returned. Because these notices are used when the check cannot be returned, they must be used if the paying or returning bank is to recover its settlement for the check.

The notice of nonpayment is modeled after the notice required by Regulation J (12 CFR 210.12) except the notice in this regulation is required even if the check were not collected through a Federal Reserve Bank, and the time limit for providing notice to the depositary bank is shorter by one business day. Under this section, the paying bank must ensure that the notice is received by the depositary bank by 4:00 p.m. on the second business day following presentment. Regulation J currently requires the notice to be received by midnight of the third banking day following presentment. Draft section 4–304 of the NCCUSL proposal contains a similar provision on notice of nonpayment.

The Board requests comment on whether notices should be required for checks of $2,500 and over or $5,000 and over.

(b) *Content of notices.* The content specified follows the content currently required under Regulation J. If the paying bank cannot identify the depositary bank, it should send the notice of nonpayment to the first collecting bank in the forward collection process that it can identify. This paragraph also provides that, in the case of written notices, the name and routing number of the depositary bank are required.

(c) *Acceptance of notice.* This paragraph also follows current practice under Regulation J. In the case of a written notice, the depositary bank is required to accept notices at the locations specified in § 229.32(a). In the

case of telephone notices, the bank may not refuse to accept notices at these numbers but may transfer calls, or use a recording device.

(d) *Charge-back.* This paragraph adopts the view of *Appliance Buyers Credit Corp* v. *Prospect National Bank,* 708 F.2d 290 (7th Cir. 1983), that sending a returned check or notice of nonpayment to the depositary bank's customer in a timely manner is not a condition precedent to charge-back to the customer's account by the depositary bank. Draft section 4–212(2) of the NCCUSL proposal contains a similar provision.

(e) *Cancellation of notice.* This paragraph follows a similar provision in Regulation J. The Board requests comment on whether other provisions from Regulation J on notice of nonpayment should be adopted in this regulation.

Section 229.34 Warranty by paying bank and returning bank.

(a) *Warranty.* This paragraph incorporates the warranties of timely return in § 210.12(b) of Regulation J (12 CFR 210.12(b)) and adds the warranties that the paying or returning bank is authorized to return the check and that the returned check has not been materially altered.

(b) *Damages.* This paragraph adopts for the new warranties in § 229.34(a) the warranty damages of section 4–207(3) of the U.C.C.

(c) *Tender of defense.* This paragraph adopts for this regulation the vouching-in provisions of section 3–803 of the U.C.C. or § 210.5 of Regulation J (12 CFR 210.5).

Section 229.35 Indorsements.

(a) *Indorsement standards.* One of the major difficulties in returning a check is reading the indorsements of the depositary and collecting banks, and obtaining useful information from them. Current indorsements are often faint, blurred, incomplete and overlapping. The indorsement standards in Appendix D address indorsement problems by specifying the information the indorsement must contain and its location and ink color. Depositary, collecting and returning banks are required to place their indorsements on checks as specified in Appendix D. In order to avoid confusion in routing returned checks, paying banks are not required to indorse returned checks. The regulation's indorsement requirements adopt the components of the standards developed, but not finally adopted, by the American National Standards Institute ("ANSI"). An ANSI working group, comprised of representatives of banks, check processing equipment manufacturers, and other interested parties adopted those standards over the past two years. This regulation does not incorporate the ANSI standard by reference, however, but requires that indorsements have these particular elements.

For many banks, compliance with the indorsement standard would entail replacement of indorsement plates and/or stamps. For some banks additional changes may be necessary. A collecting bank may indorse checks deposited by its retail customers on encoding equipment using the depositary bank indorsement required by this regulation, and apply its transit indorsement to checks sent by its respondents on its high-speed equipment. (This section does not prohibit a bank from applying both a depositary bank indorsement and transit indorsement on the same check.) Alternatively, the bank may need to apply two different indorsements on its high-speed equipment: the depositary bank indorsement, where it is the depositary bank, and a transit indorsement when it acts as a collecting bank.

Second, where a corporation encodes its own checks prior to deposit, the corporation often applies its own indorsement and the bank applies its indorsement on its high-speed equipment. Under the proposal, either the corporation or the depositary bank must apply the depositary bank indorsement. For lock-box locations or corporations that deposit into multiple depositary banks, either the corporation or lock-box depositor would have to apply the depositary bank indorsements to the checks being collected by each bank, or the depositary bank must apply its depositary bank indorsement.

Third, high-speed sorters may not be immediately capable of placing a depositary bank indorsement in the location specified by the standard. Depositary banks may wish to indorse on other equipment, such as encoding equipment. When depositary bank indorsements are applied on high-speed equipment, banks are encouraged to use special ink and include the information required by the standard even if the indorsements are not placed in the correct location initially.

Fourth, the proposed standard, following the approach developed by ANSI, requires all depositary bank indorsements to avoid the carbon band location. An indorsement placed over a carbon band often would not be legible. This restriction will make it more difficult for depositary banks to comply with the location requirements of the standard. An alternative approach is to shift the burden to the paying bank whose customers use checks with carbon bands. Under this approach, the paying bank either would have to stop issuing carbon band checks or select a carbon technique that would not interfere with reading the depositary bank indorsement. Further, the paying bank might be required to qualify all carbon band returns as qualified returned checks rather than depositing these returns raw with an intermediary.

The Board requests comment on how these problems might be minimized. In addition, the Board requests comment on whether the indorsement standard should restrict placement of the indorsement in the carbon band area, and what responsibilities should be placed on paying banks that issue carbon band checks.

As discussed in connection with § 229.38 on liability, failure to follow these indorsements standards may relieve a paying or returning bank of liability for delay in returning a check where the delay is due to the failure to use the proper indorsement.

(b) *Contract of indorser.* Under section 3–414 of the U.C.C., an indorser engages that upon dishonor he will take up the instrument. When a check is sent for forward collection, the collection process results in a chain of indorsements extending from the depositary bank through the collecting and presenting banks to the paying bank. This section extends the indorsement chain through the paying bank to the returning banks and would permit each to recover from prior indorsers if the paying or returning bank were unable to obtain payment for the returned check from the depositary bank. Under this section, in the event of the depositary bank's insolvency, the bank that accepted the check for forward collection from the depositary bank would ultimately be responsible for the check as the next prior indorser, as is the case under U.C.C. 3–414.

Section 229.36 Presentment of checks and delivery of returned checks.

(a) *Payable through and payable at checks.* The regulation defines a payable though or payable at bank (which could be designated the collectible through or collectible at bank) as a paying bank. The duties imposed on a paying bank under this regulation, such as the expeditious return requirements of § 229.30(a), are imposed on a payable through or payable at bank. This paragraph treats payable through and payable at banks as payor banks under the U.C.C. for

purposes of time for return or notice of dishonor. This treatment substantially shortens the time for return of these checks and may have a significant effect, for example, on credit unions using payable through share drafts and insurance companies using payable through drafts.

(b) *Receipt at bank office or processing center.* The provision seeks to facilitate efficient presentment of checks to promote early return or notice of nonpayment to the depositary bank and clarifies the law as to the effect of presentment by routing number. This paragraph differs from § 229.32(b) because presentment of checks differs from delivery of returned checks.

The paragraph specifies four locations at which the paying bank must accept presentment of checks:

1. If the check specifies the name and address of a branch or head office, the check may be presented by delivery to that office. If the address is too general to identify a particular office, presentment may be made at any office consistent with the address. For example, if the address is "San Francisco, California," each office in San Francisco must accept presentment. The designation of an address on the check is generally in the control of the paying bank.

2. If the check specifies the name of the paying bank but no address, the bank must accept presentment at any office. Thus, there is a tradeoff for a paying bank between specifying a particular address on a check and simply stating the name of the bank to encourage wider currency for the check. This provision is consistent with existing section 3–504(2) of the U.C.C., which states that presentment for payment may be made at the place specified in the instrument, or, if there are none, at the place of business of the party to pay. Presentment according to the name and address (if any) on a check would generally be made by individuals, rather than collecting banks. Collecting banks generally rely on the routing number.

3. Presentment may also be made at an office of the paying bank associated with the routing number on the check. The office associated with the routing number of a bank is found in a publication of Rand McNally, *Key to Routing Numbers,* which lists a city and state address for each routing number. Checks are generally handled by collecting banks on the basis of the routing number in magnetic characters (or in fractional form if the magnetic characters are obliterated) on the check, rather than the printed name or address. The definition of a paying bank in § 229.2 includes a bank designated by routing number, whether or not there is a name on the check, and whether or not any name is consistent with the routing number. There is no requirement in the regulation that the name and address agree with the address associated with the routing number on the check. A bank may generally control the use of its routing number, just as it does the use of its name. The address associated with the routing number may be a processing center. In some cases, a paying bank may have several offices in the city associated with the routing number. In such a case, it would not be reasonable or efficient to require the presenting bank to sort the checks by more specific branch addresses that might be printed on the checks, and to deliver the checks to each branch. Generally, a collecting bank would deliver all checks to one location. In cases where checks are delivered to a branch other than the branch on which they may be drawn, computer and courier communication among branches should permit the paying bank to quickly determine whether to pay the check.

4. In addition, delivery of checks may be made, and presentment is considered to occur, at a location, such as a processing center, requested by the paying bank. This is the way most checks are presented by banks today. This provision would adopt the common law rule of a number of legal decisions that the processing center acts as the agent of the paying bank to accept presentment and to begin the time for processing of the check. (*See also* U.C.C. 4–204(3).)

(c) *Truncation.* Truncation is a procedure in which the physical check is held by the depositary or collecting bank and the information from the check is transmitted to the paying bank. This process has the potential of improving the efficiency of check processing, but use of truncation has been limited, partly because of uncertainties about whether the U.C.C. permits it without the agreement of all parties. This paragraph allows truncation by agreement with the paying bank; however, such agreement may not prejudice the interests of prior parties to the check. For example, a truncation agreement may not extend the paying bank's time for return. Such an extension could damage the depositary bank, which must make funds available to its customers under mandatory availability schedules. Draft section 4–109 of the NCCUSL proposal has similar provisions on "electronic presentment."

Section 229.37 Inquiry to paying bank.

Under § 229.10, a depositary bank must make funds available for cashier's, certified, and teller's checks on the business day after the banking day of deposit. Because these checks cannot be presented and returned before funds must be available for withdrawal, some depositary banks may want to obtain assurance from the paying bank that the checks are not fraudulent. This paragraph requires the paying bank to respond to telephone inquiries with available information about the check. With respect to teller's checks, the drawing bank must also respond to inquiries from the depositary bank.

The Board requests comment on:

1. Whether this is a workable arrangement as proposed or whether it should be revised, for example, to guarantee the information;

2. What standard of promptness should be placed on paying and drawing banks in responding to inquiries;

3. Whether the paying bank should be permitted to charge for providing information; and

4. Whether this requirement should be limited to checks over a certain dollar amount.

Section 229.38 Liability.

(a) *Standard of care; liability; measure of damages.* The standard of care established by this section applies to any bank covered by the requirements of Subpart C of the regulation. Thus, it applies to a paying bank under §§ 229.30, 229.33, and 229.37; to a returning bank under § 229.31; to a depositary bank under §§ 229.32 and 229.33; to a bank erroneously receiving a returned check or notice of nonpayment as depositary bank under § 229.32(d); and a bank indorsing a check under § 229.35. The standard of care is similar to the standard imposed by sections 1–203 and 4–103(1) of the U.C.C.

A bank not meeting this standard of care is liable to the depositary bank, the owner of the check, or another party to the check. The measure of damages stated derives from sections 4–103(5) and 4–202(3) of the U.C.C.

This paragraph also states that it does not affect a paying bank's liability to its customer. Under section 4–402 of the U.C.C., for example, a paying bank is liable to its customer for wrongful dishonor, which is different from failure to exercise ordinary care and has a different measure of damages.

The Board requests comment on whether a bank's liability under this paragraph should be limited to the depositary bank and owner of the check.

(b) *Paying bank's failure to make timely return.* Section 229.30(a) imposes requirements on the paying bank for expeditious return of a check and leaves in place the U.C.C. time limits, which may allow return at a different time. This paragraph clarifies that the paying bank could be liable for failure to meet either standard but not for failure to meet both. The regulation intends to preserve the paying bank's "accountability" for missing its midnight deadline under the U.C.C., a concept that is not incorporated in this regulation, but may be useful in other circumstances.

(c) *Comparative negligence.* This paragraph establishes a "pure" comparative negligence standard for liability under Subpart C of this regulation. This comparative negligence rule may have particular application where a paying or returning bank delays in returning a check because of difficulty in identifying the depositary bank. Two examples will illustrate liability in such cases. In each example, it is assumed that the returned check is received by the depositary bank after it has made funds available to its customer, that it may no longer recover the funds from its customer, and that the inability to recover the funds from the customer is due to a delay in returning the check contrary to the standards established by §§ 229.30(a) or 229.31(a). First, if a depositary bank fails to use the indorsement required by this regulation and a paying or returning bank is delayed in returning the check because additional time is required to identify the depositary bank or find its routing number, the paying or returning bank's liability to the depositary bank would be reduced or eliminated.

Second, if the depositary bank uses the standard indorsement but that indorsement is obscured by a subsequent collecting bank's indorsement and a paying or returning bank is delayed in returning the check because additional time was required to identify the depositary bank or find its routing number, the paying or returning bank may not be liable to the depositary bank because the delay was not due to its negligence. However, the collecting bank may be liable to the depositary bank to the extent that its negligence in indorsing the check caused the paying or returning bank's delay.

(d) *Timeliness of action.* This paragraph excuses certain delays. It incorporates the standard of section 4–108(2) of the U.C.C. with the addition of "failure of equipment" and "interruption of computer facilities" as causes of delay. The addition of these two causes makes explicit what was previously generally accepted under the U.C.C. Draft section 4–108(2) of the NCCUSL proposal makes a similar change.

(e) *Exclusion.* This paragraph provides that the civil liability and class action provisions, particularly the punitive damage provisions of sections 611(a) and 611(b) of the Act (12 U.S.C. 4010 (a) and (b)) do not apply to regulatory provisions adopted to improve the efficiency of the payments mechanism. Allowing punitive damages for delays in the return of checks where no actual damages are incurred would only encourage litigation and provide little or no benefit to the check collection system.

(f) *Bona fide errors.* A depositary bank is shielded from liability under this section for a violation of a requirement of this subpart if it can demonstrate, by a preponderance of evidence, that the violation resulted from a bona fide error and that it maintains procedures designed to avoid such errors. An error in legal judgment does not constitute a bona fide error.

(g) *Jurisdiction.* This section provides the jurisdiction and statute of limitations for civil actions for violations of this subpart.

(h) *Reliance on Board rulings.* This provision shields banks from civil liability if they act in good faith in reliance on any rule, regulation, or interpretation of the Board, even if it were subsequently determined to be invalid. Banks may rely on the commentary to this regulation, which will be issued as an official Board interpretation, as well as on the regulation itself.

Section 229.39 Insolvency of bank.

If a paying bank fails without having made provisional settlement with the presenting bank for checks presented, it or its trustee could theoretically return the checks directly to the depositary bank or through a returning bank other than the presenting bank under § 229.30(a). This situation would result in the paying bank, or its estate, receiving value for returned checks for which it never gave value. This section avoids this inequity and similar results involving failed collecting, depositary, and returning banks. This section is similar to the insolvency provisions from section 4–214 of the U.C.C.

Section 229.40 Relation to state law.

This section specifies that state law relating to the collection of checks is only preempted to the extent that it is inconsistent with this regulation. Thus, this regulation is not a complete replacement for state laws relating to the collection or return of checks.

Section 229.41 Exclusions.

Checks drawn upon the account of the United States Treasury, or indorsed by the Treasury, and U.S. Postal Service money orders are excluded from the coverage of the expeditious return requirements of Subpart C of this regulation.

Appendix A—Routing Number Guide to Local Checks

This appendix lists the routing numbers that are considered local to each check processing region. The numbers in the Appendix represent the first four numbers of the routing numbers of paying banks in each region.

Appendix B—Time Period Adjustments for Nonlocal Checks

The Act directs the Board to reduce the statutory schedules for any category of checks where most of those checks can be returned, under an improved check collection and return system, in a shorter period of time than provided in the schedule. Appendix B describes, by routing number, those categories of checks for which reduced schedules apply. The time period adjustments are listed by check processing region, so that a bank need only refer to the region(s) in which it has offices to determine those adjustments that are applicable to that bank. In a number of cases, the reduced schedules only apply to banks located in the same city as the Federal Reserve check processing office. The routing numbers of the banks to which these reductions apply are provided. In other cases, the reductions would apply to all banks located in the region.

The proposed reductions in schedules were determined by each Federal Reserve Bank check processing office. Reductions are proposed for certain nonlocal checks, where significant improvements can be made to the Act's schedules. For the most part, shorter schedules are provided for:

1. Checks deposited in banks located in certain Federal Reserve cities and drawn on banks located in certain other Federal Reserve cities;

2. Checks drawn on certain banks that are served by two Federal Reserve Bank offices; and

3. Checks deposited in and drawn on banks in the New York City metropolitan area, where the proximity of the Federal Reserve Bank offices facilitates faster clearing and return of these checks.

Appendix B–1 provides the reductions to the nonlocal schedule that are applicable during the temporary schedule.

Appendix B–2 provides the reductions that will be applicable when the permanent schedule becomes effective.

Appendix C—Model Forms

Appendix C contains thirteen model forms that may be used by banks to meet their disclosure responsibilities under the regulation. Each form is designed for a particular use, as indicated in the titles identifying each form. Information to be inserted by a bank using the forms is highlighted by the use of parentheses and bold type.

Although use of the model forms is not required, banks using them properly will be deemed to be in compliance with the regulation with regard to the particular disclosures. Banks may make certain changes in the format or content of the forms and delete any disclosures that are inapplicable without losing the Act's protection from liability. The rearrangement of the model forms may not be so extensive as to affect the substance, clarity, or meaningful sequence of the forms and clauses. Banks making revisions with that effect will lose their protection from civil liability. Acceptable changes include, for example:

- Using "customer" and "bank" instead of pronouns.
- Not using bold type for headings.
- Incorporating certain state "plain English" requirements.
- Deleting inapplicable disclosures by whiting out, blocking out, crossing out, leaving blanks, checking a box for applicable items, or circling applicable items.

Banks are cautioned against using the attached forms without reviewing their own policies and practices and the current state and federal law regarding the time periods required for availability of specific types of checks. A bank's use of a model form will result in its being in compliance with the Act and the regulation only if the disclosures actually correspond to the bank's availability policy. Shorter time periods for availability may always be substituted, and, in fact, may be required under applicable state law.

Models C–1 through C–7 generally. These forms are models for the specific policy disclosure described in § 229.16 of the regulation. The forms were designed to accommodate a variety of availability practices (within the regulation's maximum time periods). Models C–3 and C–4 reflect the alternative disclosure for banks with case-by-case hold policies described in § 229.16(b).

Model C–1. Use of this form is appropriate when a bank's policy is to make funds from any type of deposit available to customers the day after the deposit is made, with no holds placed on deposited funds.

Model C–2. Use of this form is appropriate when a bank's policy is to make funds from any type of deposit available the day after the deposit is made, except that the bank would take advantage of the regulation's new account and other exceptions in § 229.13. Under the special rules for new accounts section, a bank should insert, where indicated, its outside limit for availability of deposits other than those deposits into new accounts that are available on the next business day. The requirements referred to with regard to the checks that receive next-day availability when deposited in new accounts are those requirements outlined in § 229.10(c)(1)—specifically, that the checks be deposited into an account of the payee and, in some cases, be made with a special deposit slip.

Model C–3. Use of this form is appropriate when a bank's policy is to routinely make funds from all types of deposits available the day after the deposit is made, but occasionally to delay availability on a particular deposit. A bank using this form is assumed not to exercise either the new account or safeguard exceptions in § 229.13 of the regulation. As a result, the delays imposed may not be longer than the applicable maximums in §§ 229.11 and 229.12 of the regulation.

Model C–4. Use of this form is appropriate when a bank has the same policy as described under Model C–3, except that a bank using this form would take advantage of the safeguard exceptions found in § 229.13.

Model C–5. Use of this form is appropriate when a bank's policy is to impose delays to the full extent allowed by the schedules and exceptions in the regulation. The disclosure of availability for local checks and that the bank limits the customer's cash withdrawals to $400 on the third business day after deposit assumes that the bank is not a member of a clearinghouse. (Banks that are members of a clearinghouse may restrict cash withdrawals until the fourth business day only as to non-clearinghouse local checks.) In making this disclosure, a bank must insert a time after which the customer may withdraw up to $400. A bank may not, under the regulation, insert a time of day later than 5:00 p.m.

Model C–6. Use of this form is appropriate for a bank with the same policy as outlined under Model C–5. The only difference between the forms is that a chart showing the bank's availability policy for local and nonlocal checks is substituted for the narrative material in Model C–5 regarding the availability times for local and nonlocal checks.

Model C–7. Use of this form is appropriate when a bank's policy is to delay availability based on the deposit categories (next-day availability items, local and nonlocal checks, deposits at automated teller machines) in the regulation, but the delay periods are shorter than the maximum times allowed under the regulation. (The form is identical to Model C–5 except that the pertinent time limits have been deleted and reminders for inserting the information added.)

Model C–8. Use of this form satisfies the written notice requirement of § 229.13(g) of the regulation when a bank places a hold based on an exception to the availability schedules. The form may be modified to indicate that a hold is being placed on more than one check in a deposit. However, each check must be described separately, and, if different reasons apply to the checks, a separate reason must be given for each hold placed.

Model C–9. Use of this form satisfies the notice requirement of § 229.16(b)(2) when a bank with a case-by-case hold policy imposes a delay on a deposit. This notice does not require a specific reason for the hold. (A specific reason is required only when an exception hold is placed. *See* Model C–8.)

Model C–10. Use of this form satisfies the notice requirement of § 229.18(b), notice at branch locations. The form assumes the bank's actual availability policy is the same as the schedules in the regulation.

Model C–11. Use of this form satisfies the notice requirements for preprinted deposit slips under § 229.18(a) and the notice requirements at proprietary automated teller machines under § 229.18(c)(1). It may also be used at drive-through teller facilities in lieu of Model C–8 to satisfy the notice requirements of § 229.18(b). The bracketed material is not required on preprinted deposit slips.

Model C–12. Use of this form satisfies the notice requirements of § 229.18(c)(2) for nonproprietary automated teller machines.

Model C–13. Use of this form, incorporated as part of a credit union's specific policy disclosure, satisfies the notice requirement under § 229.14(b) for credit unions not accruing interest from the date of provisional credit. This disclosure is only an example based on a hypothetical policy.

Appendix D—Indorsement Standards

This appendix provides the indorsement standards for depositary banks and transit banks. It includes rules regarding the content, location, and color of the indorsements.

Initial Regulatory Flexibility Analysis

Of the items required to be contained in an initial regulatory flexibility analysis by 5 U.S.C. 603(b), the first ("a description of the reasons why action by the agency is being considered") and the second ("a succinct statement of the objectives of, and legal basis for, the proposed rule") are found elsewhere in this preamble.

The proposed rule contains a number of requirements that are also described elsewhere in the preamble. The Board proposes that all of these requirements be applicable to all banks and other entities subject to the rule regardless of size. The Board considered exempting very small banks, those that fall below the threshold for filing reports of deposit under the Board's Regulation D (12 CFR Part 204) (currently those with deposits of less than $2.9 million) from the rule's requirements. However, the Act does not provide an exemption according to the size of bank; all banks, regardless of size, that maintain transaction-type accounts are required to provide availability to their depositors according to the Act's schedules, and all banks must make the required disclosures to their customers. In order to minimize the risks arising from these requirements, all banks, regardless of size, must be subject to the expedited return procedures established by Subpart C. Exemption of small banks from these requirements would mean that checks drawn on small banks would continue to be returned by the current inefficient manual processing of returns leading to increased losses for depositary banks that accept for deposit checks drawn on small banks. The Board believes that the availability schedules and the expeditious return of checks can be made to work only if all banks are subject to the same rules.

The Board does not believe that the proposed rule would impose reporting or recordkeeping burdens on small institutions that require specialized professional skills not available to them. Many small institutions, particularly credit unions, are not subject to the Act's availability, disclosure, and payment of interest requirements, due to the fact that they do not hold transactions accounts. The Act does provide relief for certain credit unions that are subject to the Act, generally those that are very small and lack sophisticated operations, from the requirement regarding accrual of interest. The proposed regulations contain other provisions that will facilitate compliance with the Act's requirements for small institutions, particularly pertaining to their disclosure responsibilities.

Regulation J Amendments

The Board proposes amendments to its Regulation J, Subpart A (12 CFR Part 210), Collection of Checks and Other Items and Wire Transfers of Funds, governing the collection of checks by Federal Reserve Banks, so that it conforms to the proposed Regulation CC, Subpart C. Under the proposed amendments, Federal Reserve Banks would accept for handling all returned checks, including checks (as defined in Regulation CC) not handled by Federal Reserve Banks for forward collection. Federal Reserve Banks, like other returning banks, would handle returned checks in accordance with Regulation CC, Subpart C. The details of their returned check services would be set forth in uniform Federal Reserve Bank operating circulars, as is currently the case. These details will include availability schedules, cut-off hours, charges, and provisions governing the handling of notices of nonpayment.

Except as required to conform it to Regulation CC, Regulation J would remain unchanged. It would continue to govern the handling of items by Reserve Banks for forward collection, including both cash and noncash items. Most of the terms currently defined in Regulation J, such as "sender" and "cash item," would continue to apply only to forward collection of items through Reserve Banks. A new term, "returned check," is proposed to include all checks subject to Regulation CC (including cash items and other checks) that are returned through Federal Reserve Banks.

A new paragraph has been added to § 210.7(b) to provide that when Reserve Banks present checks as defined in § 229.2 of Regulation CC, they may make presentment in accordance with Regulation CC.

Section 210.2 has been revised to refer generally to Regulation CC for the terms governing the handling of returned checks. Also included in § 210.12 are provisions governing the handling of returned checks that parallel other provisions in Regulation J. These include the agreement of a bank sending a returned check to a Federal Reserve Bank, provisions governing tender of defense of warranty claims, and a provision authorizing direct sends of returned checks. Section 210.12(g) provides that automatic charge agreements covering cash items also will be used to settle for returned checks. The Board proposes to delete the provision of § 210.12 that requires notice of nonpayment for checks of $2,500 or more. The Regulation J notice requirement currently covers only those checks collected through a Federal Reserve Bank. As the Board is proposing a similar notice requirement in Regulation CC that would cover all checks, the Regulation J notice requirement would be redundant.

At a later date, to avoid confusion between different definitions of terms in Regulation J and Regulation CC, a further revision of Regulation J may be desirable.

As the Regulation J amendments merely conform that regulation to Regulation CC, the same concerns that led the Board not to exempt small entities from Regulation J justify not incorporating similar exemptions for small entities into Regulation J.

List of Subjects in 12 CFR Parts 210 and 229

Banks, Banking, Federal Reserve System.

For the reasons set out in the preamble, Title 12, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

1. Part 229 is added to read as follows:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS

Subpart A—General

Sec.

229.1 Authority and purpose; organization.
229.2 Definitions.
229.3 Administrative enforcement.

Subpart B—Availability of Funds and Disclosure of Funds Availability Policies

229.10 Next day availability.
229.11 Temporary availability schedule.
229.12 Permanent availability schedule.
229.13 Exceptions.
229.14 Payment of interest.
229.15 General disclosure requirements.
229.16 Content of specific availability policy disclosure.
229.17 Initial disclosures.
229.18 Additional disclosure requirements.
229.19 Miscellaneous.
229.20 Relation to state law.
229.21 Civil liability.

Subpart C—Collection of Checks

229.30 Paying bank's responsibility for return of checks.
229.31 Returning bank's responsibility for return of checks.
229.32 Depositary bank's responsibility for returned checks.
229.33 Notice of nonpayment.

229.34 Warranties by paying bank and returning bank.
229.35 Indorsements.
229.36 Presentment of checks.
229.37 Inquiry to paying bank.
229.38 Liability.
229.39 Insolvency of bank.
229.40 Relation to state law.
229.41 Exclusions.
Appendix A—Routing Number Guide to Local Checks
Appendix B-1—Reduction of Schedules for Certain Nonlocal Checks Under the Temporary Schedule
Appendix B-2—Reduction of Schedules for Certain Nonlocal Checks Under the Permanent Schedule
Appendix C—Model Disclosure Forms
Appendix D—Indorsement Standards

Authority: Title VI of Pub. L. 100-86, 101 Stat. 552, 635, 12 U.S.C. 4001 et seq.

Subpart A—General

§ 229.1 Authority and purpose; organization.

(a) *Authority and purpose.* This part (Regulation CC; 12 CFR Part 229) is issued by the Board of Governors of the Federal Reserve System ("Board") to implement the Expedited Funds Availability Act ("Act"), which is contained in Title VI of Pub. L. 100-86.

(b) *Organization.* This part is divided into subparts and appendices as follows:

(1) Subpart A contains general information. It sets forth—

(i) The authority, purpose, and organization;

(ii) Definition of terms; and

(iii) Authority for administrative enforcement of this part's provisions.

(2) Subpart B of this part contains rules regarding the duty of banks to make funds deposited into accounts available for withdrawal, including both temporary and permanent availability schedules. Subpart B of this part also contains rules regarding exceptions to the schedules, disclosure of funds availability policies, payment of interest, liability of banks for failure to comply with Subpart B of this part, and other matters.

(3) Subpart C of this part contains rules to expedite the collection and return of checks by banks. These rules cover the direct return of checks, the manner in which the paying bank and returning banks must return checks to the depositary bank, notification of nonpayment by the paying bank, rules regarding indorsements and presentment, the liability of banks for failure to comply with Subpart C of this part, and other matters.

§ 229.2 Definitions.

As used in this part, unless the context requires otherwise:

"Account" means a deposit as defined in 12 CFR 204.2(a)(1)(i) that is a transaction account as described in 12 CFR 204.2(e). "Account" generally includes accounts at a bank from which the account holder is permitted to make transfers or withdrawals by negotiable or transferable instrument, payment order of withdrawal, telephone transfer, electronic payment, or other similar means for the purpose of making payments or transfers to third persons or others, or from which the account holder may make third party payments at an ATM, remote service unit, or other electronic device, including by debit card, but the term does not include savings deposits or accounts described in 12 CFR 204.2(d)(2) even though such accounts permit third party transfers. An account may be in the form of—

(1) A demand deposit account,

(2) A negotiable order of withdrawal account,

(3) A share draft account,

(4) An automatic transfer account or

(5) Any other transaction account described in 12 CFR 204.2(e) that are not time or savings deposits under 12 CFR Part 204.

"Account" does not include an account where the account holder is a bank.

"Automated clearinghouse" or "ACH" means a facility that processes debit and credit transfers under rules established by a Federal Reserve Bank operating circular on automated clearinghouse items or under rules of an automated clearinghouse association.

"Automated teller machine" or "ATM" means an electronic or mechanical device at which a natural person may make deposits by cash or check to accounts and perform other transactions.

"Available for withdrawal" with respect to funds deposited means available for any use generally permitted to the depositor for actually and finally collected funds under the bank's account agreement or policies, such as for payment of checks drawn on the account, electronic payments, withdrawals by cash, and transfers between accounts.

"Bank" means—

(1) An "insured bank" as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or a bank that is eligible to apply to become an insured bank under section 5 of that Act (12 U.S.C. 1815);

(2) A "mutual savings bank" as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(3) A "savings bank" as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(4) An "insured credit union" as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) or a credit union that is eligible to make application to become an insured credit union under section 201 of that Act (12 U.S.C. 1781);

(5) A "member" as defined in section 2 of the Federal Home Loan Pank Act (12 U.S.C. 1422);

(6) An "insured institution" as defined in section 401 of the National Housing Act (12 U.S.C. 1724) or an institution that is eligible to make application to become an insured institution under section 403 of that Act (12 U.S.C. 1726); or

(7) A "branch" of a "foreign bank" as defined in section 1(b) of the International Banking Act (12 U.S.C. 3101);

that is located in the United States. Unless otherwise specified, the term "bank" includes all of a bank's offices in the United States.

"Banking day" means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.

"Business day" means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day.

"Cash" means United States coins and currency.

"Cashier's check" means a check that is—

(1) Drawn on a bank;

(2) Signed by an officer or employee of the bank on behalf of the bank as drawer; and

(3) A direct obligation of the bank.

"Certified check" means a check with respect to which the drawee bank certifies by signature on the check of an officer or other authorized employee of the bank that—

(1)(i) The signature of the drawer on the check is genuine; and

(ii) The bank has set aside funds that—

(A) Are equal to the amount of the check, and

(B) Will be used to pay the check; or

(2) The bank will pay the check upon presentment.

"Check" means—

(1) A negotiable demand draft drawn on or payable through or at an office of a bank;

(2) A negotiable demand draft drawn on the Treasury of the United States;
(3) A negotiable demand draft drawn on a state government;
(4) A negotiable demand draft drawn on a Federal Reserve Bank;
(5) A negotiable demand draft drawn on a Federal Home Loan Bank;
(6) A United States Postal Service money order; or
(7) A traveler's check.

The term "check" does not include a noncash item. A draft may be a "check" even though it is described on its face by another term, such as "money order." For purposes of Subpart C of this part, the term "check" also includes a demand draft of the type described above that is nonnegotiable.

"Check clearinghouse association" means any arrangement by which participants exchange checks in a specified area. The term "check clearinghouse association" may include arrangements using the premises of a Federal Reserve Bank, but it does not include the handling of checks for forward collection or return by a Federal Reserve Bank.

"Check processing region" means the geographical area served by an office of a Federal Reserve Bank for purposes of its check processing activities.

"Consumer account" means any account used primarily for personal, family, or household purposes.

"Depositary bank" means the first bank to which a check is transferred even though it is also the paying bank or the payee. For the purposes of Subpart C of this part, the term also includes a Federal Reserve Bank or a Federal Home Loan Bank to which a check is transferred by a person other than a bank.

"Depository check" means a cashier's check, certified check, or teller's check.

"Electronic payment" means a wire transfer or an ACH credit transfer.

"Forward collection" means the process by which a depositary bank sends a check on a cash basis to the paying bank for payment.

"Local check" means a check drawn on or payable through or at a local paying bank. A depositary bank may rely on the routing number that appears on a check in magnetic characters to determine whether a check is a local check. Appendix A to this part lists the routing numbers that are considered local to each check processing region.

"Local paying bank" means a paying bank to which a check is sent for forward collection that is located in the same check processing region as the branch or proprietary ATM of the depositary bank in which that check was deposited.

"Noncash item" means an item that would otherwise be a check, except that—

(1) A passbook, certificate, or other document is attached;

(2) It is accompanied by special instructions, such as a request for special advice of payment or dishonor;

(3) It consists of more than a single thickness of paper, except a check that qualifies for handling by automated check processing equipment; or

(4) It has not been preprinted or post-encoded in magnetic characters with the routing number of the paying bank.

"Nonlocal check" means a check payable by, through, or at a nonlocal paying bank.

"Nonlocal paying bank" means a paying bank that is not a local paying bank with respect to the depositary bank.

"Nonproprietary ATM" means an ATM that is not a proprietary ATM.

"Notice of nonpayment" means the notice of nonpayment given as provided in § 229.33.

"Participant" means a bank that—

(1) Is located in the geographic area served by a check clearinghouse association; and

(2) Both collects and receives for payment checks through the check clearinghouse association either directly or through an intermediary.

"Paying bank" means—

(1) The bank by which a check is payable, unless the check is payable at or through another bank and is sent to the other bank for payment or collection;

(2) The bank at or through which a check is payable and to which it is sent for payment or collection;

(3) The bank whose routing number appears on a check in magnetic characters or in fractional form and to which the check is sent for payment or collection;

(4) The Federal Reserve Bank or Federal Home Loan Bank by which a check is payable; or

(5) The state on which a check is drawn.

"Proprietary ATM" means an ATM that is—

(1) Owned or operated by, or operated exclusively for, the depositary bank;

(2) Located on the premises (including the outside wall) of the depositary bank; or

(3) Within 50 feet of the premises of the depositary bank.

An ATM is not considered to be proprietary to more than one unaffiliated bank. If the criteria provided in paragraphs (1) through (3) of this definition are met by more than one bank with respect to any ATM, the ATM will be proprietary to the bank that satisfies the criterion stated in the lowest numbered paragraph in this definition. If more than one bank meets the owned or operated criterion of paragraph (1) of this definition, the ATM is considered proprietary to the bank that operates it.

"Qualified returned check" means a check that is prepared for handling by automated check processing equipment for return to the depositary bank. A qualified returned check must be encoded in magnetic ink with the routing number of the depositary bank, the dollar amount of the check, and a return identifier in the form of a 2 in position 44 of the American National Standard Specifications for Placement and Location of MICR Printing, X9.13 (Sept. 8, 1983). A qualified returned check need not contain other elements of a check drawn on the depositary bank, such as the name of the depositary bank.

"Returning bank" means a bank (other than the paying or depositary bank but including a Federal Reserve Bank or Federal Home Loan Bank) handling a returned check or notice in lieu of return.

"Routing number" means—

(1) The number printed on the face of a check in fractional form or in magnetic characters that identifies a paying bank; or

(2) The number in a bank's indorsement, in fractional or nine-digit form.

"Similarly situated bank" means a bank of similar size, located in the same community, and with similar check payments activities as the paying bank or returning bank.

"State" means a state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands.

"Teller's check" means a check drawn by a bank on another bank.

"Traveler's check" means an instrument for the payment of money that—

(1) Is designated on its face by the term "traveler's check" or by any substantially similar term or is commonly known and marketed as a traveler's check by a corporation or bank that is an issuer of traveler's checks;

(2) Is in the sum of ten dollars ($10) or a whole multiple thereof if less than one hundred dollars ($100), or in the sum of one hundred dollars ($100) or a whole multiple thereof;

(3) Provides for a specimen signature of the purchaser to be completed at the time of purchase; and

(4) Provides for a countersignature of the purchaser to be completed at the time of negotiation.

"Uniform Commercial Code," "Code," or "U.C.C." means the Uniform Commercial Code as adopted in a state. For purposes of uniform citation, all citations to the U.C.C. in this part will refer to the Official Text as approved from time to time by the American Law Institute and the National Conference of Commissioners on Uniform State Laws.

"United States" means the states, including the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.

"Unit of general local government" means any city, county, parish, town, township, village, or other general purpose political subdivision of a state. The term does not include special purpose units of government, such as school districts or water districts.

"Wire transfer" means an order to a bank transmitted by electronic or other means to pay a fixed or determinable amount of money to a beneficiary if the bank receiving the order is unconditionally permitted to pay the beneficiary upon receipt or on a day stated in the order.

Unless the context requires otherwise, the terms not defined in this section have the meanings set forth in the U.C.C.

§ 229.3 Administrative enforcement.

(a) *Enforcement agencies.* Compliance with this part is enforced under—

(1) Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the case of—

(i) National banks by the Comptroller of the Currency;

(ii) Member banks of the Federal Reserve System (other than national banks) by the Board; and

(iii) Banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) Section 5(d) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(d)), section 407 of the National Housing Act (12 U.S.C. 1730), and section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437), by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of any institution subject to those provisions; and

(3) The Federal Credit Union Act (12 U.S.C 1751 *et seq.*) by the National Credit Union Administration Board with respect to any federal credit union or insured credit union.

(b) *Additional powers.* (1) For the purposes of the exercise by any agency referred to in paragraph (a) of this section of its powers under any statute referred to in that paragraph, a violation of any requirement imposed under this Act is deemed to be a violation of a requirement imposed under that statute.

(2) In addition to its powers under any provision of law specifically referred to in paragraph (a) of this section, each of the agencies referred to in that paragraph may exercise, for purposes of enforcing compliance with any requirement imposed under this part, any other authority conferred on it by law.

(c) *Enforcement by the Board.* (1) Except to the extent that enforcement of the requirements imposed under this part is specifically committed to some other government agency, the Board shall enforce such requirements.

(2) If the Board determines that—

(i) Any bank that is not a bank described in paragraph (a) of this section, or

(ii) Any other person subject to the authority of the Board under the Act and this part,

has failed to comply with any requirement imposed by this part, the Board may issue an order prohibiting any bank, any Federal Reserve Bank, or any other person subject to the authority of the Board from engaging in any activity or transaction that directly or indirectly involves such noncomplying bank or person (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

Subpart B—Availability of Funds and Disclosure of Funds Availability Policies

§ 229.10 Next day availability.

(a) *Cash deposits.* A bank shall make funds deposited in an account by cash available for withdrawal not later than the business day after the banking day on which the cash is deposited.

(b) *Electronic payments*—(1) *In general.* A bank shall make funds received for deposit in an account by an electronic payment available for withdrawal not later than the business day after the banking day on which the bank received the funds.

(2) *When an electronic payment is received.* An electronic payment is received when, and to the extent that, the bank receiving the payment has received payment in actually and finally collected funds for the electronic payment.

(c) *Government checks, depository checks, checks drawn on the depositary bank, and certain other checks.* (1) A depositary bank shall make funds deposited in an account by check available for withdrawal not later than the business day after the banking day on which the funds are deposited, in the case of—

(i) A check drawn on the Treasury of the United States and deposited in an account held by a payee of the check;

(ii) A U.S. Postal Service money order deposited in an account held by a payee of the money order;

(iii) A check drawn on a Federal Reserve Bank or Federal Home Loan Bank and deposited in an account held by a payee of the check;

(iv) A check drawn by a state or a unit of general local government and deposited—

(A) In an account held by a payee of the check;

(B) In a depositary bank located in the state that issued the check, or the same state as the unit of general local government that issued the check; and

(C) With a special deposit slip, if such slips are required by the depositary bank under paragraph (c)(2) of this section;

(v) A depository check deposited—

(A) In an account held by a payee of the check; and

(B) With a special deposit slip, if such slips are required by the depositary bank under paragraph (c)(2) of this section;

(vi) A check deposited in a branch of the depositary bank and drawn on the same or another branch of the same bank if both branches are located in the same state or the same check processing region; and,

(vii) The lesser of $100 or the aggregate deposited on any one banking day by check or checks other than checks subject to paragraph (c)(1) (i) through (vi) of this section.

(2) *Special deposit slip.* (i) As a condition to making the funds available for withdrawal on the next business day, a depositary bank may require that a state or local government check or a depository check be deposited with a special deposit slip that identifies the type of check.

(ii) If a depositary bank requires the use of a special deposit slip, the bank must either provide the special deposit slips to its customers or inform its customers how the slips may be prepared or obtained and make the slips reasonably available.

§ 229.11 Temporary availability schedule.

(a) *Effective date.* The temporary availability schedule contained in this section is effective from September 1, 1988, through August 31, 1990. For the

permanent availability schedule, which is effective September 1, 1990, see § 229.12.

(b) *Local checks*—(1) *In general.* A depositary bank shall make funds deposited in an account by a check available for withdrawal not later than the third business day following the banking day on which funds are deposited, in the case of—

(i) A local check;

(ii) A check drawn on the Treasury of the United States that is not subject to next day availability under § 229.10(c); and

(iii) A U.S. Postal Service money order that is not subject to next day availability under § 229.10(c).

(2) *Time period adjustment for withdrawal by cash or similar means.* A depositary bank may extend by one business day the time that funds deposited in an account by a local check are available for withdrawal by cash or similar means unless the check is drawn on a paying bank that is a participant in the same check clearinghouse association as the depositary bank. Similar means include electronic payment, issuance of a depository check, or other irrevocable commitment to pay, but do not include the granting of provisional credit to a bank, Federal Reserve Bank, or Federal Home Loan Bank that presents a check to the depositary bank for payment. The depositary bank shall, however, make $400 of these funds available for withdrawal by cash or similar means not later than 5:00 p.m. on the business day on which the funds are available under paragraph (b)(1) of this section. This $400 is in addition to the $100 available under § 229.10(c)(1)(vii).

(c) *Nonlocal checks.* (1) A depositary bank shall make funds deposited in an account by a nonlocal check available for withdrawal not later than the seventh business day following the banking day on which funds are deposited.

(2) Nonlocal checks specified in Appendix B–1 to this part must be made available for withdrawal not later than the times prescribed in that Appendix.

(d) *Deposits at nonproprietary ATMs.* A depositary bank shall make funds deposited in an account at a nonproprietary ATM by cash or check available for withdrawal not later than the seventh business day following the banking day on which the funds are deposited.

(e) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.* The depositary bank may extend the time periods set forth in this section by one business day in the case of any deposit that is—

(1) Deposited in an account at a branch of a depositary bank located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands; and

(2) Deposited by a check drawn on or payable at or through a paying bank not located in the same state as the depositary bank.

§ 229.12 Permanent availability schedule.

(a) *Effective date.* The permanent availability schedule contained in this section is effective September 1, 1990.

(b) *Local checks.* A depositary bank shall make funds deposited in an account by a check available for withdrawal not later than the second business day following the banking day on which funds are deposited, in the case of—

(1) A local check;

(2) A check drawn on the Treasury of the United States that is not subject to next day availability under § 229.10(c); and

(3) A U.S. Postal Service money order that is not subject to next day availability under § 229.10(c).

(c) *Nonlocal checks.* (1) A depositary bank shall make funds deposited in an account by a nonlocal check available for withdrawal not later than the fifth business day following the banking day on which funds are deposited.

(2) Nonlocal checks specified in Appendix B–2 to this part must be made available for withdrawal not later than the times prescribed in that Appendix.

(d) *Time period adjustment for withdrawal by cash or similar means.* A depositary bank may extend by one business day the time that funds deposited in an account are available for withdrawal by cash or similar means. Similar means include electronic payment, depository check, or other irrevocable commitment to pay, but do not include the granting of provisional credit to a bank, a Federal Reserve Bank, or a Federal Home Loan Bank that presents a check to the depositary bank for payment. A depositary bank shall, however, make $400 of these funds available for withdrawal not later than 5:00 p.m. on the business day on which the funds are available under paragraphs (b) and (c) of this section. This $400 is in addition to the $100 available under § 229.10(c)(1)(vii).

(e) *Deposits at nonproprietary ATMs.* The requirements of §§ 229.10 and 229.12 apply to deposits made at nonproprietary ATMs, except that the depositary bank shall make funds deposited in an account at a nonproprietary ATM by cash or by a check described in § 229.10(c) available for withdrawal not later than the second business day following the banking day on which the deposit is made.

(f) *Extension of schedule for certain deposits in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.* The depositary bank may extend the time periods set forth in this section by one business day in the case of any deposit, other than a deposit described in § 229.10, that is—

(1) Deposited in an account at a branch of a depositary bank located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands; and

(2) Deposited by check drawn on or payable at or through a paying bank not located in the same state as the depositary bank.

§ 229.13 Exceptions.

(a) *New accounts.* (1) A deposit in a new account—

(i) Is subject to the requirements in § 229.10(a) and (b) to make funds from deposits by cash and electronic payments available for withdrawal on the business day following the banking day of deposit;

(ii) Is subject to the requirements of § 229.10(c)(1) (i) through (v) only with respect to the first $5,000 of funds deposited on any one banking day; but the amount of the deposit in excess of $5,000 shall be available for withdrawal not later than the ninth business day following the banking day on which funds are deposited; and

(iii) Is not subject to the availability requirements of §§ 229.10(c)(1) (vi) and (vii), 229.11, and 229.12.

For purposes of this paragraph, depository checks subject to § 229.10(c)(1)(v) include traveler's checks.

(2) An account is considered a new account during the first 30 calendar days after the account is established. An account is not considered a new account if the customer has had, within 30 calendar days before the account is established, another account at the depositary bank for at least 30 days.

(b) *Large deposits.* Sections 229.11 and 229.12 do not apply to the aggregate amount of deposits by one or more checks that is in excess of $5,000 on any one banking day. For customers that have multiple accounts at a depositary bank, the bank may apply this exception to the aggregate deposits to all accounts of the customer if all of the holders of each account are the same. A depositary bank may not aggregate the deposits in an individual and a joint account for the purpose of this exception.

(c) *Redeposited checks.* Sections 229.11 and 229.12 do not apply to a

check that has been returned unpaid and redeposited by the customer or the depositary bank. This exception does not apply—

(1) To a check that has been returned due to a missing indorsement and redeposited after the missing indorsement has been obtained, if the reason for return stamp on the check states that it was returned due to a missing indorsement; or

(2) To a check that has been returned because it was postdated, if the check is no longer postdated when redeposited.

(d) *Repeated overdrafts.* If any account or combination of accounts of a depositary bank's customer has been repeatedly overdrawn, then for a period of six months after the last such instance, §§ 229.11 and 229.12 do not apply to any of the accounts. An account may be considered "repeatedly overdrawn" if there have been three or more instances within a given six-month period in which the balance of the account has gone, or would have gone if checks or other charges to the account had been paid, from positive (or zero) to negative. Periods of up to three consecutive banking days during which an account is negative due to overdrafts, or during which additional checks or other charges to the account are returned or rejected, are considered part of the same instance. A separate instance occurs if an account has a negative balance for more than three consecutive banking days or if charges or checks are rejected or returned over a period of longer than three consecutive banking days.

(e) *Reasonable cause to doubt collectibility*—(1) *In general.* Sections 229.10(c)(1) (iii) and (v), 229.11, and 229.12 do not apply with respect to any check deposited in an account at a depositary bank if the bank has reasonable cause to believe that the check is uncollectible from the paying bank. Reasonable cause to believe a check is uncollectible requires the existence of facts that would cause a well-grounded belief in the mind of a reasonable person. Such belief shall not be based on the fact that the check is of a particular class or is deposited by a particular class of persons. The reason for the bank's belief that the check is uncollectible shall be included in the notice required under paragraph (g) of this section.

(2) *Overdraft fees.* The depositary bank shall not assess any fee for any subsequent overdraft (including the use of a line of credit) or return of a check or other unpaid charge, if—

(i) The depositary bank has extended the period between the time when funds are deposited in an account by check and when those funds are made available for withdrawal beyond the time periods provided in §§ 229.10(c)(1) (iii) and (v), 229.11, and 229.12 based on the bank's belief that the check is uncollectible;

(ii) The depositor was not provided with the written notice required under paragraph (g) of this section with respect to such determination at the time the deposit was made;

(iii) The overdraft or return of the check or other unpaid charge would not have occurred except for the fact that the funds so deposited were not available but would have been available if the exception were not invoked; and

(iv) The check was finally paid by the paying bank.

(f) *Emergency conditions.* Sections 229.11 and 229.12 do not apply to funds deposited by check in a depositary bank in the case of—

(1) An interruption of communications or computer or other equipment facilities;

(2) A suspension of payments by another bank;

(3) A war; or

(4) An emergency condition beyond the control of the depositary bank,

if the depositary bank exercises such diligence as the circumstances require.

(g) *Notice of exception*—(1) *In general.* If a depositary bank extends the times for availability beyond those provided in §§ 229.10(c)(1) (iii) and (v), 229.11, or 229.12, based on the application of an exception contained in paragraphs (b) through (f) of this section, the depositary bank shall provide notice to the customer of—

(i) The reason the exception was invoked; and

(ii) The day the funds will be available for withdrawal, unless the emergency conditions exception in paragraph (f) of this section has been invoked and the depositary bank in good faith does not know, at the time notice must be provided, the duration of the emergency and, consequently, when the funds will be available for withdrawal.

(2) *Timing of notice.* The notice shall be provided as follows—

(i) In the case of a deposit made in person to an employee of the depositary bank, the depositary bank shall provide the notice in writing to the depositor at the time of deposit.

(ii) In the case of any other deposit, or if the facts upon which the determination of the applicability of an exception contained in paragraphs (b) through (f) of this section to any deposit only become known to the depositary bank after the time notice is required under paragraph (g)(2)(i) of this section, the depositary bank shall mail the notice to the depositor as soon as practicable, but not later than the first business day following the calendar day the facts become known to the depositary bank, or the deposit is made, whichever is later, subject to paragraph (9)(2)(iii) of this section. The depositary bank is deemed to have knowledge of the facts upon which the determination is made when the facts are brought to the attention of the person(s) in the depositary bank responsible for making the determination, and, in any event, from the time when the facts would have been brought to their attention if the bank had exercised due diligence.

(iii) If the availability of funds is delayed under the emergency conditions exception provided in paragraph (f) of this section, the depositary bank is not required to provide notice if the funds subject to the exception become available for withdrawal before the notice must be sent under paragraph (g)(2)(ii) of this section.

(3) *Record retention.* A depositary bank shall retain a record, in accordance with § 229.21(g), of each notice provided pursuant to its application of the reasonable cause exception under paragraph (e) of this section.

(h) *Availability of deposits subject to exceptions.* (1) If an exception contained in paragraphs (b) through (e) of this section applies, not more than four business days shall be added to any time period established under §§ 229.11 and 229.12.

(2) If a depositary bank invokes an exception contained in this section with respect to a check that is subject to § 229.10(c)(1) (i) through (v), the depositary bank shall make the funds available for withdrawal not later than four business days after the day the funds would have become available had the check been subject to §§ 229.11 or 229.12.

(3) If the exception contained in paragraph (f) of this section applies, the depositary bank shall make the funds available for withdrawal not more than four business days after the emergency has ceased or the period established in §§ 229.11 and 229.12, whichever is later.

§ 229.14 Payment of interest.

(a) *In general.* A depositary bank shall begin to accrue interest or dividends on funds deposited in an interest-bearing account not later than the business day on which the depositary bank receives provisional credit for the funds, except as provided in paragraphs (b) and (c) of this section. For the purposes of this

section, the depositary bank may rely on the availability schedule of its Federal Reserve Bank, Federal Home Loan Bank, or correspondent bank to determine the time provisional credit is actually received.

(b) *Special rule for credit unions.* Paragraph (a) of this section does not apply to any account at a credit union described in section 19(b)(1)(A)(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(vi)), if the credit union—

(1) Begins the accrual of interest or dividends at a later date than the date described in paragraph (a) of this section with respect to all funds, including cash, deposited in the account; and

(2) Provides notice of its interest or dividend payment policy in the manner required under § 229.18(f).

(c) Exception for checks returned unpaid. This subpart does not require a bank to pay interest or dividends on funds deposited by a check that is returned unpaid.

§ 229.15 General disclosure requirements.

(a) *Form of disclosures.* A bank shall make the disclosures required by this subpart clearly and conspicuously in writing. Disclosures, other than those posted at branches and ATMs and printed on deposit slips, must be in a form that the customer may keep.

(1) The disclosures shall be grouped together and shall not contain any information not directly related to the disclosures required by this subpart.

(2) The disclosures, if contained in a document that sets forth other account terms and conditions, shall be highlighted within the document by, for example, use of a separate heading.

(b) *Uniform reference to day of availability.* In its disclosure, a bank shall describe funds as being available "on the _____ business day after" the day of deposit. In this calculation, the first business day is the business day following the banking day the deposit was received, and the last business day is the day on which the funds are made available.

(c) *Multiple accounts and multiple account-holders.* A bank need not give multiple disclosures to a customer that holds multiple accounts if the accounts are subject to the same availability policies. Similarly, a bank need not give separate disclosures to each customer on a jointly held account if the bank gives the disclosures to one of the primary account holders.

(d) *Dormant or inactive accounts.* A bank need not give availability disclosures to holders of dormant or inactive accounts.

§ 229.16 Content of specific availability policy disclosure.

(a) *Specific availability policy disclosure.* To meet the requirements of a specific availability policy disclosure under §§ 229.17 and 229.18(d), a bank shall provide a disclosure describing when funds deposited in an account are available for withdrawal. Unless the bank has a case-by-case hold policy as discussed in paragraph (b) of this section, the bank must enable the customer to determine when funds for a particular deposit will be available by disclosing the following, as applicable:

(1) A summary of the bank's general availability policy;

(2) A description of the categories of deposits used by the bank when it delays availability (such as local and nonlocal checks), and how to determine the category of a particular deposit;

(3) A description of the availability period corresponding to each of the categories of deposits, including a description of the bank's business days and when a deposit is considered received; and

(4) A description of any exceptions to the bank's availability schedules, including any special rules that may apply to deposits made at nonproprietary ATMs, to certain types of deposits or accounts (such as new accounts), and to cash withdrawals.

(b) *Alternative disclosure for banks that have case-by-case hold policies.* (1) If a bank generally makes funds available for withdrawal by the business day following the banking day funds are deposited, the bank may give the following disclosures to meet the disclosure requirements under §§ 229.17 and 229.18(d):

(i) A summary of the bank's general availability policy;

(ii) A statement that the bank may in some cases delay the time funds are available for withdrawal and the maximum delay that may be imposed;

(iii) A description of the exceptions set forth in § 229.13 that the bank reserves the right to invoke, if any, and the maximum delay that may be imposed under the exceptions; and

(iv) A statement that the bank will notify the customer if funds deposited in the customer's account will not be available for withdrawal on the business day following the banking day of deposit.

(2) A bank that provides the disclosures required by paragraph (b) of this section instead of paragraph (a) of this section, shall also provide customers with a notice at the time a deposit subject to a delay under paragraph (b)(ii) of this section is made. The notice shall state that availability of the deposit is being delayed and indicate the day the funds will be available for withdrawal. If the deposit was not made in person to an employee of the depositary bank, the notice may be mailed to the customer, provided the notice is sent on the banking day the deposit is made. If the decision to delay a deposit made in person to a bank employee is made after the time of deposit, a delay may be imposed only if—

(i) The customer was told at the time of the deposit that the particular deposit may be subject to a delay; and

(ii) The bank notifies the customer by close of business on the day of the deposit that a delay has been imposed and of the day funds will be available for withdrawal.

§ 229.17 Initial disclosures.

(a) *Disclosure to new accounts.* Before opening an account, a bank shall provide a potential customer with the applicable specific availability policy disclosure described in § 229.16.

(b) *Disclosure to existing accounts.* (1) In the first regularly scheduled mailing to customers after September 1, 1988, but not later than October 31, 1988, a bank shall send to existing customers the applicable specific availability policy disclosure described in § 229.16, unless the bank has previously given disclosures that meet the requirements of that section.

(2) If the disclosure required by paragraph (b)(1) of this section is included with a disclosure of other account terms and conditions, the bank must direct the customer's attention to the availability disclosures by, for example, the use of an insert or a letter.

(3) The disclosure required by paragraph (b)(1) of this section may not be included in a mailing of promotional material, such as a solicitation for a new product or service, unless the mailing also includes the customer's account statement.

§ 229.18 Additional disclosure requirements.

(a) *Notice on deposit slips.* A bank that delays availability on deposits shall include on all preprinted deposit slips furnished to its customers (other than special deposit slips provided to customers under § 229.10(c)), a notice that deposited checks may not be available for immediate withdrawal.

(b) *Notice at branch locations.* A bank shall post in a conspicuous place at each branch location where its employees receive deposits to consumer accounts a notice that sets forth the time periods

applicable to the availability of funds deposited in a consumer account.

(c) *Notice at or on ATMs.*

(1) The owner or operator of one or more ATMs shall post or provide a notice at each ATM location that funds deposited in the ATM may not be available for immediate withdrawal.

(2) If an ATM is considered nonproprietary as to certain customers making deposits at the ATM, the bank to which the ATM is proprietary shall be identified at or on the ATM, and a notice posted or provided that funds may not be available until the seventh business day after deposit.

(d) *Disclosure upon request.* A bank shall provide, upon oral or written request, a notice containing the applicable specific availability policy disclosure described in § 229.16.

(e) *Changes in policy.* A bank shall send a notice to customers at least 30 days before implementing a change to the bank's availability policy, except that a change that expedites the availability of funds shall be disclosed not later than 30 days after implementation.

(f) *Notice of interest payment policy.* If a credit union begins to accrue interest or dividends on all deposits made in an interest-bearing account, including cash deposits, at a later time than the day specified in § 229.14(a), any notice required to be provided under §§ 229.17 or 229.18(d) shall contain an explanation of when the credit union begins to accrue interest or dividends on the funds.

§ 229.19 Miscellaneous.

(a) *When deposits are considered made.* For the purposes of this part—

(1) A deposit mailed to the depositary bank is considered made when it is received by the depositary bank; and

(2) A deposit is considered made on the next banking day, in the case of a deposit that is made—

(i) On a day that is not a banking day for the depositary bank; or

(ii) After a cut-off hour set by the depositary bank for the receipt of deposits of 2:00 p.m. or later. Different cut-off hours may be established for receipt of different types of deposits, or receipt of deposits at different locations.

(b) *Availability at start of business day.* Except as otherwise provided in §§ 229.11(b)(2) and 229.12(d), if any provision of this subpart requires that funds be made available for withdrawal on any business day, the funds shall be available for withdrawal by the later of—

(1) 7:00 a.m. (local time); or

(2) The time the depositary bank's teller facilities (including ATMs) are available for customer account withdrawals.

(c) *Effect on policies of depositary bank.* This part does not—

(1) Prohibit a depositary bank from making funds available to a customer for withdrawal in a shorter period of time than the time required by this part;

(2) Affect a depositary bank's right—

(i) To accept or reject a check for deposit;

(ii) To revoke any provisional settlement made by the depositary bank with respect to a check accepted by the bank for deposit; to charge back the depositor's account for the amount of a check based on the return of the check or receipt of a notice of nonpayment of the check; or to claim a refund of such provisional credit; and

(iii) To charge back funds made available to its customer for an electronic payment for which the bank has not received payment in actually and finally collected funds;

(3) Require a depositary bank to open or otherwise to make its facilities available for customer transactions on a given business day; or

(4) Supersede any policy of a depositary bank that limits the amount of cash a customer may withdraw from its account at an ATM or a staffed teller station on any one day, if that policy—

(i) Is applied without discrimination to all customers of the bank;

(ii) Is not dependent on the time the funds have been deposited in the account, as long as the funds have been on deposit for the time period specified in §§ 229.10, 229.11, or 229.12; and

(iii) Is related to security requirements or bonding limitations of the depositary bank.

(d) *Use of calculated availability.* A depositary bank may provide availability to, and begin to accrue interest on, its non-consumer accounts based on a sample of checks that represents the average composition of the customer's deposits, provided that the terms for availability or interest payment based on the sample are equivalent to or more prompt than the availability and interest payment requirements of this part.

(e) *Limitation on placing holds on certain funds in accounts.* A depositary bank that receives a check for deposit in an account or purchases a check for cash, other than a check drawn on that bank and presented over the counter for payment in cash, may place a hold on any funds of the customer at the bank, if—

(1) The amount of funds that are held do not exceed the amount of the check, and

(2) The funds are made available for withdrawal within the times specified in §§ 229.10, 229.11, and 229.12.

(f) *Employee training and compliance.*

(1) Each bank shall provide a statement detailing the requirements of this subpart to all employees who perform duties that relate to the bank's compliance with the requirements of this subpart.

(2) Each bank shall establish procedures to ensure that the bank complies with the requirements of this subpart, and shall provide each employee who performs duties subject to the requirements of this subpart with a statement of the procedures applicable to that employee.

(3) Not less than once each year, each bank shall conduct an internal review to determine its employees' compliance with the procedures established in paragraph (f)(2) of this section.

§ 229.20 Relation to state law.

(a) *In general.* Any law or regulation of any state in effect on or before September 1, 1989, that requires funds deposited in an account at a bank chartered by the state to be made available for withdrawal in a shorter time than the time provided in Subparts A and B of this part shall—

(1) Supersede the provisions of the Act and Subparts A and B to the extent the provisions relate to the time by which funds deposited or received for deposit in an account are available for withdrawal; and

(2) Apply to all federally insured banks located within the state.

No amendment to a state law or regulation governing the availability of funds that becomes effective after September 1, 1989, shall supersede the Act and Subparts A and B of this part, but unamended provisions of state law shall remain in effect.

(b) *Preemption of inconsistent law.* Except as provided in paragraph (a) of this section, the Act and Subparts A and B of this part supersede any provision of inconsistent state law.

(c) *Preemption determinations.* The Board shall determine, upon the request of any state, bank, or other interested party, whether the Act and this subpart preempt state laws relating to the availability of funds.

(d) *Standards for preemption.* A state law in effect on or before September 1, 1989, is not inconsistent with the Act and this part if it requires that funds shall be available in a shorter period of time than the time provided in this subpart. Inconsistency with the Act may exist when state law—

(1) Provides that funds deposited in an account by cash, electronic payment, or a particular category of check may be available for withdrawal in a longer period of time than provided in this subpart; or

(2) Provides an exception to the time funds deposited in an account must be available for withdrawal for the same general class of deposit or that addresses the same type of risk as an exception provided in this subpart, but the time allowed for the exception, or the exception itself, is different from the exception provided in this subpart.

(e) *Procedures for preemption determinations.* Any request for a determination shall include the following—

(1) A copy of the full text of the state law in question, including any implementing regulations or judicial interpretations of that law; and

(2) A comparison of the provisions of state law with the corresponding provisions in the Act and Subparts A and B of this part, together with a discussion of the reasons why specific provisions of state law are either consistent or inconsistent with corresponding sections of the Act and Subparts A and B of this part.

§ 229.21 Civil liability.

(a) *Civil liability.* Any depositary bank that fails to comply with any requirement imposed under this subpart or any provision of state law that supersedes any provision of this subpart with respect to any person is liable to that person in an amount equal to the sum of—

(1) Any actual damage sustained by that person as a result of the failure;

(2) Such additional amount as the court may allow, except that—

(i) In the case of an individual action, liability under this paragraph shall not be less than $100 nor greater than $1,000; and

(ii) In the case of a class action—

(A) No minimum recovery shall be applicable to each member of the class; and

(B) The total recovery under this paragraph in any class action or series of class actions arising out of the same failure to comply by the same depositary bank shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depositary bank involved; and,

(3) In the case of a successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) *Class action awards.* In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) The amount of any damages awarded;

(2) The frequency and persistence of failures of compliance;

(3) The resources of the depositary bank;

(4) The number of persons adversely affected; and

(5) The extent to which the failure of compliance was intentional.

(c) *Bona fide errors*—(1) *General rule.* A depositary bank is not liable in any action brought under this section for a violation of this subpart if the depositary bank demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) *Examples.* Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to the depositary bank's obligation under this subpart is not a bona fide error.

(d) *Jurisdiction.* Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) *Reliance on Board rulings.* No provision of this subpart imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, regardless of whether such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason after the act or omission has occurred.

(f) *Exclusions.* This section does not apply to claims that arise under Subpart C or to actions for wrongful dishonor.

(g) *Record retention.* (1) A bank shall retain evidence of compliance with the requirements imposed by this subpart for not less than two years. Records may be stored by use of microfiche, microfilm, magnetic, or other methods capable of accurately retaining and reproducing information.

(2) If a bank has actual notice that it is being investigated, or is subject to an enforcement proceeding by an agency charged with monitoring that bank's compliance with the Act and this subpart, or has been served with notice of an action filed under this section, it shall retain the records pertaining to the action or proceeding pending final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

Subpart C—Collection of Checks

§ 229.30 Paying bank's responsibility for return of checks.

(a) *Return of checks or notice of nonpayment.* If the paying bank determines not to pay a check, it shall return the check or provide notice of nonpayment in an expeditious manner. The paying bank returns the check in an expeditious manner if it sends the returned check in a manner that a similarly situated bank would normally handle a check:

(1) Of similar amount as the returned check,

(2) Drawn on the depositary bank, and

(3) Deposited for forward collection in the similarly situated bank before noon on the banking day following the banking day on which the returned check was presented to the paying bank.

Subject to the requirement for expeditious return, the paying bank may send the returned check to the bank that presented the check being returned, to the depositary bank, or to any other bank (including a Federal Reserve Bank or Federal Home Loan Bank) agreeing to handle the check for return to the depositary bank as expeditiously as it would handle a forward collection check drawn on the depositary bank as specified in § 229.31. The paying bank may, but is not required to, convert the returned check to a qualified returned check. The paying bank provides notice of nonpayment in an expeditious manner if it provides notice of nonpayment with respect to the check, regardless of amount, in accordance with § 229.33, and also returns the check in a reasonably prompt manner. This paragraph does not affect a paying bank's responsibility for timely return under the U.C.C. or Regulation J (12 CFR Part 210).

(b) *Extension of deadline for small-dollar checks.* A paying bank, in an effort to avoid dishonor of a check in an amount of $100 or less, may extend the time for return or notice of nonpayment under the U.C.C., Regulation J (12 CFR Part 210), or paragraphs (a) or (c) of this section by not more than two business days without liability to or discharge of any other party. If the paying bank extends such times, it shall review the factors on which a decision to pay or return is based on the business day on which it returns the check or sends notice of nonpayment.

(c) *Extension of deadline for expedited delivery.* A paying bank, in an effort to expedite delivery of a returned

check to a bank, may extend the time for return or notice of nonpayment under the U.C.C., Regulation J (12 CFR Part 210), and paragraph (a) or (b) of this section, provided that the expedited method of delivery would ordinarily result in the returned check being received by the bank to which it is sent on or before that bank's next banking day following the otherwise applicable time for return or such later time as would result from the use of highly expeditious means of transportation.

(d) *Identification of returned check.* A paying bank returning a check shall clearly indicate on the face of the check that it is a returned check and the reason for return.

(e) *Depositary bank without accounts.* The expeditious return requirements of paragraph (a) of this section do not apply to checks deposited in a depositary bank that does not maintain accounts.

(f) *Notice in lieu of return.* If a check is unavailable for return by a paying bank, the bank may send in its place a notice of nonpayment in accordance with § 229.33, without regard to the time or amount limits. The notice shall clearly state that it constitutes a notice in lieu of return. A notice in lieu of return is considered a returned check subject to the time limits of this section and to other requirements of this subpart.

(g) *Reliance on routing number.* A paying bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement.

§ 229.31 Returning bank's responsibility for return of checks.

(a) *Return of checks.* A returning bank shall handle and return a returned check in an expeditious manner. A returning bank returns a check in an expeditious manner if it sends the returned check in a manner that a similarly situated bank would normally handle a check—

(1) Of similar amount as the returned check,

(2) Drawn on the depositary bank, and

(3) Received for forward collection by the similarly situated bank at the time the returning bank received the returned check.

A returning bank may set a cut-off hour for the receipt of returned checks that is earlier than its cut-off hour for checks received for forward collection, provided that the cut-off hour is not earlier than 2:00 p.m. Subject to the requirement for expeditious return, the returning bank may return the returned check to the immediate prior collecting bank that had sent the check to the returning bank during forward collection, to the depositary bank, or to any other bank (including a Federal Reserve Bank or a Federal Home Loan Bank) agreeing to handle the returned check as expeditiously as it would handle a forward collection check drawn on the depositary bank as specified in this section. The returning bank may convert the returned check to a qualified returned check.

(b) *Extension of deadline for qualified returned check.* A returning bank, in order to convert a returned check to a qualified returned check, may extend by one business day the time for return under the U.C.C., Regulation J (12 CFR Part 210), and paragraph (a) of this section. A returning bank may not, however, extend these times when it is returning a check directly to the depositary bank.

(c) *Acceptance by collecting bank.* A bank that handled a check during forward collection may not refuse to handle that check as a returned check.

(d) *Settlement.* A returning bank shall settle with a bank sending a returned check to it for return by the same means that it settles or would settle with the sending bank for a check received for forward collection drawn on the depositary bank. The settlement shall become final upon the expiration of the time for payment by the depositary bank as provided in § 229.32(b).

(e) *Charges.* A returning bank may impose a charge on a bank sending a returned check for handling the returned check.

(f) *Reliance on routing number.* A returning bank may return a returned check based on any routing number designating the depositary bank appearing on the returned check in the depositary bank's indorsement or in magnetic characters on a qualified returned check.

(g) *Depositary bank without accounts.* The expeditious return requirement of paragraph (a) of this section does not apply to checks deposited with a depositary bank that does not maintain accounts.

(h) *Notice in lieu of return.* If a check is unavailable for return, the returning bank may send in its place notice of nonpayment in accordance with § 229.33, without regard to the time or amount limits of that section. The notice shall clearly state that it constitutes a notice in lieu of return and is considered a returned check subject to the requirements of this subpart.

§ 229.32 Depositary bank's responsibility for returned checks.

(a) *Acceptance of returned checks.* A depositary bank shall accept returned checks and written notices of nonpayment—

(1) At any branch or head office consistent with the name and address of the bank in its indorsement on the check;

(2) If no address appears in the indorsement, at any branch or head office associated with the routing number of the bank in its indorsement on the check;

(3) If no routing number or address appears in its indorsement on the check, at any branch or head office of the bank; and

(4) At any location at which the bank accepts checks as a paying bank.

(b) *Payment.* A depositary bank becomes accountable for the amount of a returned check (or notice in lieu of return) at the close of the banking day on which it receives the check or notice ("payment date"). Prior to that time the depositary bank shall pay the bank returning the check to it (the paying or returning bank) for the amount of the check by—

(1) Debit to an account of the depositary bank on the books of the returning or paying bank,

(2) Cash,

(3) Wire transfer, or

(4) Any other form of payment acceptable to the returning or paying bank,

provided that the proceeds of such payment are available to the returning or paying bank in cash or by credit to an account of the returning or paying bank on or as of the payment date. If the payment date is not a banking day for the returning or paying bank, payment shall be made by the next day that is a banking day for the returning or paying bank. Any provisional credit between banks (including Federal Reserve Banks and Federal Home Loan Banks) for the check arising during the forward collection of the check shall become final upon the expiration of the time for payment by the depositary bank.

(c) *Recovery by depositary bank from collecting bank.* If, during the forward collection of a check, the depositary bank did not receive full provisional settlement for the check, the depositary bank may recover for the returned check from the bank (including a Federal Reserve Bank or a Federal Home Loan Bank) to which it sent the check for forward collection the amount of any payment the depositary bank made to the bank returning the check for the returned check, less any settlement the depositary bank received.

(d) *Misrouted returned checks and notices of nonpayment.* If a bank receives a returned check or notice of

nonpayment on the basis that it is the depositary bank, and the bank determines that it is not the depositary bank with respect to the check or notice, it shall identify the depositary bank and, thereafter, as a returning bank, forward the returned check or notice to the depositary bank. If the bank cannot identify the depositary bank, it shall, as a returning bank, send the returned check or notice to the bank from which it received the check or notice.

§ 229.33 Notice of nonpayment.

(a) *Requirement.* If a paying bank determines not to pay a check in the amount of $2,500 or more, it shall provide notice of nonpayment such that it is received by the depositary bank by 4:00 p.m. (local time) on the second business day following the banking day on which the check was received by the paying bank. If the day the paying bank is required to provide notice to the depositary bank is not a banking day for the depositary bank, receipt of notice on the depositary bank's next banking day constitutes timely notice. Notice may be provided by any reasonable means, including the returned check, a writing (including a photocopy of the check), telephone, Fedwire, telex, or other form of telegraph. Notice of nonpayment initiated under § 229.30 or § 229.31 shall also be given as provided in this section, but no more than one notice is required for a single check.

(b) *Content of notice.* Notice must include the:

(1) Name and routing number of the paying bank;

(2) Name of the payee(s);

(3) Amount;

(4) Date of the indorsement of the depositary bank (or if given to a collecting bank other than the depositary bank, the date of indorsement of the collecting bank and the name, routing number, and date of indorsement of any prior collecting bank and the depositary bank);

(5) Account number of the depositor(s) in the depositary bank;

(6) Branch name or number of the depositary bank from its indorsement;

(7) Trace number associated with the indorsement of the depositary bank; and

(8) Reason for return.

The notice may include other information from the check that may be useful in identifying the check being returned and the depositor, and, in the case of a written notice, must include the name and routing number of the depositary bank from its indorsement. The notice need not include information that the bank cannot determine with reasonable certainty from the check itself through the exercise of ordinary care and good faith. If the paying bank is not sure of a piece of information, it may, but is not required to, identify the information with question marks. If the paying bank cannot identify the depositary bank, it should send the notice of nonpayment to the first bank that it can identify that handled the check during forward collection.

(c) *Acceptance of notice.* The depositary bank shall accept notices during its banking day at the general purpose telephone or telegraph number of its head office or of the branch designated in the indorsement, at the number of its return item unit, at any other number held out by the bank for receipt of notice of nonpayment, and, in the case of written notice, as specified in § 229.32(a).

(d) *Charge-back.* If the depositary bank receives a returned check (or notice of nonpayment) and fails to send the returned check or notice of nonpayment to its customer within the time and manner provided in the U.C.C., it may charge-back the amount of any credit given for the check to its customer's account, but is liable to the customer for any loss resulting from any delay in charging-back if the notice contains sufficient information to allow the depositary bank to charge-back.

(e) *Cancellation of notice.* If a paying bank gives notice of nonpayment and subsequently determines to pay a check, the paying bank shall provide a second notice as soon as reasonably possible, indicating that it is a second notice cancelling a previous notice and containing all the information in the original notice.

§ 229.34 Warranties by paying bank and returning bank.

(a) *Warranties.* Each paying bank or returning bank that transfers a returned check and receives a settlement or other consideration for it warrants to the transferee returning bank, to any subsequent returning bank, to the depositary bank, and to the owner of the check, that:

(1) The paying bank returned the check timely under the U.C.C., Regulation J (12 CFR Part 210), or § 229.30 of this part;

(2) It is authorized to return the check; and

(3) The returned check has not been materially altered.

(b) *Damages.* Damages for breach of these warranties shall not exceed the consideration received by the paying or returning bank plus finance charges and expenses related to the returned check, if any.

(c) *Tender of defense.* If a returning bank is sued for breach of a warranty under this section, it may give a prior returning bank or the paying bank written notice of the litigation, and the bank notified may then give similar notice to any other prior returning bank or the paying bank. If the notice states that the paying or returning bank notified may come in and defend and that if the paying or returning bank notified does not do so, it will in any action against it by the paying or returning bank giving the notice be bound by any determination of fact common to the two litigations, then unless after reasonable receipt of the notice the paying or returning bank notified does come in and defend, it is so bound.

§ 229.35 Indorsements.

(a) *Indorsement standards.* A bank, a Federal Reserve Bank, or a Federal Home Loan Bank, other than a paying bank that handles a check during forward collection or a returned check, shall indorse the check in accordance with the indorsement standard set forth in Appendix D to this part.

(b) *Contract of indorser.* A paying bank or returning bank makes the contract of an indorser and may have the rights of a holder with respect to each returned check it handles.

§ 229.36 Presentment of checks.

(a) *Presentment of checks.* A check payable at or through a paying bank is considered to be drawn on that bank for purposes of determining the time for return or notice of nonpayment by the paying bank under the U.C.C., Regulation J (12 CFR Part 210), and this part.

(b) *Receipt at bank office or processing center.* A check is considered received by the paying bank when it is received:

(1) At any branch or head office if the bank is identified on the check by name without address,

(2) At any branch or head office consistent with the name and address of the bank on the check,

(3) At any address of the bank associated with the routing number of the bank on the check, whether in magnetic characters or in fractional form, or

(4) At a location to which delivery is requested by the paying bank.

(c) *Truncation.* A bank, Federal Reserve Bank, or Federal Home Loan Bank may present a check to a paying bank by transmission of information describing the check in accordance with an agreement with the paying bank. A truncation agreement may not extend return times or otherwise vary the

requirements of this part with respect to parties interested in the check that are not party to the agreement.

§ 229.37 Inquiry to paying bank.

A paying bank shall respond promptly to a telephone or telegraph inquiry from a depositary bank with respect to whether a depository check drawn upon it has been issued, certified, or payment stopped thereon, or whether it has been paid, returned, or notice of nonpayment given, and confirm information on the face of the check including the amount and payee. With respect to a teller's check, the drawing bank shall respond promptly to a telephone or telegraph inquiry from a depositary bank with respect to whether a teller's check has been issued, or payment has been stopped thereon, and confirm information on the face of the check, including the amount and payee. A paying or drawing bank does not agree to pay the check by responding to such an inquiry.

§ 229.38 Liability.

(a) *Standard of care; liability; measure of damages.* A bank shall exercise ordinary care and act in good faith in complying with the requirements of this subpart. A bank that fails to exercise ordinary care or act in good faith under this subpart may be liable to the depositary bank, the owner of a check, or another party to the check. The measure of damages for failure to exercise ordinary care is the amount of the loss incurred, up to the amount of the check, reduced by the amount of the loss that party would have incurred even if the bank had exercised ordinary care. A bank that fails to act in good faith under this subpart may be liable for other damages, if any, suffered by the party as a proximate consequence. Subject to a bank's duty to exercise ordinary care or act in good faith in choosing the means of return or notice of nonpayment, the bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person, or for loss or destruction of a check or notice in transit or in the possession of others. This section does not affect a paying bank's liability to its customer under the U.C.C. References to "bank" in this section include a Federal Reserve Bank and Federal Home Loan Bank.

(b) *Paying bank's failure to make timely return.* If a paying bank fails both to comply with § 229.30 and to comply with the requirement of timely return under the U.C.C. or Regulation J (12 CFR Part 210) in connection with a single nonpayment of a check, the paying bank shall be liable under either § 229.30 or such other provision, but not both.

(c) *Comparative negligence.* If a person, including a bank, Federal Reserve Bank, or Federal Home Loan Bank, fails to exercise ordinary care or act in good faith under this subpart in indorsing a check (§ 229.35) or accepting a returned check or notice (§§ 229.32(a) and 229.33(c)), or otherwise, the loss incurred by that person under § 229.38(a) shall be diminished in proportion to the amount of negligence or bad faith attributable to that person.

(d) *Timeliness of action.* If a bank, a Federal Reserve Bank, or a Federal Home Loan Bank is delayed in acting beyond the time limits set forth in this subpart because of interruption of communication or computer facilities, suspension of payments by a bank, war, emergency conditions, failure of equipment, or other circumstances beyond its control, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

(e) *Exclusion.* Section 229.21 of this part and § 611 (a) and (b) of the Act (12 U.S.C. 4010 (a) and (b)) do not apply to this subpart.

(f) *Bona fide errors.* A bank is not liable in any action brought under this section for a violation of this subpart if the bank demonstrates by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. An error of legal judgment with respect to a bank's obligation under this subpart is not a bona fide error.

(g) *Jurisdiction.* Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(h) *Reliance on Board rulings.* No provision of this subpart imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, regardless of whether such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason after such act or omission has occurred.

§ 229.39 Insolvency of bank.

(a) *Duty of receiver.* A check or returned check in, or coming into, the possession of a paying, collecting, depositary, or returning bank that suspends payment and which check is not finally paid shall be returned by the receiver, trustee, or agent in charge of the closed bank to the bank or customer that transferred the check to the closed bank.

(b) *Preference against paying or a depositary bank.* If a paying or depositary bank finally pays a check or returned check and suspends payment without making a settlement for the check with its customer or the prior bank, which settlement is or becomes final, the customer or prior bank has a preferred claim against the paying or depositary bank.

(c) *Preference against collecting or returning bank.* If a collecting or returning bank receives settlement from a subsequent bank for a check or returned check, which settlement is or becomes final, and suspends payments without making a settlement for the check with the prior bank, which is or becomes final, the prior bank has a preferred claim against the collecting or returning bank.

(d) *Final payment of provisional settlement.* If a paying bank gives, or a collecting bank gives or receives, a provisional settlement for a check or returned check and thereafter suspends payment, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of a certain time or the happening of certain events.

§ 229.40 Relation to state law.

The provisions of this subpart supersede any inconsistent provisions of the U.C.C. as adopted in any state, or of any other state law, but only to the extent of the inconsistency.

§ 229.41 Exclusions.

The expeditious return requirements of this subpart do not apply to a check drawn upon the account of the United States Treasury, to a check indorsed by, or for credit to the United States Treasury, or to a U.S. Postal Service money order.

Appendix A—Routing Number Guide to Local Checks

Each bank is assigned a routing number by Rand McNally & Co., as agent for the American Bankers Association. The routing number takes two forms: A fractional form and a nine-digit form. A paying bank is normally identified on the face of a check by its routing number in both the fractional form (which generally appears in the upper right-hand corner of the check) and the nine-digit form (which is printed in magnetic ink in a strip along the bottom of the check).

The first four digits of the nine-digit routing number and the denominator of the fractional routing number form the "Federal Reserve routing symbol," which identifies the Federal Reserve District, the Federal Reserve office, and the clearing arrangements used by the paying bank. Because the Expedited Funds Availability Act and Regulation CC define local and nonlocal checks in terms of the Federal Reserve office serving the paying bank, it is possible to determine whether a check is local or nonlocal by reference to the Federal Reserve routing symbol.

The following is a list of Federal Reserve routing symbols associated with each Federal Reserve office. A depositary bank should refer to the routing numbers listed below for the Federal Reserve office that serves the territory in which the branch of deposit is located. Checks with these Federal Reserve routing symbols are considered local checks.

First Federal Reserve District

(Federal Reserve Bank of Boston)

Head Office
0110 [1]
2110 [2]
0113
2113
0114
2114
0115
2115
0116
2116
0117
2117

Windsor Locks Office
0111
2111
0118
2118
0119
2119
0211
2211

Lewiston Office
0112
2112

Second Federal Reserve District

(Federal Reserve Bank of New York)

Head Office
0210
0211 [3]
2211
0215
2215
0216
2216
0260
2260

Buffalo Branch
0220
2220
0223
2223

Cranford Office
0212
2212

Jericho Office
0214
2214
0280
2280
0219
2219

Utica Office
0213
2213

Third Federal Reserve District

(Federal Reserve Bank of Philadelphia)

Head Office
0310
2310
0360
2360
0311
2311
0312
2312
0313
2313
0319
2319

Fourth Federal Reserve District

(Federal Reserve Bank of Cleveland)

Head Office
0410
2410
0412
2412

Cincinnati Branch
0420
2420
0421
2421
0422
2422
0423
2423

Pittsburgh Branch
0430
2430
0432
2432
0433
2433
0434
2434

Columbus Office
0440
2440
0441
2441
0442
2442

Fifth Federal Reserve District

(Federal Reserve Bank of Richmond)

Head Office
0510
2510
0514
2514

Baltimore Branch
0520
2520
0521
2521
0522
2522
0540
2540
0550
2550
0560
2560
0570
2570

Charlotte Branch
0530
2530
0531
2531

Columbia Office
0532
2532
0539
2539

Charleston Office
0515
2515
0519
2519

Sixth Federal Reserve District

(Federal Reserve Bank of Atlanta)

Head Office
0610
2610
0611
2611
0612
2612
0613
2613

Birmingham Branch
0620
2620
0621
2621
0622
2622

Jacksonville Branch
0630
2630
0631
2631
0632
2632

Nashville Branch
0640
2640
0641
2641
0642
2642

New Orleans Branch
0650

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[1] The first two digits identify the Federal Reserve District. Thus 01 identifies the First Federal Reserve District (Boston), and 12 identifies the Twelfth District (San Francisco).

[2] Adding 2 to the first digit denotes a thrift institution. Thus 21 identifies a thrift in the First District, and 32 denotes a thrift in the Twelfth District.

[3] Banks in Fairfield County, Connecticut are members of the Federal Reserve Bank of New York and therefore have Second District routing numbers. Their checks, however, are processed by the Windsor Locks office. Thus, checks drawn on banks with 0211 or 2211 routing numbers would not be local checks for Second District depositary banks.

2650
0651
2651
0652
2652
0653
2653
0654
2654
0655
2655
Miami Branch
0660
2660
0670
2670

Seventh Federal Reserve District
(Federal Reserve Bank of Chicago)
Head Office
0710
2710
0711
2711
0712
2712
0719
2719
Detroit Branch
0720
2720
0724
2724
Des Moines Office
0730
2730
0739
2739
Indianapolis Office
0740
2740
0749
2749
Milwaukee Office
0750
2750
0759
2759

Eighth Federal Reserve District
(Federal Reserve Bank of St. Louis)
Head Office
0810
2810
0812
2812
0815
2815
0819
2819
0865
2865
Little Rock Branch
0820
2820
0829
2829
Louisville Branch
0813
2813
0830
2830
0839
2839
0863
2863
Memphis Branch
0840
2840
0841
2841
0842
2842
0843
2843

Ninth Federal Reserve District
(Federal Reserve Bank of Minneapolis)
Head Office
0910
2910
0911
2911
0912
2912
0913
2913
0914
2914
0915
2915
0960
2960
0918
2918
0919
2919
Helena Branch
0920
2920
0921
2921
0929
2929

Tenth Federal Reserve District
(Federal Reserve Bank of Kansas City)
Head Office
1010
3010
1011
3011
1012
3012
1019
3019
Denver Branch
1020
3020
1021
3021
1022
3022
1023
3023
1070
3070
Oklahoma City Branch
1030
3030
1031
3031
1039
3039
Omaha Branch
1040
3040
1041
3041
1049
3049

Eleventh Federal Reserve District
(Federal Reserve Bank of Dallas)
Head Office
1110
3110
1113
3113
1111
3111
1119
3119
El Paso Branch
1120
3120
1122
3122
1123
3123
1163
3163
Houston Branch
1130
3130
1131
3131
San Antonio Branch
1140
3140
1149
3149

Twelfth Federal Reserve District
(Federal Reserve Bank of San Francisco)
Head Office
1210
3210
1214
3214
1211
3211
1212
3212
1213
3213
Los Angeles Branch
1220
3220
1221
3221
1222
3222
1223
3223
1224
3224
Portland Branch
1230
3230
1231
3231
1232
3232
1233
3233
Salt Lake City Branch
1240

3240
1241
3241
1242
3242
1243
3243
Seattle Branch
1250
3250
1251
3251
1252
3252

Appendix B–1—Reduction of Schedules for Certain Nonlocal Checks Under the Temporary Schedule

A depositary bank that is located in the following check processing territories shall make funds deposited in an account by a nonlocal check described below available for withdrawal not later than the number of business days following the banking day on which funds are deposited, as specified below.

Federal Reserve Office	Number of business days following the banking day funds are deposited
Boston: Depositary banks (0110, 2110) to:	
0210 0260 2260 0280 0310 2310	
0360 2360 0710 2710	5
Windsor Locks:	
0211 2211	3
Lewiston: None.	
New York: Depositary banks (0210,0280,0260,2260) to:	
0214 2214 0219 2219	3
Jericho:	
0210 0280 0260 2260	3
Cranford:	
0210 0260 0280 2260	3
Buffalo: None.	
Utica:	
0210 0280	3
Philadelphia: Depositary banks (0310,2310,0360,2360) to:	
0110 2110 0210 0260 2260 0220	
2220 0410 2410 0420 2420 0430	
2430 0440 2440 0510 0519 2519	
0520 2520 0530 2530 0530 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0830 2830 0840 2840 0910 2910	
0960 2960 1010 3010 1020 3020	
1040 3040	5
Cleveland: Depositary banks (0410,2410) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0420 2420 0430 2430 0440 2420	
0510 2510 0519 2519 0520 2520	
0530 2530 0539 2539 0610 2610	
0620 2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1130 3130 1120 3120	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
Cincinnati: Depositary banks (0420,2420) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0430 2430 0440 2440	
0510 2510 0519 2519 0520 2520	
0530 2530 0539 2539 0610 2610	
0620 2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1240 3240 1210 3210	
1220 3220 1223 3223 1230 3230	
1240 3240 1250 3250	5
Columbus: Depositary banks (0440,2440) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0510 2510	
0519 2519 0520 2520 0530	
2530 0539 2539 0610 2610	
0620 2620 0630 2630 0640	
2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730	
2730 0740 2740 0750 2750	
0810 2810 0820 2820 0830	
2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1240 3240 1120 3210 1220	
3220 1223 3223 1230 3230	
1240 3240 1250 3250	5
Pittsburgh: Depositary banks (0430,2430) to:	
0520 2520 0110 2110 0220	
2220 0519 2519 0530 2530	
0710 2710 0420 2420 0410	
2410 0440 2440 0730 2730	
0720 0539 2539 0630 2630	
0820 2820 0920 2920 1030	
3130 0740 2740 0830 2830	
0750 2750 0910 2910 0960	
2960 0310 2310 0360 2360	
0510 2510 0810 2810 0210	
0260 0280 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 0610 2610 0620 2620	
0640 2640 0650 2650 0660	
2660 0840 2840 1010 3010	
1020 3020 1040 3040 1240	
3240 1220 3220 1223 3223	
1230 3230 1250 3250 3210	5
Richmond: Depositary banks (0510,2510) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0515 2515 0519 2519 0520	
2520 0530 2530 0531 2531	
0539 2539 0610 2610 0620	
2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710	
2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810	
2810 0820 2820 0830 2830	
0840 2840 0910 2910 0960	
2960 1010 3010 1020 3020	
1030 3030 1040 3040 1110	
3110 1120 3120 1130 3130	
1140 3140	5
Baltimore: Depositary banks (0520,2520) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0820	
2820 1030 3030 1110 3110	
1120 3120 0530 2530 0539	
2539 0610 2610 0620 2620	
0630 2630 0640 2640 0650	
2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740	
2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840	
2840 0910 2910 0960 2960	
0920 1010 3010 1020 3020	
1030 3030 1130 3130 1140	
3140 1210 1220 3220 1230	
3230 1250 3250 1040 3040	
1110 3110 1120 3120 1130	
3130 1140 3140 1210 3210	
1220 3220 1223 3223 1230	
3230 1240 3240 1250 3250	5
Charlotte: Depositary banks (0530,2530) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0532 0539 2539 0610	
2610 0620 2620 0630 2630 0640	
2640 0650 2650 0660 2660 0710	
2710 0720 2720 0730 2730 0740	
2740 0750 2750 0810 2810 0820	
2820 0830 2830 0840 2840 0910	
2910 0960 2960 1010 3010 1020	
3020 1030 3030 1040 3040 1110	
3110 1120 3120 1130 3130 1140	
3140 1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240 1250	
3250	5
Columbia: Depositary banks (0539,2539) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0610 2610	
0620 2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 1010 3010 1020 3020	
1030 3030 1040 3040 1110 3110	
1120 3120 1130 3130 1140 3140	5
Charleston: Depositary banks (0519,2519) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0520 2520	
0530 2530 0539 2539 0610 2610	
0620 2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0830 2830	
0840 2840 0910 2910 0960 2960	
1010 3010 1020 3020 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1240 3240	5
Atlanta: Depositary banks (0610,2610) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0620 2620 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5

Federal Reserve Office	Number of business days following the banking day funds are deposited
Birmingham: Depositary banks (0620,2620) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0630 2630 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
Jacksonville: Depositary banks (0630, 2630) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0640 2640	
0650 2650 0660 2660 0710 2710	
0720 2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140	5
Miami: Depositary banks (0660, 2660) to:	
0220 2220 0410 2410 0420 2420	
0430 2430 0510 2510 0519 2519	
0110 2110 0210 0260 2260 0280	
0310 2310 0360 2360 0539 2539	
0710 2710 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0440 2440 0520 2520 0530 2530	
0610 2610 0830 2830 0910 2910	
0960 2960 0920 2920 1010 3010	
1030 3030 1040 3040 1110 3110	
0620 2620 0630 2630 0640 2640	
0650 2650 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250 0720 2720 0840 2840	
1020 3020	5
Nashville:	
0613 2613	3
Depositary banks (0640, 2640) to:	
0610 2610 0620 2620 0630 2630	
0650 2650 0660 2660 0530 2530	
0840 2840 0539 2539	5
New Orleans: Depositary banks (0650, 2650) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0710 2710 0720 2720	
0730 2730 0740 2740 0750 2750	
0810 2810 0820 2820 0830 2830	
0840 2840 0910 2910 0960 2960	
0920 2920 1010 3010 1020 3020	
1030 3030 1040 3040 1110 3110	
1120 3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223 3223	
1230 3230 1240 3240 1250 3250	5
Chicago: None.	

Federal Reserve Office	Number of business days following the banking day funds are deposited
Detroit: Depositary banks (0720, 1720) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0730 2730 0740 2740	
0750 2750 0810 2810 0820 2820	
0830 2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
Des Moines: None.	
Indianapolis: Depositary Banks (0740, 2740) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0520	
2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630	
2630 0640 2640 0650 2650	
0660 2660 0710 2710 0720	
2720 0730 2730 0750 2750	
0810 2810 0820 2820 0830	
2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240	
1250 3250	5
Milwaukee: Depositary banks (0750, 2750) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0520	
2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630	
2630 0640 2640 0650 2650	
0660 2660 0710 2710 0720	
2720 0730 2730 0740 2740	
0810 2810 0820 2820 0830	
2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240	
1250 3250	5
St. Louis: Depositary banks (0810, 2810) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0520	
2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630	
2630 0640 2640 0650 2650	
0660 2660 0710 2710 0720	
2720 0730 2730 0740 2740	
0750 2750 0820 2820 0830	
2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240	
1250 3250	5

Federal Reserve Office	Number of business days following the banking day funds are deposited
Little Rock: Depositary banks (0820, 2820) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0520	
2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630	
2630 0640 2640 0650 2650	
0660 2660 0710 2710 0720	
2720 0730 2730 0740 2740	
0750 2750 0810 2810 0830	
2830 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240	
1250 3250	5
Louisville: Depositary banks (0830, 2830) to:	
0110 2110 0210 0260 2260	
0280 0220 2220 0310 2310	
0360 2360 0410 2410 0420	
2420 0430 2430 0440 2440	
0510 2510 0519 2519 0520	
2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630	
2630 0640 2640 0650 2650	
0660 2660 0710 2710 0720	
2720 0730 2730 0740 2740	
0750 2750 0810 2810 0820	
2820 0840 2840 0910 2910	
0960 2960 0920 2920 1010	
3010 1020 3020 1030 3030	
1040 3040 1110 3110 1120	
3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223	
3223 1230 3230 1240 3240	
1250 3250	5
Memphis: Depositary banks (0840, 2840)	
0110 2110 0210 0260 2260	
0280 0310 2310 0360 2360	
0410 2410 0510 2510 0220	
2220 0420 2420 0430 2430	
0440 2440 0519 2519 0610	
2610 0710 2710 0810 2810	
1010 3010 1110 3110 0520	
2520 0530 2530 0530 2539	
0620 2620 0630 2630 0640	
2640 0650 2650 0660 2660	
0720 2720 0730 2730 0740	
2740 0750 2750 0810 2810	
0820 2820 0840 2840 0910	
2910 0960 2960 1010 3010	
1020 3020 1030 3030 1040	
3040 1120 3120 1130 3130	
1140 3140 1240 3240	5
Minneapolis: Depositary banks (0910, 2910, 0960, 2960) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2680	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0920 2920 1010 3010 1020 3020	
1030 3030 1040 3040 1110 3110	
1120 3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223 3223	
1230 3230 1240 3240 1250 3250	5

Federal Reserve Office	Number of business days following the banking day funds are deposited
Helena: None.	
Kansas City:	
0865 2865	
Depository banks (1010, 3010) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
Denver: None.	
Oklahoma City: Depositary banks (1030, 3030) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1010 3010 1020 3020 1040 3040	
1110 3110 1120 3120 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
Omaha: Depositary banks (1040, 3040) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1010 3010 1020 3020 1030 3030	
1120 3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223 3223	
1230 3230 1240 3240 1250 3250	5
Dallas: Depositary banks (1110, 3110) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1010 3010 1020 3020 1030 3030	
1120 3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223 3223	
1230 3230 1240 3240 1250 3250	5
Houston: Depositary banks (1130, 3110) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1010 3010 1020 3020 1030 3030	
1120 3120 1130 3130 1140 3140	
1210 3210 1220 3220 1223 3223	
1230 3230 1240 3240 1250 3250	5
San Antonio: Depositary banks (1140, 3140) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 1010 3010	
1020 3020 1030 3030 1040 3040	
1110 3110 1120 3120 1130 3120	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
El Paso: Depositary banks (1120, 3120) to:	
0110 2110 0210 0260 2260 0280	
0220 2220 0310 2310 0360 2360	
0410 2410 0420 2420 0430 2430	
0440 2440 0510 2510 0519 2519	
0520 2520 0530 2530 0539 2539	
0610 2610 0620 2620 0630 2630	
0640 2640 0650 2650 0660 2660	
0710 2710 0720 2720 0730 2730	
0740 2740 0750 2750 0810 2810	
0820 2820 0830 2830 0840 2840	
0910 2910 0960 2960 0920 2920	
1010 3010 1020 3020 1030 3030	
1040 3040 1110 3110 1130 3130	
1140 3140 1210 3210 1220 3220	
1223 3223 1230 3230 1240 3240	
1250 3250	5
San Francisco: None.	
Los Angeles: None.	
Portland:	
1250 3250	5
Salt Lake City: None.	
Seattle: Depositary banks (1250, 3250) to:	
1230 3230	5

Appendix B–2—Reduction of Schedules for Certain Nonlocal Checks Under the Permanent Schedule

A depositary bank that is located in the following check processing territories shall make funds deposited in an account by a nonlocal check described below available for withdrawal not later than the number of business days following the banking day on which funds are deposited, as specified below.

Federal Reserve Office	Number of business days following the banking day funds are deposited
Windsor Locks:	
0211 2211	3
New York: Depositary banks (0210,0280,0260,2260) to:	
0214 2214 0219 2219	3
Jericho:	
0210 0280 0260 0260	3
Cranford:	
0210 0260 0280 2260	3
Utica:	
0210 0280	3
Nashville:	
0613 2613	3
Kansas City:	
0865 2865	3

Appendix C—Model Disclosure Forms

Specific Policy Disclosures

C–1 Where bank gives next-day availability and places no holds

C–2 Where bank gives next-day availability and places holds on safeguard and new account exceptions bases

C–3 Where bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis, and places no holds on safeguard or new account exceptions bases

C–4 Where bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis, and places holds on safeguard exceptions basis but not on new account exception basis

C–5 Where bank places holds to statutory limits on all statutory categories of deposits

C–6 Where bank places holds to statutory limits on all statutory categories of deposits (includes chart)

C–7 Where bank places holds on all statutory categories of deposits, but for less than the statutory limits

Other Notices

C–8 Notice of exception

C–9 Notice of hold (bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis)

C–10 Notice at branch locations

C–11 Notice at proprietary automated teller machines, drive-in teller facilities, and on preprinted deposit slips

C–12 Notice at a bank's automated teller machines that may be used for deposits by customers of other banks

C–13 Interest payment policy insert in specific policy disclosure

C–1 Where bank gives next-day availability and places no holds

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to allow you to withdraw funds deposited into your account on the next business day after the day we receive your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

C–2—Where bank gives next-day availability and places holds on safeguard and new account exceptions bases

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to allow you to withdraw funds deposited into your account on the next business day after the day we receive your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

LONGER DELAYS MAY APPLY

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons

If we believe the check you are depositing is uncollectible.

If you make deposits in any one day that exceed $5,000.

If you redeposit a check that has been returned unpaid.

If you have overdrawn your account three or more times in the last six months.

We will notify you if we do this, and tell you when you will be able to withdraw the funds. (We will delay for no more than four additional business days.)

SPECIAL RULES FOR NEW ACCOUNTS

If your account has been open 30 days or less, we may further limit your ability to withdraw funds deposited by check, but only during the first 30 days.

You may still withdraw funds on the next business day after the day of your deposit if you made the deposit in cash or by wire transfer. You also have next-day availability for the following deposits (if they meet certain requirements): Government checks, cashier's checks, certified checks, teller's checks, or traveler's checks. However, your withdrawals of these check deposits are limited to the first $5,000 of a day's total deposits. (The rest is available on the ninth business day after the day of deposit.)

For all other check deposits, you may withdraw the deposited funds after (number) business days.

C-3—Where bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis, and places no holds on safeguard or new account exceptions bases

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to allow you to withdraw funds deposited into your account on the next business day after the day we receive your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

LONGER DELAYS MAY APPLY

In some cases, we may find it necessary to delay your ability to withdraw funds deposited into your account by check beyond the next business day.

When we do extend the delay, you may not withdraw— either in cash or by writing checks to others—more than the first $100 of the deposit until the hold expires. The length of the delay will vary with the type of check you are depositing. It may last as long as seven business days after the day of your deposit (counting the business day after the day of deposit as day one).

Any time we decide to delay your ability to withdraw funds beyond the next business day, we will notify you at the time of your deposit, and we will specify the date on which you can begin to withdraw these funds. (If your deposit was made other than directly to a bank employee, we will notify you by mail the day after we receive the deposit.)

C-4—Where bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis, and places holds on safeguard exceptions basis, but not on new account exception basis

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to allow you to withdraw funds deposited into your account on the next business day after the day we receive your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

LONGER DELAYS MAY APPLY

In some cases, we may find it necessary to delay your ability to withdraw funds deposited into your account by check beyond the next business day.

When we do extend the delay, you may not withdraw—either in cash or by writing checks to others—more than the first $100 of the deposit until the hold expires. The length of the delay will vary with the type of check you are depositing. It may last as long as seven business days after the day of your deposit (counting the business day after the day of deposit as day one).

Any time we decide to delay your ability to withdraw funds beyond the next business day, we will notify you at the time of your deposit, and we will specify the date on which you can begin to withdraw these funds. (If your deposit was made other than directly to a bank employee, we will notify you by mail the day after we receive the deposit.)

We may also delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons:

If we believe the check you are depositing is uncollectible.

If you make deposits in any one day that exceed $5,000.

If you redeposit a check that has been returned unpaid.

If you have overdrawn your account three or more times in the last six months.

Again, we will notify you if we do this, and tell you when you will be able to withdraw the funds. (We will delay for no more than four additional business days.)

C-5—Where bank places holds to statutory limits on all statutory categories of deposits

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to delay your ability to withdraw funds that you deposit by check into your account. The length of the delay varies, and is explained below. When we delay your ability to withdraw funds from a deposit, you may not withdraw the funds in cash, and we will not pay checks you write on your account by using these funds.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

DETERMINING AVAILABILITY OF YOUR DEPOSIT

When we delay your ability to withdraw funds, the length of the delay is counted in business days from the day of your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

1. Next-Day Availability

You may withdraw the first $100 of any deposit of checks on the next business day after the day of your deposit.

In addition, you may withdraw the entire amount of the following deposits on the next business day after the business day of your deposit:

Cash.

Wire transfers, including preauthorized credits, such as social security benefits and payroll payments.

Checks drawn on us, that is, drawn on the (bank name) unless (any limitations related to branches in different states or check processing regions.).

United States government checks payable to you.

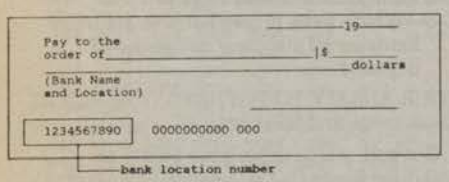
State and local government checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained).

Cashier's, certified, or teller's checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained).

2. Availability of Other Check Deposits

Your ability to withdraw deposits other than those listed above depends on whether your check is local or nonlocal.

To determine whether the check you want to deposit is local or a nonlocal check, look at its bank location number. This is the number printed on the lower left-hand corner of the check:



If the first four digits of the bank location number (1234 in the above example) are (bank's local routing numbers), then the check is drawn on a bank that is located in the same check-processing region as us, and we consider it a local check. If the first four digits of the bank location number of the check you are depositing are not listed above, then the check is drawn on a bank outside our check-processing region and we consider it a nonlocal check.

Local checks deposited into your account will be available to pay any checks you have written to others starting on the third business day after the business day of your deposit. (The first $100 of any checks deposited may be withdrawn on the business day following the day of deposit.) Also, you may withdraw up to $400 of the deposit in cash at or after (time no later than 5:00 p.m.) on the third business day after the business day of your deposit if your check is a local check. You may withdraw the remaining amount on the fourth business day after the day of your deposit.

For example, if you deposit a local check of $600 on a Monday, $100 of the deposit is available Tuesday, and the rest is available to pay checks written to others on Thursday. At or after (time no later than 5:00 p.m.) on Thursday you may withdraw up to $400 of the deposit in cash, and the rest is available for cash withdrawal on Friday.

Nonlocal checks deposited into your account will be available to pay any checks you have written to others starting on the seventh business day after the business day of your deposit. Also, you may withdraw the funds from the deposit in cash on that day.

For example, if you deposit a nonlocal check on a Monday, the funds from the deposit are available for withdrawal or to pay checks written to others on Wednesday of the next week.

3. Deposits at Automated Teller Machines

You may not withdraw funds from any deposits, whether cash or checks, made at automated teller machines we do not own or operate until the seventh business day after the business day of your deposit.

LONGER DELAYS MAY APPLY

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons:

If we believe the check being deposited is uncollectible.

If you make deposits in any one day that exceed $5,000.

If you redeposit a check that has been returned unpaid.

If you have overdrawn your account three or more times in the last six months.

We will notify you if we do this, and tell you when you will be able to withdraw the funds. (We will delay for no more than four additional business days.)

SPECIAL RULES FOR NEW ACCOUNTS

If your account has been open 30 days or less, we may further limit your ability to withdraw funds deposited by check, but only during the first 30 days.

You may still withdraw funds on the next business day after the day of your deposit if you made the deposit in cash or by wire transfer. You also have next-day availability for the following deposits (if they meet certain requirements): government checks, cashier's checks, certified checks, teller's checks, or traveler's checks. However, your withdrawals of these check deposits are limited to the first $5,000 of a day's total deposits. (The rest is available on the ninth business day after the day of deposit.)

For all other check deposits, you may withdraw the deposited funds after (number) business days.

C–6—Where bank places holds to statutory limits on all statutory categories of deposits (includes chart)

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to delay your ability to withdraw funds that you deposit by check into your account. The length of the delay varies, and is explained below. When we delay your ability to withdraw funds on a deposit, you may not withdraw the funds in cash and we will not pay checks you write on your account by using these funds.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

DETERMINING AVAILABILITY OF YOUR DEPOSIT

When we delay your ability to withdraw funds, the length of the delay is counted in business days from the day of your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

1. Next-Day Availability

You may withdraw the first $100 of any deposit of checks on the next business day after the day of your deposit.

In addition, you may withdraw the entire amount of the following deposits on the next business day after the business day of your deposit.

Cash.

Wire transfers, including preauthorized credits, such as social security benefits and payroll payments.

Checks drawn on us, that is, drawn on the (bank name) unless (any limitations related to branches in different states or check processing regions).

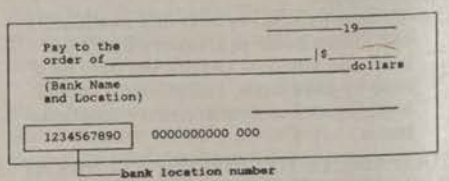
United States government checks payable to you.

State and local government checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained).

Cashier's, certified, or teller's checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained)

2. Availability of Other Check Deposits

To determine when funds deposited by check will be available to pay any checks you have written to others or for withdrawal, look at the check's bank location number. This is the number printed on the lower-left-hand corner of the check:



Once you have determined the bank location number, look at the first four digits of that number. The following chart can show you the availability time for your deposit:

Bank location number (first four digits) on the check being deposited	When funds are available	Example: When funds are available if a deposit is made on a Monday
(Local bank numbers).	3rd business day to pay checks written to others and $400 cash for withdrawal at or after (time no later than 5:00 p.m.).	Thursday (third day after the deposit).
	4th business day for rest of cash or to pay checks.	Friday (fourth day after the deposit).
All other bank numbers.	7th business day.....	Next Wednesday (the week following the deposit).

Deposits at automated teller machines that we do not own or operate, whether cash or check deposits, will not be available for withdrawal until the seventh business day after the date of deposit. (For example, a deposit you made on Monday of this week will not be available for withdrawal until Wednesday of next week.)

LONGER DELAYS MAY APPLY

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons:

If we believe the check you are depositing is uncollectible.

If you make deposits in any one day that exceed $5,000.

If you redeposit a check that has been returned unpaid.

If you have overdrawn your account three or more times in the last six months.

We will notify you if we do this, and tell you when you will be able to withdraw. (We will delay for no more than four additional business days.)

SPECIAL RULES FOR NEW ACCOUNTS

If your account has been open 30 days or less, we may further limit your ability to withdraw funds deposited by check, but only during the first 30 days.

You may still withdraw funds on the next business day after the day of your deposit if you made deposit in cash or by wire transfer. You also have next-day availability for the following deposits (if they meet certain requirements): government checks, cashier's checks, certified checks, teller's checks, or traveler's checks. However, your withdrawals of these check deposits are limited to the first $5,000 of a day's total deposits. (The rest is available on the ninth business day after the day of deposit.)

For all other check deposits, you may withdraw the deposited funds after (number) business days.

C-7—Where bank places holds on all statutory categories of deposits, but for less time than the statutory limits

YOUR ABILITY TO WITHDRAW FUNDS AT (bank name and location)

Our policy is to delay your ability to withdraw funds that you deposit by check into your account. The length of the delay varies, and is explained below. When we delay your ability to withdraw funds, you may not withdraw the funds in cash, and we will not pay checks you write on your account by using these funds.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

If you have any questions, contact your branch manager.

DETERMINING AVAILABILITY OF YOUR DEPOSIT

When we delay your ability to withdraw funds, the length of the delay is counted in business days from the day of your deposit. Every day except Saturday, Sunday, and a federal holiday is a business day. Your deposit will be considered received, however, only on a day we are open for business. For example, if you deposit on Thanksgiving, we consider the deposit made on Friday, the next day we are open for business. And if you make your deposit after (time of day) on any given business day, we consider it made on the next business day.

1. Next-Day Availability

You may withdraw the first $100 of any deposit of checks on the next business day after the day of your deposit.

In addition, you may withdraw the entire amount of the following deposits on the next business day after the business day of your deposit:

Cash.

Wire transfers, including preauthorized credits, such as social security benefits and payroll payments.

Checks drawn on us, that is, drawn on the (bank name) unless (any limitations related to branches in different states or check processing regions).

United States government checks payable to you.

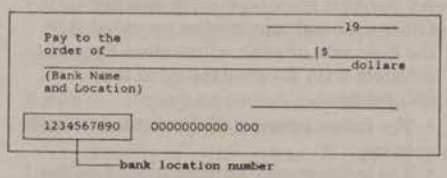
State and local government checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained).

Cashier's, certified, or teller's checks if they are payable to you and if you use a special deposit slip available from (where the form may be obtained).

2. Availability of Other Check Deposits

Your ability to withdraw deposits other than those listed above depends on whether your check is local or nonlocal.

To determine whether the check you want to deposit is a local or a nonlocal check, look at its bank location number. This is the number printed on the lower-left-hand corner of the check:



If the first four digits of the bank location number (1234 in the above example) are (bank's local routing numbers), then the check is drawn on a bank that is located in the same check-processing region as us, and we consider it a local check. If the first four digits of the bank location number of the check you are depositing are not listed above, then the check is drawn on a bank outside our check-processing region and we consider it a nonlocal check.

Local checks deposited into your account will be available to pay any checks you have written to others starting on (date). (The first $100 of any checks deposited may be withdrawn on the business day following the day of deposit.) Also, you may withdraw (amount) of the deposit in cash at or after (time no later than 5:00 p.m.) on (date) if your check is a local check. You may withdraw the remaining amount on (date).

For example, if you deposit a local check of $600 on a Monday, $100 of the deposit is available Tuesday, and the rest is available to pay checks written to others on (day). At or after (time no later than 5:00 p.m.) (amount) of the deposit in cash, and the rest is available for cash withdrawal on (day).

Nonlocal checks deposited into your account will be available to pay any checks you have written to others starting on (date). Also, you may withdraw the funds from the deposit in cash on that day.

For example, if you deposit a nonlocal check on a Monday, the funds from the deposit are available for withdrawal or to pay checks written to others on (day).

3. Deposits at Automated Teller Machines

You may not withdraw funds from any deposits, whether cash or checks, made at automated teller machines we do not own or operate until (date).

LONGER DELAYS MAY APPLY

We may delay your ability to withdraw funds deposited by check into your account an additional number of days for these reasons

If we believe the check being deposited is uncollectible.

If you make deposits in any one day that exceed $5,000.

If you redeposit a check that has been returned unpaid.

If you have overdrawn your account three or more times in the last six months.

We will notify you if we do this, and tell you when you will be able to withdraw the funds. (We will delay for no more than four additional business days.)

SPECIAL RULES FOR NEW ACCOUNTS

If your account has been open 30 days or less, we may further limit your ability to withdraw funds deposited by check, but only during the first 30 days.

You may still withdraw funds on the next business day after the day of your deposit if you made the deposit in cash or by wire transfer. You also have next-day availability for the following deposits (if they meet certain requirements): government checks, cashier's checks, certified checks, teller's checks, or traveler's checks. However, your withdrawals of these check deposits are limited to the first $5,000 of a day's total

deposits. (The rest is available on the ninth business day after the day of deposit.)

For all other check deposits, you may withdraw the deposited funds after (number) business days.

C–8—Notice of exception

Exception Hold Notice

(Date hold is placed)

We are placing a hold on the following checks deposited on (date). These funds will be available to you (number of business days) business days after the date the deposit was made. Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks that you deposit that are returned to us unpaid and for any other problems involving your deposit.

(*description of items including amount and payee*)

We placed the hold for the following reasons:

☐The check you deposited has been returned unpaid and is being redeposited.

☐Your account has been overdrawn three or more times in the last six months.

☐The checks you deposited on this day exceed $5,000. (This hold applies only to the amount over $5,000.)

☐We believe the check may be uncollectible for the following reasons:

_____

_____

_____

If you have any questions regarding this notice you may call (telephone number).

C–9—Notice of hold (bank gives next-day availability and places holds to statutory limits on local and nonlocal checks, but only on a case-by-case basis)

Notice of Hold

Date of deposit (*today's date*).

Amount of deposit (*amount*).

We are placing a hold on this deposit. These funds will be available to you on (*date*). Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks that you deposit that are returned to us unpaid and for any other problems involving your deposit.

C–10—Notice at branch locations

FUNDS AVAILABILITY POLICY

Description of deposit	When funds can be withdrawn by cash or check
Cash, wire transfers, checks on us unless (any limitation related to branches in different check processing regions), government, cashier's, certified, or teller's checks.	The business day after the day of deposit.
Local checks	The third business day after the day of deposit.

FUNDS AVAILABILITY POLICY—Continued

Description of deposit	When funds can be withdrawn by cash or check
Nonlocal checks	The seventh business day after the day of deposit.

C–11—Notice at proprietary automated teller machines, drive-in teller facilities, and on preprinted deposit slips

AVAILABILITY OF DEPOSITS

Notice: Deposits may not be available for immediate withdrawal. (Please refer to the bank's rules governing funds availability for details.)

C–12—Notice at a bank's automated teller machines that may be used for deposits by customers of other banks

AVAILABILITY OF DEPOSITS

Notice: If your account is at a bank other than (name of bank), funds deposited by cash or check may not be available until the seventh business day following the day of deposit. Please refer to your bank's rules governing funds availability for details.

C–13—Interest payment policy insert in specific policy disclosure

INTEREST PAYMENT POLICY

If we receive a deposit to your account on or before the tenth of the month, you begin earning interest on the deposit, whether it was a deposit of cash or checks, on the first day of the month. If we receive the deposit after the tenth of the month, you begin earning interest on the deposit as of the first of the following month. For example, a deposit made on June 7 earns interest from June 1, while a deposit made on June 17 earns interest from July 1.

Appendix D—Indorsement Standards

1. The depositary bank shall indorse a check according to the following specifications:

• The indorsement shall contain—

—The bank's nine-digit routing number, set off by arrows at each end of the number and pointing toward the number;

—The bank's name/location;

—The indorsement date.

• The indorsement may also contain—

—An optional branch identification;

—An optional trace/sequence number;

—Other optional information provided that the inclusion of such information does not interfere with the readability of the indorsement.

• The indorsement shall be written in dark purple ink.

• The indorsement shall be placed on the back of the check in the following location:

—A block-style indorsement, such as applied by an encoder or microfilmer, shall be wholly contained in the area 3.0 inches to 4.5 inches from the leading edge of the check.[1]

—A linear-style indorsement, such as applied by a reader/sorter, shall be placed so that the routing number is wholly contained in the area 3.0 inches to 4.5 inches from the leading edge of the check.

—The indorsement shall not be placed in the MICR clear band, extending along the bottom edge of the check to a height of 0.625 inch, nor in the one-write carbonized band location, extending the length of the check in a line between 1.4 inches and 1.9 inches above the bottom edge of the check.

2. Each subsequent bank indorser shall protect the identifiability and legibility of the depositary bank indorsement by:

• Including *only* its nine-digit routing number (without arrows), the indorsement date, and an optional trace/sequence number;

• Using an ink color other than purple;

• Staying clear of the area 3.0 inches to 4.5 inches from the leading edge of the check specified for the depositary bank indorsement.

3. All other indorsing parties, e.g., corporations, should protect the identifiability and legibility of the depositary bank indorsement by staying clear of the area 3.0 inches to 4.5 inches from the leading edge of the check specified for the depositary bank indorsement.

4. All depositary banks shall work with corporate indorsers to arrange that corporate payee indorsements include the name and nine-digit routing number of the bank in which they are depositing the check and the corporation's account number at that bank.

2. Part 210 is amended as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS AND TRANSFERS OF FUNDS (REGULATION J)

a. The authority citation for Part 210 is revised to read as follows:

Authority: Federal Reserve Act, section 13 (12 U.S.C. 342), section 11(i) (12 U.S.C. 248(i)), section 16 (12 U.S.C. 248(o) and 360), and section 19(f) (12 U.S.C. 464); and the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*).

b. Section 210.1 is revised to read as follows:

§ 210.1 Authority, purpose, and scope.

The Board of Governors of the Federal Reserve System ("Board") has issued this subpart pursuant to the Federal Reserve Act, section 13 (12 U.S.C. 342), section 11(i) (12 U.8.C. 248(i)), section 16 (12 U.S.C. 248(o) and 360), and section 19(f) (12 U.S.C. 464); the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*); and other laws. This subpart

[1] The leading edge is defined as the right side of the check looking at it from the front. See American National Standards Committee on Financial Services, Specification for the Placement and Location of MICR Printing, X 9.13.

governs the collection of checks and other cash and noncash items by Federal Reserve Banks. Its purpose is to provide rules for collecting items and settling balances.

c. In § 210.2, paragraph (e) and the undesignated paragraph at the end of paragraph (g) are revised, paragraph (j) is revised, paragraphs (k) and (l) are redesignated as paragraphs (l) and (m), a new paragraph (k) is added, the redesignated paragraph (l) is amended by adding a second sentence, and the undesignated paragraph at the end of § 210.2 is revised to read as follows:

§ 210.2 Definitions.

* * * * *

(e) "Cash item" means—

(1) A check other than one classified as a noncash item under this section; or

(2) Any other item payable on demand and collectible at par that the Reserve Bank of the District in which the item is payable is willing to accept as a cash item.

"Cash item" does not include a returned check.

* * * * *

(g) * * *

Unless otherwise indicated, "item" includes both cash and noncash items and a returned check, whether or not sent by a sender.

* * * * *

(j) "Paying bank" means—

(1) The bank by which an item is payable unless the item is payable or collectible at or through another bank and is sent to the other bank for payment or collection;

(2) The bank at or through which an item is payable or collectible and to which it sent for payment or collection;

(3) The bank whose routing number appears on a check in magnetic characters or fractional form and to which the check is sent for payment or collection: or

(4) The state on which a check described in 12 CFR 229.2 is drawn.

* * * * *

(k) "Returned check" means a cash item or a check as defined in 12 CFR 229.2 returned by a paying bank, inoluding a notice of nonpayment in lieu of a returned cash item or check, whether or not a Reserve Bank handled the check for collection.

* * * * *

(l) * * * Sender does not include a paying bank with respect to a returned check. * * *

* * * * *

Unless the context otherwise requires, the terms not defined herein have the meanings set forth in 12 CFR 229.2 and the terms not defined herein or in 12 CFR 229.2 have the meanings set forth in the Uniform Commercial Code.

d. Paragraph (b) of section 210.7 is revised to read as follows:

§ 210.7 Presenting items for payment.

* * * * *

(b) *Place of presentment.* A Reserve Bank or subsequent collecting bank may present an item—

(1) At a place requested by the paying bank;

(2) In the case of a check as defined in 12 CFR 229.2, in accordance with 12 CFR 229.36;

(3) At a place requested by the nonbank payor, if the item is payable by a nonbank payor other than through or at a paying bank;

(4) Under a special collection agreement consistent with this subpart; or

(5) Through a clearinghouse and subject to its rules and practices.

* * * * *

e. Section 210.10 is revised to read as follows:

§ 210.10 Time schedule and availability of credits for cash items and returned checks.

(a) Each Reserve Bank shall include in its operating circulars a time schedule for each of its offices indicating when the amount of any cash item or returned check received by it (or sent direct to another Reserve office for the account of that Reserve Bank) is counted as reserves for purposes of Part 204 of this chapter (Regulation D) and becomes available for use by the sender. The Reserve Bank shall give either immediate or deferred credit in accordance with its time schedule to a sender other than a foreign correspondent. A Reserve Bank ordinarily gives credit to a foreign correspondent only when the Reserve Bank receives payment of the item in actually and finally collected funds, but, in its discretion, a Reserve Bank may give immediate or deferred credit in accordance with its time schedule.

(b) Notwithstanding its time schedule, a Reserve Bank may refuse at any time to permit the use of credit given for any cash item or returned check for which the Reserve Bank has not yet received payment in actually and finally collected funds.

f. Section 210.12 is revised to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) *Return of cash items.* A paying bank that receives a cash item directly or indirectly from a Reserve Bank, other than for immediate payment over the counter, and that pays for the item as provided in § 210.9(a) of this subpart, may, before it has finally paid the item, return the item, or if the item is unavailable for return, send notice of nonpayment in lieu of the item, to its Reserve Bank in accordance with the Uniform Commercial Code and Subpart C of Part 229 and its Reserve Bank's operating circular. The rules or practices of a clearinghouse through which the item was presented, or a special collection agreement under which the item was presented, may not extend these return times, but may provide for a shorter return time.

(b) *Return of checks not handled by Reserve Banks.* A paying bank that receives a check as defined in 12 CFR 229.2, other than directly or indirectly from a Reserve Bank, and that determines not to pay the check, may send the returned check or notice of nonpayment in lieu of the returned check to its Reserve Bank in accordance with Subpart C of Part 229 and its Reserve Bank's operating circular. A returning bank may send a returned check to its Reserve Bank in accordance with Subpart C of Part 229 and its Reserve Bank's operating circular.

(c) *Paying bank's and returning bank's agreement.* By sending a returned check to a Reserve Bank, the paying bank or returning bank—

(1) Authorizes the receiving Reserve Bank (and any other Reserve Bank or returning bank to which the returned check is sent) to handle the returned check subject to this subpart and to the Reserve Banks' operating circulars;

(2) Makes the warranties set forth in 12 CFR 229.34; and

(3) Agrees to indemnify each Reserve Bank for any loss or expense (including attorneys' fees and expenses of litigation) resulting from—

(i) The paying or returning bank's lack of authority to give the authorization in paragraph (c)(1) of this section;

(ii) Any action taken by a Reserve Bank within the scope of its authority in handling the returned check; or

(iii) Any warranty made by the Reserve Bank under 12 CFR 229.34.

(d) *Recovery by Reserve Bank.* If an action or proceeding is brought against (or if defense is tendered to) a Reserve Bank that has handled a returned check based on—

(1) The alleged failure of the paying or returning bank to have the authority to give the authorization in paragraph (c)(1) of this section;

(2) Any action by the Reserve Bank within the scope of its authority in handling the returned check; or

(3) Any warranty made by the Reserve Bank under 12 CFR 229.34,

the Reserve Bank may, upon the entry of a final judgment or decree, recover from the paying bank or returning bank the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay under the judgment or decree, together with interest thereon.

(e) *Methods of recovery.* The Reserve Bank may recover the amount stated in paragraph (d) of this section by charging any account on its books that is maintained or used by the paying or returning bank (or if the sender is another Reserve Bank, by entering a charge against the other Reserve Bank through the Interdistrict Settlement Fund), if—

(1) The Reserve Bank made seasonable written demand on the paying or returning bank to assume defense of the action or proceeding; and

(2) The paying or returning bank has not made any other arrangement for payment that is acceptable to the Reserve Bank.

The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged through the Interdistrict Settlement Fund may recover from the paying or returning bank in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (c)(3) of this section.

(f) A Reserve Bank shall handle a returned check, or a notice of nonpayment, in accordance with Subpart C of Part 229 and its operating circular. A Reserve Bank may permit or require the paying bank to send direct to another Reserve Bank a returned check with respect to which the depositary bank is located within the other Reserve Bank's District, in accordance with § 210.4(b).

(g) A subsequent returning bank or depositary bank shall settle for returned checks in the same manner as for cash items presented for payment.

§ 210.15 [Removed]

g. Section 210.15 is removed.

By order of the Board of Governors of the Federal Reserve System, December 3, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-28144 Filed 12-10-87; 8:45 am]

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FEDERAL RESERVE SYSTEM

[Docket No. R-0621]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board is requesting comment on a proposal for the Federal Reserve Banks to offer several new services to depository institutions. These services will assist depository institutions in complying with the new rules for the collection and return of checks that the Board is, in Docket No. R-0620, proposing to adopt to implement the Expedited Funds Availability Act.

DATE: Comments must be submitted on or before February 8, 1988. No extension of time for comments will be provided.

ADDRESS: Comments, which should refer to Docket No. R-0621, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551, Attention:: Mr. William W. Wiles, Secretary; or may be delivered to Room B-2223 between 8:45 a.m. and 5:00 p.m. All comments received at the above address will be included in the public comments file, and may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Steven O. App, Manager (202/452-3760); Thomas C. Luck, Senior Analyst (202/452-3935); or Gayle Thompson, Senior Analyst (202/452-2934); Division of Federal Reserve Bank Operations. For the hearing impaired only: Telecommunications Device for the Deaf, Ernestine Hill or Dorothea Thompson (202/452-3254).

SUPPLEMENTARY INFORMATION: The Expedited Funds Availability Act, Title VI of Pub. L. 100-86, requires banks and other depository institutions (collectively referred to as "banks" [1]) to make funds deposited into accounts available to depositors within time periods specified by the Act and to disclose funds availability policies to their depositors. The Board is given responsibility to adopt regulations to implement the Act. The Act also provides the Board with broad authority to adopt regulations to improve the check processing system so that checks may be cleared and, if necessary, returned within the funds availability schedules mandated by the Act.

The Board is today requesting comment on a series of proposals, Docket Nos. R-0620, R-0621, and R-0622, that will exercise its responsibilities under the Act. Docket No. R-0620 consists of a proposed regulation (Regulation CC, 12 CFR Part 229) that will clarify the definitions of the Act, provide detailed rules to facilitate compliance with the availability and disclosure requirements, and make several substantive changes to the current law on the collection of checks to encourage faster return of unpaid checks, thus minimizing the losses that could result from compliance with the availability schedules. Docket No. R-0620, also proposes several amendments to the Board's current Regulation J (12 CFR Part 210), which governs the collection of checks and other items by Federal Reserve Banks, so that it conforms to the new standards adopted in Regulation CC.

This docket, No. R-0621 Federal Reserve Bank Services, requests comment on proposed new services to be offered by the Federal Reserve Banks to assist banks and other depository institutions to comply with the new check collection rules established in Regulation CC. Docket No. R-0622 Proposals for Long-Term Improvements to the Check Collection System, requests comment on some possible services that the Federal Reserve are studying as well as longer-term improvements to the nation's check collection system.

Commenters should review the overview material contained in Docket No. R-0620 Regulation CC, which provides background on these proposals.

The Federal Reserve System is a major provider of check collection services to banks, and the 48 Federal Reserve check processing offices currently handle about 150 million returned checks annually. In contrast to the forward collection process, the return item process is a slow, relatively labor intensive, and costly operation. A brief description of the current process can be found in the overview material contained in Docket No. R-0620, Regulation CC.

Under current procedures, most returned checks will not reach the depositary bank before it must make funds available to its customers according to the availability schedules mandated by the Expedited Funds Availability Act (12 U.S.C. 4002). To reduce the risk to depositary banks, the Federal Reserve is proposing new responsibilities for paying banks to return checks expeditiously. The Federal Reserve has also developed new services to enable paying banks to meet these new responsibilities.

In developing these services, considerable emphasis was placed on assuring that banks would have available several alternative approaches to comply with the provisions of the proposed regulations. A number of new and enhanced services that will increase the speed of the return process are proposed by the Federal Reserve, including direct returns, universal returns, expedited processing of nonautomated returns, high-speed processing of automated returns, and improved notification services. In addition, the Federal Reserve is proposing to implement truncation and Extended MICR (Magnetic Ink Character Recognition) services. It is anticipated that private sector check collection service providers will also develop similar or other innovative check services.

Proposed Federal Reserve Bank Services

Direct Returns

One of the constraints to the speed of the current return item process is the number of returning banks that process a check during its trip from the paying bank back to the depositary bank. Returned checks handled by the Federal Reserve generally are returned to the bank that originally deposited the check with the Federal Reserve. Thus, if the Federal Reserve originally received a check for deposit from a correspondent bank, and that check is returned, the Federal Reserve will send that return to the correspondent. That correspondent will, in turn, send the return to its indorser, most likely the depositary bank. It is important to expedite this return process when the Act becomes effective. Experience with a pilot program conducted by the Federal Reserve Bank of Dallas has shown that the return process can be completed more promptly if the number of returning banks can be minimized and the returned check is sent directly to the depositary bank.

The Federal Reserve is proposing to return checks directly to the depositary bank, or its agent by September 1, 1988; bypassing other returning banks in the indorsement chain. The objective of this proposal is to speed the return process by reducing the number of banks that must handle a returned check.

[1] The proposed Regulation CC terminology corresponds with the terminology of the Uniform Commercial Code, with some modifications. *Bank* is defined to include all depository institutions. A *paying bank* is the bank on which the check is drawn. In the case of payable through drafts, the payable through bank is the paying bank. A *returning bank* is an intermediary bank handling a returned check. A *depositary bank* is the bank in which the check was first deposited. (See § 229.2 of the proposed regulation for the complete definitions of these terms.)

Experience with the Dallas pilot program indicates that the direct return process would reduce the average return time by approximately one-half day for returns processed by the Federal Reserve, with greater improvements for checks that currently take the longest to return—those with multiple intermediary bank indorsers. A survey of over 18,000 returned checks at 12 Federal Reserve offices revealed that 43 percent of all returned checks were handled by one or more correspondents during forward collection. Bypassing these correspondents by directly returning checks to the depositary bank would reduce return times by a day or more.

The proposed direct return procedure will be more costly for the Federal Reserve because of the additional endpoints to which returned checks must be sorted and delivered. The Federal Reserve may sort returns to an estimated 26,000 endpoints under a direct return procedure, in contrast to 5,600 today—an increase of nearly 370 percent. The Federal Reserve's transportation expenses for delivery of returned checks could also increase substantially if delivery of returns were made via courier to all depositary banks. The Federal Reserve delivers to approximately 10,500 endpoints via courier today and anticipates that most returns can be delivered via this transportation.

Recognizing the desirability of providing prompt return of checks to depositary banks while seeking to minimize increases in transportation costs, the Board proposes the following:

—A depositary bank may receive returned checks from the Federal Reserve, at no charge, at a location where the Federal Reserve currently delivers the bank's forward collection checks, or at a location where the Federal Reserve currently provides courier delivery, or at another designated location through the U.S. mail.

—A depositary bank that wishes its returned checks delivered by courier to a location where the Federal Reserve does not currently provide courier service may be charged for newly instituted transportation.

The Board requests comment on the proposal for Federal Reserve offices to deliver returned checks directly to the depositary bank. Comment is also requested on the proposed guidelines for delivery of returned checks by courier.

Universal Returns

Currently, unpaid checks are sent back to the presenting bank. In order to assist paying banks in meeting the new requirements for prompt return (See Regulation CC 12 CFR 229.30(a) Docket No. R–0620), the Federal Reserve is proposing to accept from paying banks by September 1, 1988, all returned checks regardless of whether or not the checks were originally collected through the Federal Reserve. Paying banks, of course, would not be obligated to send any returned checks to the Federal Reserve. It is anticipated that most returned checks originally cleared through private clearing arrangements would continue to be exchanged directly by the clearing participants.

Expedited Processing of Returns

Most Federal Reserve offices now receive returned checks during the late evening/early morning hours and process the checks during the daytime hours. Dispatch of the returned checks is generally made on the next available transportation to indorsers and other Federal Reserve offices. Thus, returned checks received by the Federal Reserve can be in the possession of the Federal Reserve for up to a day before being sent to the previous indorser.

The Federal Reserve is proposing to establish by September 1, 1988, returned check deposit deadlines at Federal Reserve offices, supported by expanded processing capabilities, such that local returned checks can, in most instances, be returned to the depositary bank the day following dispatch by the paying bank. The objective of this proposal is to provide for overnight processing and dispatch of returned checks similar to current processing and presentment time frames for forward collection checks.

Deadlines for deposit of returned checks will correspond as closely as possible to forward collection deadlines in order to minimize transportation costs to paying banks. Each Federal Reserve office will offer at least one deposit deadline for all raw returned checks deposited intermixed. The earliest deadline for a mixed return letter will be 8:00 p.m. Deposits of raw returned checks at later deadlines, typically at midnight, may have to be presorted into separate local and nonlocal return letters prior to deposit with the Federal Reserve. Paying and returning banks will also have the opportunity to fine-sort returns by depositary bank in order to obtain later deposit deadlines and lower fees.

Fees for processing raw local returned checks are projected to be in the range of $0.25 to $0.75 per return. Fees will be the same for all types of local returns, i.e., city/regional/country, but fees may vary at different deposit deadlines. Fees for nonlocal raw returned checks are projected to be in the range of $0.30 to $1.00 per return. The higher range for nonlocal checks reflects the cost of processing at two Federal Reserve offices as well as transportation costs between the two offices. Fees for returned checks that have been fine-sorted prior to deposit with the Federal Reserve will be the same as fees for forward collection fine-sorted deposits.

Fees for automated returns or qualified returned checks (QRC) initially are expected to be the same as the fees for regular forward collection checks of the same type. In addition, for both raw and qualified returned checks, a return letter fee similar to the cash letter fees imposed on forward collection checks would be assessed. The implementation of explicit fees for returned checks will most likely result in a reduction in Federal Reserve prices for forward collection checks.

The Reserve Banks may offer deposit options under which paying banks would place the depositary bank's routing number on the face of the returned check before sending it to the Federal Reserve. Fees and deadlines would be set to reflect the additional preparations performed by the paying bank.

The Board requests comment on the impact of the proposed deadline and fee changes on the operations of banks. In addition, the Board would appreciate specific comments on the proposed deposit option wherein paying banks would place the nine-digit routing number of the depositary bank on the face of the returned check.

High-Speed Processing of Returned Checks

One proposed method of handling returned checks more efficiently is to prepare returned checks for high-speed processing as early as possible in the return cycle. This can be done by placing the dishonored check in a carrier envelope or putting a strip across the bottom of the returned check and encoding on the envelope or strip the nine-digit routing number of the depositary bank, the amount of the check, and a returned check identifier. To reduce possible error and the resulting liability, banks qualifying returned checks probably would use a check-digit algorithm to verify the accuracy of the routing number encoded on the envelope or strip.

The Board includes the following information to provide commenters with the background necessary to evaluate this proposed solution. From November 1985 to February 1986, the American Bankers Association and the Federal

Reserve, with the cooperation of many banks, conducted a test of a qualified returned check system, proposed by Valley National Bank, Phoenix, Arizona. As proposed, the paying bank deciding to return a check would qualify the returned check and place it into the outgoing collection work. This collection path would be independent of the path chosen by the depositary bank to collect the check being returned. Credit would be passed as if the returned check were being collected through the forward collection process. The test provided data that indicated that the QRC procedure would be successful in speeding the flow of the returned check to the depositary bank. A complete analysis of the test program and its results is available from the Secretary of the Board at the address indicated in the caption.

The benefits that can be derived from using the QRC system include more timely delivery of returned checks to the depositary bank, elimination of manual handling at intermediary processors, use of the most efficient high-speed process to move the returned check to the depositary bank, and a reduction in the use of mail to transport returned checks to the depositary bank or a returning bank. These benefits can be accrued with a minimal investment in new equipment since most of the equipment used for this procedure is readily available and in use at many banks.

Even though the test program results indicated that benefits could be gained from implementation of such a procedure, various concerns prohibited banks from implementing the system at the end of the test period. One of the key barriers to successful implementation of the QRC process was the fact that three jurisdictions have not adopted an optional provision of the U.C.C. that allows the paying bank to send returned checks directly to the depositary bank. The proposed Regulation CC, section 229.30(a) overrides any conflicting state law and allows banks in all jurisdictions to return checks directly to the depositary bank or to an intermediary bank or processor that was not in the original collection chain.

Another concern for the paying bank is how to identify and easily determine the depositary bank and its nine-digit routing number among all the varying sizes and descriptions of indorsements on the back of the check. Frequently, the depositary bank will not be one of the correspondent banks with whose indorsement a bank's return item personnel are familiar. This problem is being addressed in the proposed Regulation CC, section 229.35, which provides a mandatory indorsement standard for the depositary bank and subsequent indorsers.

In addition, the industry was concerned about special handling of returned checks as opposed to forward collection checks. The most efficient way of processing returned checks through a high-speed system is to intermix returned checks with forward collection checks. On the other hand, extra risks may be associated with processing returned checks intermixed with forward collection checks. In addition, discussions with the industry have indicated that most depositary banks would prefer to have their returned checks presented to them separately from the checks drawn on them. This would allow banks to identify their returned checks earlier and take action as quickly as possible in the event that the hold period for one of the checks being returned is about to expire. With this in mind, the Board proposes that the processing of returned checks via the QRC process be kept separate from the processing of forward collection checks.

By September 1, 1988, the Federal Reserve offices will accept returned checks that have been prepared using the QRC process. In addition, the Federal Reserve will qualify raw returns if this will speed up the return process. For the most part, only nonlocal returns will be qualified; however, some Federal Reserve offices may qualify local returns when this is the most efficient way for that office to process the returns. Qualified returned checks handled by the Federal Reserve will not be intermixed with forward collection checks unless the depositary bank agrees that the returns be included in its Federal Reserve cash letter.

Proposed fees and deposit deadlines for handling QRCs will be the same as the fees for handling checks deposited for collection. If the return process were to result in a higher reject rate, need a higher level of controls than the collection process, or otherwise prove to be more costly, the fees for QRCs may be increased.

All deposit deadlines for checks deposited for forward collection, including those for fine-sort deposits, will be open for qualified returned checks, subject to the same sorting instructions. Of course, if returns are fine-sorted, it would not be necessary for the paying or returning bank to qualify the returns before depositing in this manner because the checks will be delivered to the fine-sort endpoint without further processing.

Use of the QRC process will be optional for paying and returning banks. Preparing returned checks for high-speed processing would not always be the most cost-effective or efficient alternative. Checks that are returned through returning banks would most likely be returned more quickly if qualified early in the return cycle.

It is anticipated that other methods of handling returns expeditiously will develop. One Reserve Bank is investigating the possibility of using electronics in the return process (See Docket R–0622, Proposals for Long-Term Improvements to the Check Collection System).

The Board requests comment on the use of the QRC process for expediting the handling of returned checks by returning banks. Specifically, the Board requests comment on the likelihood of paying banks initiating this process.

Notification of Nonpayment

Under Regulation J (12 CFR Part 210), a paying bank is required to send notification of nonpayment to the depositary bank for returned checks of $2500 or more that were collected through the Federal Reserve by midnight of the third banking day following presentment. This requirement provides depositary banks with an early warning that a large-dollar check is being returned.

Although the current large-dollar notification program does lessen the amount of risk inherent in the return process, depositary banks are still exposed to significant areas of risk. Since the current notification requirements apply only to checks collected through the Federal Reserve, depositary banks may not receive notice of return on all large-dollar returned checks. In addition, the current time frame for notification allows three banking days following presentment before the depositary bank is given notice of return. Earlier notification deadlines would allow the depositary bank to learn of nonpayment of a greater percentage of checks before funds must be made available for withdrawal.

Proposed Regulation CC requires notification for all large-dollar checks and shortens the time period within which notification must be provided (12 CFR 229.33). Large-dollar notification will now be required for all checks of $2500 or more, regardless of whether they were collected through the Federal Reserve. The proposed rule requires that notification be received by the depositary bank by 4:00 p.m. local time, on the second business day following

presentment; receipt of the physical check would satisfy this requirement. This proposal allows depositary banks to receive notice of nonpayment more than one day earlier than is currently the case.

The Federal Reserve is proposing several changes to its notification services in support of the new regulation. Beginning on September 1, 1988, a same-day notification service will be offered, and new deadlines for the initiation of notification through the Federal Reserve will be established. The Federal Reserve will warrant that it will provide notification to the depositary bank on the same day that it receives instructions that are in accordance with these new deadlines.

The proposed new deadlines and fees for notification are as follows:

Origination method	Current deadline	Proposed deadline	Fee
Wire	12 noon on due date.	12 noon on due date.	$1.75
Telephone call to Fed.	12 noon on day before due date.	9:00 a.m. on due date.	$4.25
Physical check to Fed.	12 noon on day before due date.	9:00 a.m. on due date.	$5.25

Notices will be delivered the same day as received.

The Board proposed that, beginning on January 1, 1989, any depositary bank that has an on-line electronic connection with the Federal Reserve will be required to receive all notices from the Federal Reserve over their electronic connection or over an electronic connection to a designated third party. (This does not include electronic connections used solely for tape transmission of ACH items.) This may require banks to add a terminal in their check operation or to establish procedures to transmit notification information from other departments, such as funds transfer, to the check department. This requirement should ensure that their notifications are received more accurately and timely.

Truncation

While the services previously described make significant improvements in the time it takes to return an unpaid check, electronic services may provide more improvements. The Act directs the Federal Reserve to consider several electronic alternatives to improve the check processing system, including check truncation. The Board proposes to allow Reserve Banks to begin offering truncation services that would improve the forward collection and return process.

During 1985, the Federal Reserve implemented a truncation pilot at four Reserve Banks. By the end of 1986, two additional Reserve Banks were participating in the pilot program. The objectives of the pilot included developing, testing, and refining the Federal Reserve's ability to: (1) Provide local storage and retrieval services to paying banks; (2) participate in a pilot of the National Association for Check Safekeeping (NACS), which offers the potential benefits of truncating eligible checks earlier in the collection stream; and (3) work with NACS representatives to expand the NACS program to include all types of checks. Ultimately, pilot experience would include: (1) Evaluation of the truncation concept, (2) examination of the operational and legal issues surrounding truncation, and (3) determining the appropriate role of the Federal Reserve System in providing full truncation services or services which support it.

Under the first phase of the pilot—truncating for local paying banks, the Reserve Bank serving the paying bank captures the entire MICR-line, including the nine-digit routing number, account number, check number, and dollar amount. Checks rejected during high-speed processing are included on the MICR output file. All MICR-captured checks are microfilmed, and unique sequence numbers are inserted into the MICR file and printed on both the microfilm and the physical check. These sequence numbers facilitate Reserve Bank processing of returned checks and retrieval requests. The Reserve Bank delivers the captured MICR-line data and related totals to the paying bank or its agent on magnetic tape or by data transmission, as requested by the paying bank. Under this service, the presentment time for the paying bank is based on the time of receipt of electronic presentment because the paying bank does not receive the physical paper checks. The Reserve Bank stores the physical checks and microfilm for a negotiated period, usually 90 days and seven years respectively, after which time they are destroyed.

After receipt of the MICR data, the paying bank processes and posts the MICR data to the appropriate customer accounts. If a decision is made to dishonor a check, the paying bank notifies the Reserve Bank no later than the published deadline on the business day following the day the MICR data are presented. The Reserve Bank retrieves the physical checks and initiates the return process to the depositary bank. The paying bank may also request retrieval services such as information from a truncated check, a photocopy of a check, or the original physical check (provided the request is received before the check has been destroyed).

The Reserve Banks developed a standard pricing structure and a common set of pricing principles. Local pricing is used to reflect the different processing costs at each office. With minor adjustments, these prices have remained in effect throughout the pilot program. The fee structure contains a basic per item fee and separate fees for return items (initiated by telephone or automated means), retrievals, fine-sort fee processing, and over-the-counter processing. Reject reentry and microfilming costs are part of the basic per item fee, while large-dollar notification costs are part of the return item fee.

It is anticipated that fees at most Reserve offices will approximate those in the pilot. Fee ranges at the six pilot Reserve Banks are as follows:

Basic per item:	
—Via tape	$0.011–$0.020
—Via transmission	$0.014–$0.025
Return item:	
—Telephone	$1.60–$2.80
—Automated	$1.35–$2.30
Retrieval per item	$1.00–$2.00
Fine Sort:	
—Per Package	$0.00–$2.00
—Per item	$0.006–$0.02
Over-the-counter:	
—Per Package	$0.50–$0.50
—Per item	$0.014–$0.018

As of October 1987, seven commercial banks, one savings and loan association, and three credit unions were participating in the pilot program. Total truncation volume during the pilot exceeds 1.3 million checks per month. Approximately 2 percent of the checks require reject reentry, 0.3 percent are returned, and retrieval requests are received on 0.1 percent of the checks. The truncation participants' reaction to the service has been positive, processing costs have been lower than expected, and the quality of service has met expectations.

One Reserve Bank began truncating NACS-eligible checks in September 1987. Plans are underway for other pilot Reserve Banks to join NACS and begin truncating NACS-eligible checks as soon as possible. In addition, the Federal Reserve is working closely with NACS, the National Automated Clearing House Association (NACHA), the American National Standards Institute (ANSI), and other related groups to expand the NACS program to include all types of checks, to make any necessary modifications to the TRC format (and

TRX in the future) on the ACH, and to obtain a special truncation indicator to be placed on the MICR-line of checks that will be eligible for truncation earlier in the collection cycle. These efforts are necessary to make the operation of a national truncation program feasible and cost effective.

Nationwide truncation has many benefits including expediting returned checks, reducing the number of physical handlings of paper checks, and accelerating the collection of nonlocal checks for depositary banks. In addition, truncation produces other benefits, including savings in transportation costs, float, storage costs for paying banks, and equipment and personnel costs for paying banks. Truncation also provides a natural transition from paper to electronic payments.

Several problems that presented barriers to truncation have been addressed. These issues include improperly payable checks, presentment problems, and check retrieval and return responsibilities.

Improperly payable checks such as stale checks, altered checks, postdated checks, and checks with missing or forged drawer's signatures raise legal issues because the paying bank will make its decision to pay the check without seeing the physical check. According to the U.C.C., liability for these checks may not be passed along to the paying bank's customer because the check is not properly payable, except in the case of a stale check paid in good faith. For altered checks, if the paying bank or its agent was not responsible for the alteration, it may recoup its loss in a warranty action against the indorser. For postdated checks and checks with missing or forged drawer's signatures, the paying bank will assume the risk. It should be noted that, to minimize this risk, paying banks may establish dollar caps so that large-dollar checks are not truncated. No losses have been reported thus far in the pilot.

Presentment is a condition precedent to both a drawer's and an indorser's secondary liability. The proposed Regulation CC, § 229.36(c) allows banks to present checks to a paying bank by transmission of information describing the check in accordance with an agreement with the paying bank.

The Reserve Bank, exercising ordinary care, will act as agent of the paying bank only and cannot grant retrieval requests from the paying bank's customers. The truncating Reserve Bank as agent of the paying bank will return the check to itself as collecting bank.

Based on the benefits that can be achieved by a nationwide truncation program, the Federal Reserve proposes to make the truncation service a permanent component of the check collection services at the Reserve Banks. It is anticipated that, as more paying banks begin to issue some type of truncation-eligible check, most Reserve offices would begin to offer a truncation service, first on a local level, truncating checks for local paying banks. The Reserve Banks would expand into truncation for nonlocal paying banks as the NACS rules and procedures become more fully developed.

The Board requests comment on the proposed Federal Reserve truncation service and adaptation of the NACS rules for the nationwide program.

Extended MICR Capture Service

The Board is proposing to allow Reserve Banks to begin offering a service that provides the benefits of truncation without actually stopping the flow of the paper check. This extended MICR capture service is currently a Federal Reserve pilot program that combines several existing payor bank services, including MICR capture, reject reentry, and electronic data delivery. Reserve Banks deliver payment information by transmission or magnetic tape to paying banks that have requested the service, while retaining the checks at the Reserve Bank office for several days. The Reserve Bank office provides paying banks with return and retrieval services identical to the truncation service. The return service eliminates the transportation delay between the paying bank and the Federal Reserve, permitting faster return of some checks, particularly nonlocal checks. The paper checks are subsequently delivered to the paying bank using less time-critical transportation. Enhancements to this service include optional microfilming and the inclusion of checks presented in fine-sort packages.

Extended MICR capture provides the paying bank a chance to test most aspects of the truncation service without giving up receipt of the physical checks. The benefits of extended MICR capture are not as great as those of truncation; however, extended MICR capture serves as a stepping stone for developing a broader acceptance of truncation. The obvious disadvantage to the service is having the paper check continue to flow through the clearing process to the Federal Reserve office serving the paying bank before being converted to electronic form. The Federal Reserve is conducting a study on an electronic clearinghouse concept that may offer the ability to convert to electronics earlier in the collection process. (See Docket R-0622 Proposals for Long-Term Improvement to the Check Collection System.)

The fee structure adopted for the extended MICR capture service includes a per item fee that includes reject reentry, return item fees (telephone and automated), retrieval fees, optional fine-sort per item and daily fixed fees, and optional microfilming fees. The basic per item fee varies depending on whether the presentment is made via transmission or magnetic tape. Similar to truncation, a standard fee structure and a common set of pricing principles have been developed for extended MICR capture.

It is anticipated that fees at most Reserve offices will approximate those in the pilot program. Ranges for fees used in the pilot are as follows:

Basic per item	$0.006–$0.012
Return Item	
—Telephone	$1.60–$2.10
—Automated	$1.35–$1.60
Retrievals	$1.00–$1.50
Fine Sort	
—Per item	$0.006–$0.012
—Fixed daily fee	$2.00–$5.00
Microfilm per item	$0.006–$0.01

Local pricing is used to reflect the different processing costs at each Reserve Bank office. In addition to the above fees, during the pilot program the Reserve Banks have assessed a fixed fee per day that includes the first "x" number of checks before the basic per item fee begins to be assessed. The Federal Reserve is evaluating the merit of the fixed fee and may consider modifying the fee structure to eliminate the fixed fee.

Competitive Issues

An important factor considered in the development of the regulatory framework for expedited returns and related Reserve Bank services was the impact on competition in the check collection system. The public has benefited from the competitive environment that has existed between the Federal Reserve and correspondent banks, and among correspondent banks in proving check collection services. The Board has sought to ensure that the proposed regulatory requirements, and Federal Reserve service offerings, were designed to provide options to banks in the return process, and to facilitate a competitive environment.

Although a number of the Reserve Bank service proposals—such as acceptance of any returned check, the explicit pricing of returns and corresponding decrease in the forward collection fees, and direct return by the Federal Reserve to the depositary

bank—may have significant competitive implications, it is difficult to determine what the impact would be. For example, lower Federal Reserve check collection fees could make the Reserve Banks' forward collection check services more attractive and acceptance of all returns could increase return volume. On the other hand, a bank that uses the Federal Reserve for both forward collection and return services may experience an increase in its total charges for check services. In addition, the acceptance of universal returns by the Federal Reserve has the potential to result in a reduction of Federal Reserve forward collection check volume, since returns are often viewed as nuisance items in the collection process that have deterred banks from competing for forward collection volume.

Correspondent banks will have the opportunity to compete with the Federal Reserve in providing returned check services. For example, approximately 4,000 banks that do not collect checks through the Federal Reserve currently mail returned checks to their Reserve Banks. Under the proposed Regulation CC, § 229.30, these paying banks may deliver these returned checks along with their forward collection checks to their correspondent bank, rather than establishing separate transportation to deliver their returns to the Federal Reserve. This practice could result in additional volume of returned checks for correspondents.

In this regard, the Board requests comment on whether there are any returned check services or other procedural changes for returning banks that the Federal Reserve has not proposed that might assist the returning bank in providing returned check services.

By order of the Board of Governors of the Federal Reserve System, December 3, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-28145 Filed 12-10-87; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0622]

Proposals for Long-Term Improvements to the Check Collection System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comment.

SUMMARY: The Board is requesting comment on several studies that are being undertaken that have the potential to provide for substantial long-run improvements to the check system.

DATE: Comments must be submitted on or before April 8, 1988.

ADDRESS: Comments, which should refer to Docket No. R-0622, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to Room B-2223 between 8:45 a.m. and 5:00 p.m. All comments received at the above address will be included in the public file, and may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Steven O. App, Manager, (202/452-3760); Brada W. Panther, Analyst (202/452-2831); or Nalini T. Rogers, Analyst (202/452-3801); Division of Federal Reserve Bank Operations. For the hearing impaired only: Telecommunications Device for the Deaf, Ernestine Hill or Dorothea Thompson (202/452-3254).

SUPPLEMENTARY INFORMATION: The Expedited Funds Availability Act, Title VI of Pub. L. 100-86, requires banks and other depository institutions (collectively referred to as "banks" [1]) to make funds deposited into accounts available to depositors within time periods specified by the Act and to disclose funds availability policies to their depositors. The Board is given responsibility to adopt regulations to implement the Act. The Act also provides the Board with broad authority to adopt regulations to improve the check processing system so that checks may be cleared and, if necessary, returned within the funds availability schedules mandated by the Act.

The Board is today requesting comment on a series of proposals, Docket Nos. R-0620, R-0621, and R-0622, that will exercise its responsibilities under the Act. Docket No. R-0620 Regulation CC consists of a proposed regulation (Regulation CC, 12 CFR Part 229) that will clarify the definitions of the Act, provide detailed rules to facilitate compliance with the availability and disclosure requirements, and make several substantive changes to the current law on the collection of checks to encourage faster return of unpaid checks, thus minimizing the losses that could result from compliance with the availability schedules. Docket No. R-0620 also proposes several amendments to the Board's current Regulation J (12 CFR Part 210), which governs the collection of checks and other items by Federal Reserve Banks, so that it conforms to the new standards adopted in Regulation CC.

Docket No. R-0621 Federal Reserve Bank Services requests comment on proposed new services to be offered by the Federal Reserve Banks to assist in the new check collection rules established in Regulation CC.

This docket, No. R-0622, requests comment on some possible services that the Federal Reserve is studying as well as longer-term improvements to the nation's check collection system.

Commenters should review the overview material contained in Docket No. R-0620 Regulation CC, which provides background on these proposals.

The Federal Reserve will continue to investigate improvements to enhance the speed, the efficiency, and the quality of the entire check system. To this end, several projects are underway that address the need to plan for future innovations. Several of these concepts, including bar-code indorsements, electronic clearinghouses, and electronic clearing zones are described within this **Federal Register** notice. In addition, this notice describes the Federal Reserve's continuous study of the impact certain disbursement practices have on the check system. The Board requests comment on these studies. This notice also provides information on the Federal Reserve's ongoing exploration of digitized image processing.

Proposals for Long-Term Improvements to the Check Collection System

Bar-Code Indorsements

The Federal Reserve has recently begun to explore possible approaches to machine-readable indorsements and automated returned check handling. Machine-readable indorsements represent a substantial improvement over human-readable indorsements because they have the potential to automate fully the returned check process. In the near-term, these indorsements could facilitate the automated preparation of qualified returned checks (QRCs) [2] and thereby

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[1] The proposed Regulation CC terminology corresponds with the terminology of the Uniform Commercial Code, with some modifications. *Bank* is defined to include all depository institutions. A *paying bank* is the bank on which the check is drawn. In the case of payable through drafts, the payable through bank is the paying bank. A *returning bank* is an intermediary bank handling a returned check. A *depositary bank* is the bank in which the check was first deposited. (See § 229.2 of the proposed regulation for the complete definitions of these terms.)

[2] Qualified returned checks are checks that are prepared for automated processing on high-speed equipment, by encoding the routing number of the depositary bank, the amount of the check, and a return identifier on a carrier envelope or on a strip attached to the check.

enable more returns to reach the depositary bank in an expedited manner. In addition, these indorsements would reduce the cost of handling returns for paying banks and returning banks. For these reasons, the Federal Reserve initiated a study on machine-readable indorsements.

The first step of this study was to develop a comprehensive list of possible technologies for machine-readable indorsements. Four technologies, MICR, OCR, bar-code, and magnetic strip, were selected. Each was evaluated on the following characteristics: Performance (information density, speed for reading and writing, error rates); functions (the size of character set, whether or not it is observable/erasable/human-readable, whether it provides an audit trail, and whether information can be added at a later date by another party); institutional considerations (familiarity to banking industry, vendor base of support, existence of industry standards); and expected future cost and performance trends. Bar-code was chosen as the most promising technology to investigate.

Several scenarios were developed to outline how bar-code indorsements could be applied by the depositary bank and used by the paying bank to automate the creation of QRCs. The bar-code itself would be limited to the nine-digit routing number of the depositary bank; with other information in the indorsement in human-readable form to facilitate the handling of exception items. In order to read the bar-code indorsements, paying banks could scan a hand wand, linked to a computer, across each indorsement and generate the routing number for encoding on the strip or the carrier envelope for each returned check, or for inclusion in an electronic file that would accompany the returns to the depositary bank (See discussion on "Speedy Return Plan"). Alternatively, encoding equipment and/or reject processing equipment could be modified to read the bar-code routing number and the MICR amount, and encode this information on either a strip or a carrier envelope. The technology to read bar-code indorsements on high-speed reader/sorters also exists, which could eliminate the need for strips or envelopes, although this approach is currently very costly.

Another issue under study is the depositary bank's responsibility to place the bar-code indorsement on the check. The depositary bank could add bar-codes to the indorsement plates located on the encoding machines. Printing of the bar-code by this method, however, has a drawback because the position of the bar-code may not be very precise, which increases the difficulty and the expense of machine-reading (as opposed to hand wand reading) of the indorsement. Another disadvantage is that the designated space may not accommodate additional future uses of bar-code, which banks and equipment manufacturers may develop.

Alternative locations are being investigated that could accommodate an expanded use of the bar-code; specifically, the top front edge of the check, or the lower back edge just behind the MICR-line could be used. Although encoding equipment would need to be modified to print in these alternative locations, these areas of a check are attractive because they should be relatively free of clutter and, therefore, allow for improved read rates. It has also been suggested that read rates might be further improved by selecting a fluorescent ink for the machine-readable indorsement.

The Federal Reserve is interested in selecting an approach to machine-readable indorsements that has the capability to improve other check handling procedures. The bar-code indorsement concept has been reviewed with several groups of industry representatives and equipment vendors who have been involved with developing an approach to sorting returns on high-speed reader/sorters. Based on these discussions, the acceptability of bar-code technology appears to be quite high. The Federal Reserve intends to continue discussions with equipment vendors and banking industry representatives to investigate further the usefulness of bar-code indorsements and to develop technical specifications.

The Board requests comment on the concept of bar-code indorsements and on how quickly the Federal Reserve should proceed in the study and implementation of this new technology. Specifically, the Board requests comment on the following issues:

1. Although the Federal Reserve study has designated bar-code as the most promising machine-readable technology, would the industry prefer other forms of machine-readable indorsements?

2. Would the banking industry have other uses for bar-code technology, besides identification of the depositary bank? How much space would be required for the necessary information?

3. What location is preferable for the bar-code indorsement?

4. What specific bar-code is preferable for banking industry use?

5. Are there any outstanding issues in defining a bar-code standard indorsement (other than information content, choice of coding language, location on the check, print quality, and ink specifications) that have not been addressed?

Digitized Image Processing

In 1985, the Federal Reserve initiated a multi-year research and development effort to explore digitized image processing technology. Prior to 1985, image processing had been discussed widely in the financial industry as a technology that might bring significant productivity and quality improvements to the check collection system. This technology had been adopted in numerous lock-box operations, but otherwise had been largely untested in check processing.

The first phase of the research and development project demonstrated the technical feasibility of high-speed image capture of one side of a check in a laboratory environment. The second phase is intended to demonstrate in prototype form a fully functioning high-speed image processing system that will capture images, process and compress the image data, and store this data for later retrieval and analysis. This phase will be undertaken in laboratory conditions with a limited volume of checks.

As planned, phase three would move the testing from the laboratory to a Federal Reserve site. This phase will involve testing of large quantities of checks to determine performance consistency.

Two specific applications that could benefit from digitized image processing are government check processing and returned check processing. The government check application was selected for the initial laboratory demonstration for several reasons. First, it is a very demanding application for both rate of capture and image quality, and will provide a rigorous test of the technology. It is also the Federal Reserve's primary application for microfilm, and one purpose of the program is to determine whether an image processing system would be a superior and cost-effective substitute for microfilm.

Returned check processing is another application for which image processing might be practical. To make significant improvements in return times, new technologies will be required. The System hopes to further automate and accelerate the processing of the physical returned check. Image processing may prove to be a viable means to transmit images of returned checks

electronically, particularly for large-dollar checks.

The Federal Reserve will share results of this research with the financial industry. Potential benefits to the industry include information on the general feasibility of the capture and compression technologies used to capture check images and handle the resultant data at high speeds, methods to measure the quality of images (such as exist today for microfilm), and methods and standards to assure the exchange of images among banks.

Electronic Clearing Zones

The Board has encouraged proposals on how to expedite the return process from both the industry and the Federal Reserve Banks. A proposal that is being developed by the Federal Reserve Bank of Minneapolis is based on the concepts tested in the Federal Reserve truncation and extended MICR programs.

This proposal could expedite the check collection and return processes by converting specified geographic areas into electronic check clearing zones. This would be particularly beneficial to those banks located far from their local Federal Reserve office. Under this proposal, all banks in a specified area would agree to receive all their checks by electronic presentment of the MICR-line data. The checks would be held at either the Federal Reserve, correspondent bank, or the depositary bank until the returns were identified. The paying bank would then transmit the information on those returned checks to the presenting bank. Under this system, the physical returned checks could be made available to the depositary bank one or more days in advance of the current process.

The electronic clearing zone concept differs from extended MICR capture services, in that, in an electronic clearing zone, all banks in a specified geographic region accept electronic presentments, which may allow for later deposit deadlines for collecting checks drawn on these endpoints, thereby improving availability for collecting banks.

The success of this electronic check clearing zone concept depends on the willingness of all banks in a given area to participate. In addition, the costs of electronic presentment may be allocated to both the paying bank and the collecting bank because both benefit. The paying bank benefits from reduced operating costs. The collecting bank benefits from improved availability because deposit deadlines would be later for electronic clearing zones.

The Board requests comment on the electronic clearing zone concept, and specifically on methods of allocating costs between paying and collecting banks.

Electronic Clearinghouse

Section 609(f) of the Expedited Funds Availability Act (12 U.S.C. 4008(f)) requires the Federal Reserve to report to the Congress on the feasibility of the electronic clearinghouse concept by May 1988. An electronic clearinghouse is an electronic message service through which checks are electronically presented for collection and return. The Federal Reserve is currently discussing the electronic clearinghouse concept with experts in telecommunications technology and plans to request further information from other specialists and industry trade groups.

The Board requests comment on the feasibility of electronic clearinghouses and on the information that should be included in the May 1988 report to the Congress.

Improvements to the Forward Collection Process

The Board's proposals, for the most part, have focused on improvements to the returned check process. The Congress also directed the Board to explore further improvements to the forward collection process over the longer term. The Board has identified certain practices that may be inconsistent with the intent of the Congress and the Expedited Funds Availability Act. These practices include corporations engaging in arrangements that prolong the time required to collect and, consequently, return their check disbursements. This occurs, for example, when a corporation located on the East Coast issues checks drawn on a bank located on the West Coast to make payments to other East Coast organizations. The payment at one location of traveler's checks that are issued on a nationwide basis poses similar problems. The issuance by a bank of teller's checks that are drawn on another bank located in a different Federal Reserve check processing region is a further example.

There are certain problems inherent with these practices. These checks generally take longer to clear and return, which may increase the risk of loss to depositary banks. These checks are typically more expensive to collect because of the distance they must travel to reach the paying bank. Float costs may also increase for depositary banks that must provide funds availability prior to receiving provisional credit in those cases where next-day availability must be granted. In addition, these practices result in a larger proportion of checks being considered nonlocal for the purposes of granting availability, thus delaying the time the proceeds of these checks must be made available to the customer for withdrawal.

The Federal Reserve System has been concerned with the problems related to delayed disbursement for several years. For instance, the Board issued a policy statement on January 11, 1979, that expressly discouraged the banking industry from designing, promoting, or otherwise offering services intended to delay final settlement and which expose recipients to greater than ordinary risk. 65 Federal Reserve Bulletin 140, February 1979. On February 23, 1984, the Board issued another policy statement that further discouraged the use of arrangements that result in a delay in the collection and final settlement of checks. This policy statement stated that the Board intended to monitor such actions and, if abuses continued, would pursue appropriate action. 1 Federal Reserve Regulatory Service, 3–1506.6. In conjunction with this statement, the Board implemented the High-Dollar Group Sort Program to reduce the level of float and speed the collection of checks. 49 FR 7293 (February 28, 1984).

Given the intent of the Congress to expedite the check collection and return systems and the fact that depositary banks will be exposed to additional risk of loss and increased float costs associated with these practices, the Board requests comment on suggested actions it should consider regarding these practices, in general. In addition, the Board requests specific comment on the practice of issuing teller's checks payable in a different check processing region than the issuing bank.

An additional disbursement issue concerns the treatment of traveler's checks under the Act. The Act requires next-day availability of travelers checks deposited in a new account. During this period, the depositary bank may incur additional float costs, because funds may be withdrawn prior to the time the bank receives provisional credit. The Board requests comment on whether issuers of 8000-series traveler's checks should be required to designate multiple paying locations, in order to expedite the collection of these checks.

New Federal Reserve Services Under Consideration

Based on discussions with industry groups, the Board is aware that implementation of the Act may provide an opportunity for new services to develop to serve the needs of banks, particularly depositary banks. The Federal Reserve is not proposing

specific new services at this time, but requests comment on preliminary concepts of possible new services.

Depository Check Authenticity. The Expedited Funds Availability Act requires banks to make the proceeds of depository checks (cashier's checks, certified checks, and teller's checks) available for withdrawal by the opening of business on the business day following deposit. These checks are not subject to the exception provided in the Act for large-dollar deposits. Some banks may be concerned with the risk associated with accepting large-dollar depository checks, since they will not learn of nonpayment of these checks before funds must be made available for withdrawal. Depositary checks can be forged, altered or otherwise defective, and, in some cases, may be subject to a stop payment order. A depositary bank may want to determine whether a depository check is authentic before it makes the proceeds available for withdrawal.

Proposed Regulation CC (12 CFR 229.37) requires paying banks to respond to telephone inquiries from the depositary bank regarding whether a depository check has been issued, certified, subject to a stop payment order, or whether it has been paid or returned. In addition, the paying bank must verify information on the check, such as the amount and payee. With respect to teller's checks, the drawing bank must also respond to inquiries from the depositary bank. The depositary bank could obtain information pertaining to the check by contacting the issuing bank directly or by using a service provided by a third party, such as the one being considered by the Federal Reserve. Under this service, the depositary bank would telephone the Federal Reserve, which would in turn contact the issuing bank for information on the depository check. The Federal Reserve would then relay the information to the depositary bank. The need for a more sophisticated means of communication will be dependent on the volume associated with this service.

There are a number of issues to be considered before such a service could be implemented. In order to respond to inquiries from a depositary bank or a third party, such as the Federal Reserve, banks would have to maintain records of depository checks issued. Docket R–0620 Regulation CC requests comment on whether this is a workable arrangement, whether paying banks should be permitted to charge for this service, and whether the service should be limited to checks over a certain dollar amount.

With respect to the authenticity service under consideration, the Board requests comment on the demand for such a service by banks and the features and limitations such a service might encompass.

Communication of return item information to depositary banks prior to physical delivery of the checks. Despite the improvements to the returned check process being proposed, a number of returned checks will not be received by the depositary bank in sufficient time to take action before the proceeds of the check are available for customer withdrawal. In these cases, depositary banks may desire information pertaining to returned checks before the physical checks are delivered. Physical transportation limitations between the Federal Reserve office and the depositary bank may be offset by the use of telecommunications facilities to transmit returned check data to the depositary bank.

The Federal Reserve is considering a series of new services to provide information early in the day to depositary banks about returned checks that will not be delivered to the depositary bank until later that day or, in some cases, the following day. It is expected that depositary banks would request this service primarily for selected returns that impose greater risk on the depositary bank. Information on this returns could be communicated by phone, wire, date transmission, or facsimile, if available.

Facsimile transmission equipment could be used to enhance and speed the flow of returned check information between banks without involving the Federal Reserve. In addition, facsimile could serve as an alternative means of meeting the notification requirement.

The Board requests comment on whether there is any interest in, or demand for, these services from the Federal Reserve.

The "Speedy Return Plan"

An alternative to the qualified returned check (QRC) method of high-speed return processing has been proposed by a task force comprised of representatives from the Cleveland Federal Reserve District and local industry representatives. This proposal, named the "Speedy Return Plan," is based on using high-speed equipment to process returned checks. The first step in this process is to capture MICR data for each returned check to create a data file. On-line entry is used to add the depositary bank's nine-digit routing number to the file. A final high-speed sort uses the data from the file to sort the checks by depositary bank. This high-speed sort allows banks to sort returned checks to an increased number of endpoints during a shorter period of time.

From a longer-term perspective, included in the Speedy Return Plan is the concept of electronically capturing the depositary bank's machine-readable indorsement information at either the paying bank or the first Federal Reserve office. This captured indorsement information would be electronically merged with the actual item file for immediate and final sorting of returns at the returning bank or Federal Reserve office. This data would be electronically transmitted through all intermediaries back to the depositary bank along with the returned checks. Similar to the QRC process, this proposal significantly decreases the costs and required processing windows for return operations because only one bank would have to decipher and record the depositary bank's indorsement. The advantage of the Speedy Return Plan is that banks can avoid the use of strips or carrier envelopes by electronically matching the nine-digit routing number of the depositary bank with the MICR-line of the check.

The Speedy Return Plan concept raises a number of issues. All banks and Federal Reserve offices using this plan would need to adopt the necessary high-speed returned check technology. Compatibility among automation systems to facilitate receipt and transmission of the electronic data files must also be considered. This proposal is still in preliminary review by the Board and other Federal Reserve Districts.

The Board requests comment on the Speedy Return Plan, particularly on the concept of depositing returns with their corresponding electronic files in order to expedite the return collection process.

By order of the Board of Governors of the Federal Reserve System, December 3, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87–28146 Filed 12–10–87; 8:45 am]

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federal register

Friday
December 11, 1987

Part III

Department of Justice

Privacy Act of 1974; Systems of Records; Notice

DEPARTMENT OF JUSTICE

[AAG/A Order No. 6-87]

Privacy Act of 1974; Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget (OMB) Circular No. A-130, the Department has completed a review of its Privacy Act "systems of records" (as defined by the Privacy Act) to identify minor changes that will more accurately describe these records. As a result, the Foreign Claims Settlement Commission republished its systems of records on August 10, 1987 (52 FR 29572); a number of Department components are republishing systems of records as set forth below; and others are postponing publication due to pending reorganizations and other changes which will contribute to more accurate reporting in the near future.

The systems notices are reprinted below following a table of contents, and changes to the systems of records have been italicized for public convenience. Included, for example, are changes to system locations and system manager addresses, retention and disposal schedules, and storage capabilities. Also modified is a routine use which was originally drafted to permit records disclosure to the National Archives and Records Service (NARS), General Services Administration (GSA), during records management inspections. The routine use is being modified in response to the enactment of Pub. L. 98-497 (44 U.S.C. 2102).

This public law renamed NARS as the "National Archives and Records Administration" (NARA), and established it as a separate agency which nonetheless shares its records management inspection responsibilities with GSA. Accordingly, the routine use has been modified to show that NARA and GSA are now separate agencies which share access to records during these inspections. Comments on the routine use may be addressed to J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 6402, 601 D Street NW., Washington, D.C. 20530. Please submit any comments by January 11, 1988.

Dated: November 24, 1987.

Harry H. Flickinger,

Assistant Attorney General for Administration.

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JUSTICE/ATR–003

SYSTEM NAME:

Index of Defendants in Pending and Terminated Antitrust Cases.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual defendents in pending and terminated criminal and civil cases brought by the United States under the antitrust laws.

This system contains an index reference to the case in which an individual (or corporation) is or was a defendant; included in information is proper case name, the judicial district and number of the case, and the date filed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the establishment and maintenance of this index system exists under 28 U.S.C. 522 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use of this cross index system is generally made by Department personnel for reference to proper case name. In addition a compilation of antitrust cases filed is prepared as needed showing the names of all defendants in pending civil and criminal Government antitrust cases. This compilation is utilized within the Department and occasionally distributed to other Government agencies for reference and statistical purposes.

A record maintained in this system, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the Antitrust Division is authorized to appear, when (1) the Antitrust Division, or any subdivision thereof; or (2) any employee of the Antitrust Division in his or her official capacity; or (3) any employee of the Antitrust Division in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States, or any agency or subdivision thereof; or (5) the United States, where the Antitrust Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Antitrust Division to be arguably relevant to the litigation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is maintained on index cards.

RETRIEVABILITY:

Information in the system is retrieved by reference to the name of individual or corporate defendants in antitrust cases.

SAFEGUARDS:

Information contained in the system is unclassified and of a public nature. During working hours access to the index is monitored by Antitrust Division personnel; during non-duty hours the area in which the system is maintained is locked.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, *Freedom of Information Act/ Privacy Act Unit; Antitrust Division; U.S. Department of Justice; 10th and Constitution Avenue, NW., Washington, DC 20530.*

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General; Antitrust Division; U.S. Department of Justice; Washington, DC 20530.

RECORD ACCESS PROCEDURES:

Requests for access to a record from this system shall be in writing and be clearly identified as a "Privacy Access Request". Included in the request should be the name of the defendant in pending or terminated Government antitrust litigation. Requesters should indicate a return address. Requests will be directed to the System Manager shown above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this index are complaints filed under the antitrust laws by the United States and from Department records relating to such cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/ATR-004

SYSTEM NAME:

Statements by Antitrust Division Officials (ATD Speech File).

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue NW., Washington DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present employees of the Antitrust Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index record for each public statement or speech issued or made by employees of the Antitrust Division.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system exists under 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This index is maintained for ready reference by Department personnel for the identification of the subject matter of and persons originating public statements by Antitrust Division employees; such reference is utilized in aid of compliance with requests from the public and within the agency for access to texts of such statements.

A record maintained in this system, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the Antitrust Division is authorized to appear, when (1) the Antitrust Division, or any subdivision thereof; or (2) any employee of the Antitrust Division in his or her official capacity; or (3) any employee of the Antitrust Division in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States, or any agency or subdivision thereof; or (5) the United States, where the Antitrust Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Antitrust Division to be arguably relevant to the litigation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in the index system is maintained on index cards.

RETRIEVABILITY:

This reference index utilizes name of present and former employees making or issuing statements as well as the subject matter or title of the statement.

SAFEGUARDS:

Information contained in the system is unclassified. During duty hours personnel monitor access to this index; the area is locked during non-duty hours.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, *Freedom of Information Act/ Privacy Act* Unit, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

RECORD ACCESS PROCEDURES:

Request for access to a record from this system should be made in writing and be clearly identified as a "Privacy Access Request". Included in the request should be the name of the Antitrust Division employee making or issuing a public statement. Requesting should indicate a return address. Requests will be directed to the System Manager shown above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the index should direct their request to the System Manager and state clearly and

concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information maintained in the index are those records reflecting public statements issued or made by Antitrust Division employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/ATR-005

SYSTEM NAME:

Antitrust Information Management System (AMIS)—Time Reporter.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Ave., NW., Washington D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Antitrust Division of the U.S. Department of Justice.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file contains the employees' name and allocations of his/her work time.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file will be established and maintained pursuant to the following authorities: 28 CFR 0.40(f), 28 U.S.C. 522, 31 U.S.C. 11, 31 U.S.C. 66a, 5 U.S.C. 301, and 2 U.S.C. 601.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by Antitrust Division personnel to keep track of resources and as a basis for determining Antitrust Division allocations of resources (professional time) to particular products and industries (e.g., oil, auto, chemicals) and to broad categories of resource use such as conspiratorial conduct, oligopoly and monopoly, civil cases, criminal cases, and proceedings before regulatory agencies. In addition, the file will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

A record maintained in this system, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the Antitrust Division is authorized to appear, when (1) the Antitrust Division, or any subdivision thereof; or (2) any employee of the Antitrust Division in his or her official capacity; or (3) any employee of the Antitrust Division in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States, or any agency or subdivision thereof; or (5) the United States, where the Antitrust Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Antitrust Division to be arguably relevant to the litigation.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration: A record from the system of records may be disclosed to the National Archives and Records Administration (NARA) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically in the *AMIS* computerized information system.

RETRIEVABILITY:

Information is retrieved by a variety of key words, including names of individuals.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to thoses employees whose official duties require such access.

RETENTION AND DISPOSAL:

Information contained in the file is retained *indefinitely.*

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Support Group, Antitrust Division, U.S. Department of Justice *555 4th Street NW., Room 11–854, Washington, D.C. 20001.*

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

Information on time allocation is provided by Antitrust Division section and field office chiefs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/ATR-006

SYSTEM NAME:

Antitrust Information Management System (AMIS)—Matter Report.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional employees (lawyers and economists) of the Antitrust Division of the U.S. Department of Justice and individual defendants and investigation targets involved in past and present Antitrust investigations and cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the names of Division employees and their case/investigation assignments and the names of individual defendants/investigation targets as they relate to a specific case/investigation. In addition, information reflecting the current status and handling of Antitrust cases/investigations is included within this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The file is established and maintained pursuant to 28 CFR 40(f), 28 U.S.C. 522, and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by Antitrust Division personnel as a basis for determining Antitrust Division allocation of resources to particular products and industries (e.g., oil, autos, chemicals), to broad categories of resource use such as civil cases, criminal cases, regulatory agency cases, and Freedom of Information Act requests. It is employed by the section chiefs, the Director and Deputy Director of Operations, and other Division personnel to ascertain the progress and current status of cases and investigations within the Division. In

addition, the files will be employed in the preparation of reports for the Division's budget requests and to the Attorney General and Congress.

A record maintained in this system, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which the Antitrust Division is authorized to appear, when (1) the Antitrust Division, or any subdivision thereof; or (2) any employee of the Antitrust Division in his or her official capacity; or (3) any employee of the Antitrust Division in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (4) the United States, or any agency or subdivision thereof; or (5) the United States, where the Antitrust Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Antitrust Division to be arguably relevant to the litigation.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION:

A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically in the Information systems support group's AMIS Computerized information system.

RETRIEVABILITY:

Information is retrieved by a variety of key words.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Access to the file is limited to those persons whose official duties require such access and employees of the Antitrust Division.

RETENTION AND DISPOSAL:

Information contained in the file is retained *indefinitely.*

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Support Group; Antitrust Division; U.S. Department of Justice; *555 4th Street NW., Room 11–854, Washington, DC 20001.*

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General. Antitrust Division, U.S. Department of Justice, 10th and Constitution Avenue, Washington, DC 20530.

RECORD SOURCE CATEGORIES:

Information for the monthly reports is provided by the Antitrust Division section and field office chiefs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G)–(H), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

JUSTICE/CRM–001

SYSTEM NAME:

Central Criminal Division Index File and Associated Records.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, *Bond Building, 1400 New York Avenue NW.,* Washington, DC 20530, and, Federal Records Center, Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons referred to in potential or actual cases and matters of concern to the Criminal Division and correspondents on subjects directed or referred to the Criminal Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indices bearing individual names, and the associated records to which they relate, arranged either by subject matter or individual identifying number containing the general and particular records of all Criminal Division correspondence, cases, matters, and memoranda, including but not limited to investigative reports, correspondence to and from the Division, legal papers, evidence, and exhibits. The system also includes items classified in the interest of national security with such designations as confidential, secret, and top secret received and maintained by the Department of Justice. This system may also include records concerning subject matters more particularly described in other systems of records of the Criminal Division.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 to implement all functions assigned to the Criminal Division in 28 CFR 0.55 through 0.64–2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigation or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record related to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or

grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purposes of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60; (14) a record relating to an actual or protential civil or criminal violation of title 17, United States Code, may be disseminated to a person injured by such violation to assist him in the institution or maintainance of a suit brought under such title.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents are stored in file folders *and in the Federal Records Center;* selected summary data is stored on manual index cards and on *microfilm and on IBM System/38.*

RETRIEVABILITY:

Summary data, e.g., names, file numbers, subjects, dates of correspondence, dates of receipt, due dates of assignments, docket numbers *and/or* synopses are retrieved from manual index cards *microfilm, and a numerical listing maintained on IBM System/38.*

File folders are retrieved through manual or automated indexes which are accessed through certain summary data, i.e., name or file and docket numbers.

SAFEGUARDS:

The records are safeguarded and protected in accordance with applicable Departmental rules. Security for the automated records include strictly controlled access codes and passwords. In addition, only authorized Criminal Division employees will have access to the system.

RETENTION AND DISPOSAL:

Currently there is an agreement with the Federal Records Center for retention and disposal after ten years applicable to approximately 20 percent of the Division records. All other paper records are currently retained indefinitely. A retention and disposal schedule for automated records will be under review in connection with a revised schedule for the paper records.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice; 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). Inquiry concerning this system should be directed to the system manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number

or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Department officers and employees, and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e)(1), (2) and (e)(4), (G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM-002

SYSTEM NAME:

Criminal Division Witness Security File.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530. In addition, some of the records contained in this system may be located at one or more of the Organized Crime and Racketeering Sections Field Offices listed in the appendix to the Criminal Division Systems of Records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are potential or actual witnesses and/or informants, relatives, and associates of those individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of the Witness Security Program files on all persons who are considered for admission or who have been admitted into the program. The files contain information concerning the individuals, the source and degree of danger to which they are exposed, the cases in which they are expected to testify, relocation information and documentation, job assistance, sponsoring office, requirements for reimbursement and administration of the program, and protection techniques. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM-001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is authorized pursuant to sections 501 through 504 of Pub. L. 91-452.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. Dissemination of a record may be made to a federal, state, local, or foreign agency to acquire information concerning the individual, or those associated with him, relating to the protection of the subject or to a criminal investigation; 2. in any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; 3. in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; 4. a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; 5. a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; 6. a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; 7. a record relating to an individual in a matter that has been referred for either consideration or investigation by an agency may be disseminated to the referring agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 8. a record relating to an individual held in custody pending arraignment, trial, or sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; 9. a record may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; 10. a record may be disseminated to a federal, state, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; 11. a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; 12. a record may be disseminated to a non-governmental entity or individual in the acquisition of employment or other services in behalf of the witnesses.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on

behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is kept on index cards and in files stored in safe type filing cabinets.

RETRIEVABILITY:

A record is retrieved by name of the individual.

SAFEGUARDS:

The records are maintained in safes with additional physical safeguards as well as limited access by Departmental personnel.

RETENTION AND DISPOSAL:

Currently there are no provisions for the disposal of the records in the system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning the system should be addressed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

1. Federal, state, local, or foreign government agencies concerned with the administration of criminal justice; 2. Members of the public; 3. Government agency employees; 4. Published material; 5. Persons considered for admission or admitted to the program.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM–003

SYSTEM NAME:

File of Names Checked to Determine If Those Individuals Have Been the Subject of An Electronic Surveillance.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Avenue NW.,* Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grand jury witnesses, defendants and potential defendants in criminal cases and their attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the names of those persons submitted by federal prosecutors to inquire whether such persons have been the subject of electronic surveillances. The file consists of the names, the inquiries made to federal investigatory agencies, the replies received from such agencies, and the reply submitted to the prosecutor. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM–001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 3504.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. In the appropriate federal court proceeding in accordance with established constitutional, substantive, or procedural law or practice; 2. to an actual or potential party or his attorney in the case or matter in which the request was made.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject to the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NAPA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in file jackets.

RETRIEVABILITY:

A record is retrieved by the name of the individual checked.

SAFEGUARDS:

The records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently, there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

A part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). Inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

A part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Private Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are an actual or potential party or his attorney in the case or matter in question, federal prosecutors, and the federal investigative agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(4), (d), (e)(4) (G), (H) and (I), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM-004

SYSTEM NAME:

General Litigation and Legal Advice Section, Criminal Division, Central Index File and Associated Records.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Ave., NW.,* Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons referred to in potential or actual cases and matters of concern to the *General Litigation and Legal Advice Section,* Criminal Division, and correspondents on subjects directed or referred to the Criminal Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index by individual name or subject matter of all incoming correspondence, cases, and matters assigned, referred, or of interest to the *General Litigation and Legal Advice Section,* Criminal Division. A large percentage of these records are duplicated in the Central Criminal Division records; some, however, are not sent through central records come to the *General Litigation and Legal Advice Section* directly.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States Code. The system is also maintained to implement the provisions codified in 28 CFR 0.55.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or bearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security

clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards.

RETRIEVABILITY:

A record is retrieved from index cards by the name of the individual or matter which will then indicate the Section Unit or attorney assigned to work on the correspondence, case, or matter.

SAFEGUARDS:

Records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records contained in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). Inquiries concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the applicability of an exemption as to a specific record shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Department offices and employees and other federal, state, local, and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), and (e)(4) (G), (H) and (I), (e) (5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM—005

SYSTEM NAME:

Index to Names of Attorneys Employed by the Criminal Division, U.S. Department of Justice, Indicating the Subject of the Memoranda on Criminal Matters They Have Written.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present attorneys employed by the Criminal Division, U.S. Department of Justice.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of the names of past and present Criminal Division attorneys and lists the memoranda they have written on various matters, generally involving legal research, on matters of interest to the Division. This system is a cross-reference index maintained for convenience only and does not include the memoranda themselves other than the fact of authorship.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to the authority granted by 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 CFR 0.55 and 0.61.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the

public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards.

RETRIEVABILITY:

A record is retrieved by name of the individual.

SAFEGUARDS:

Records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the past or present attorney employed by the Criminal Division. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Past and present attorneys employed by the Criminal Division, U.S. Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM—007

SYSTEM NAME:

Name Card File on Criminal Division Personnel Authorized to Have Access to the Central Criminal Division Records.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; 10th Street and Constitution Avenue, NW.; Washington, D.C. 20530, or Federal Records Center; Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current personnel of the Criminal Division, generally attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

The file contains the names of those attorneys and others currently employed by the Criminal Division who are authorized to have access to the central records of the Division.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions codified in 28 CFR 0.55 and 0.61.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards.

RETRIEVABILITY:

A record is retrieved by name from the index cards.

SAFEGUARDS:

The records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

A name card is destroyed upon notification that the individual is no longer employed by the Criminal Division.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th street and Constitution Avenue, N.W.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the individual involved. The requestor will

also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Personnel of the Criminal Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM-008

SYSTEM NAME:

Name Card File on Department of Justice Personnel Authorized to Have Access to Classified Files of the Department of Justice.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, 10th and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current personnel of the Department of Justice, generally attorneys.

CATEGORIES OF RECORDS IN THE SYSTEM:

This index file contains the names of those attorneys and others currently employed in the Department of Justice who are authorized to have access to records of the Department of Justice classified in the interest of national security with such designations as confidential, secret, and top secret.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established pursuant to Executive Order No. 11652. The system is also maintained to implement the provisions codified in 28 CFR 17.1 through 17.82.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no uses of the records in this system outside of the Department of Justice.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards.

RETRIEVABILITY:

A record is retrieved by name from the index cards.

SAFEGUARDS:

The index is contained in the vault maintained for classified files of the Department of Justice.

RETENTION AND DISPOSAL:

The names in the index are maintained and deleted in accordance with Departmental regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Personnel of the Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM-012

SYSTEM NAME:

Organized Crime and Racketeering Section, General Index File and Associated Records.

SYSTEM LOCATION:

The general files of the Organized Crime and Racketeering Section are located at several locations and not all files are located at all locations. The location of the files are: 1. U.S. Department of Justice; Criminal Division, Organized Crime and Racketeering Section; 10th Street and Constitution Avenue NW., Washington, DC 20530; and 2. Organized Crime and Racketeering Section Field office listed in the Appendix to the Criminals' Division systems of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been prosecuted or are under investigation for potential or actual criminal prosecution as well as persons allegedly involved in organized criminal activity and those alleged to be associated with the subject.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indices bearing individual names and the associated records to which they relate, arranged either by subject matter or individual identifying number, of all incoming correspondence, cases, matters, investigations, and memoranda assigned, referred, or of interest, to the Organized Crime and Racketeering Section and its field offices. The records in this system concern matters primarily involving organized crime and include, but are not limited to, case files; investigative reports; intelligence reports; subpoena and grand jury files; records of warrants and electronic surveillances; records of indictment, prosecution, conviction, parole, probation, or immunity; legal papers;

evidence; exhibits; items classified confidential, secret, and top secret; and various other files related to the Section's activities and it ongoing investigations, prosecutions, cases, and matters. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM–001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and the Presidential Directive on the Federal Drive Against Organized Crime, issued May 5, 1966 (Weekly Compilation of Presidential Documents, Vol. 2, W. No. 18 (1966)). In addition, this system is maintained to assist in implementing and enforcing the criminal laws of the United States, particularly those codified in title 18, United States Code. This system is also maintained to implement the provisions codified in 28 CFR 0.55 particularly subsection (g).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after convinction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade association, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi; (12) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return; (13) a record that contains classifed national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 CFR 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are stored on various documents, tapes, disc packs, and punch cards, some of which are contained in files, on index cards, or in related type materials.

RETRIEVABILITY:

The system is accessed by name but may be grouped for the convenience of the user by subject matter, e.g., parole file, photograph file, etc.

SAFEGUARDS:

Materials related to the system are maintained in appropriately restricted areas and are safeguarded and protected in accordance with applicable Department rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for the disposal of the records in the system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division, U.S. Department of Justice; 10th Street and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning the system should be addressed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name and of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

RECORD SOURCE CATEGORIES:

1. Federal, state, local, or foreign government agencies concerned with the administration of criminal justice and non-law enforcement agencies both public and private; 2. Members of the public; 3. Government employees; 4. Published material; 5. Witnesses and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), and (I), (e)(5), and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the **Federal Register.**

JUSTICE/CRM-016

SYSTEM NAME:

Records on Persons Who Have Outstanding and Uncollected Federal Criminal Fines or Federal Bond Forfeitures.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; Bond Building, 1400 New York Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have outstanding and uncollected federal criminal fines or federal bond forfeitures whose address is presently unknown or was at one time, unknown.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the names of persons, and correspondence relating to such persons, who have federal criminal fines or federal bond forfeitures outstanding and whose whereabouts are presently unknown or were, at one time, unknown. The system is maintained to gather information on the whereabouts of such persons and to assist in federal collection efforts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101. This system is also maintained to implement the provisions codified in 28 CFR 0.171(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminatated as a routine use of such record as follows: (A) In the case of an individual whose whereabouts are unknown, to any individual organization, or government agency for the purpose of gathering information to locate such person; or (B) in the case of any individual whose name is contained in the system whether or not his whereabouts are known as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal state, local, or foreign agency, or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practices; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration (NARA), and to the General Services Administration *(GSA):* A record from a system of records may be disclosed as a routine use to NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in file jackets.

RETRIEVABILITY:

A record is retrieved by the name of the individual.

SAFEGUARDS:

Records are safeguarded and protected in accordance with applicable Department rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, NW; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from this sytem shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and address of the individual involved, his address, his birth date and place, or other identifying number of information which may be of assistance in locating the record, the name of the case involved, if known, and the name of the judicial district, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individual desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are federal, state, local, or foreign agencies, and private individuals and organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM-017

SYSTEM NAME:

Registration and Propaganda Files Under the Foreign Agents Registration Act of 1938, As Amended.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Avenue, NW,* Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons required to file under the Foreign Agents Registration Act of 1938, 22 U.S.C. 611 et seq.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the statement of the registrant and other documents required to be filed under the Foreign Agents Registration Act of 1938. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM-001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 22 U.S.C. 611 et seq. The system is also maintained to implement the provisions of 28 CFR 5.1 through 5.801.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record to any individual, organization, or government agency.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information of Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

A record is retrieved by name of the individual.*Safeguards:*

Records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th Street and Constitution Avenue, NW, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made pursuant to the provisions of 28 CFR 5.600 and 5.601.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought

RECORD SOURCE CATEGORIES:

The source of information contained in this system is the registrant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM-018

SYSTEM NAME:

Registration Files of Individuals Who Have Knowledge of, or Have Received Instruction or Assignment in, Espionage, Counterespionage, or Sabotage Service or Tactics of a Foreign Government or of a Foreign Political Party.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Avenue, NW.,* Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have knowledge of, or who have received instruction or assignment in, espionage, counterespionage, or sabotage service or tactics of a foreign government or of a foreign political party.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the statement of the registrant and other documents required to be filed under 50 U.S.C. 851. The system is a public record except that certain statements may be withdrawn from public examination pursuant to 50 U.S.C. 853 and 28 CFR 12.40 by the Attorney General having due regard for national security and the public interest. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM-001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 50 U.S.C. 851 et seq. The system is also maintained to implement the provisions codified in 28 CFR 12.1 through 12.70.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (A) in the case of a record not withdrawn by the Attorney General from public examination, to any individual, organization, or government agency; or (B) in the case of a record withdrawn by the Attorney General from public examination as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, or criminal or regulatory in nature, the registration record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a registration record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a registration may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional substantive, or procedural law or practice; (4) a record relating to a registration may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a registration may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a registration that has been referred by an agency for investigation may be disseminated to the referring agency to notify such agency of the status of the registration or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the matter; (7) a registration record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation, or release of such person; (8) a record relating to a registration may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a registration record may be disseminated to a federal, state, local or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a registration record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decisions on the matter; (11) a registration record that contains classified national security information and material may be disseminated to persons who are engaged in historical research projects, or who have previously occupied policy making provisions to which they were appointed by the President, in accordance with the provisions codified in 28 C.F.R. 17.60.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 C.F.R. 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records; *Administration (NARA), and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

A record is retrieved by name of the individual registrant.

SAFEGUARDS:

Records are safeguarded and protected in accordance with applicable Departmental files.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEMS MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made pursuant to the provisions of 28 CFR 12.40 and 12.41.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of information contained in this system is the registrant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM—019

SYSTEM NAME:

Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; 10th and Constitution Avenue, NW.; Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the subject of requests by federal investigative agencies for electronic surveillance.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains requests received from federal investigative agencies and federal prosecutors, and associated documents, seeking the authorization of the Attorney General required by 18 U.S.C. 2516 for an application to a federal court for an order authorizing the interception of a wire or oral communication in cases involving federal criminal violations. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM—001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 2516 and 18 U.S.C. 2519.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: 1. In an appropriate federal, state, or local court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; 2. to the requesting agency to notify such agency of the status of the case or matter or of any decision or determination that has been made; 3. to furnish such information for reports to the Administrative Office of the United States Courts as is necessary to comply with the reporting provisions of 18 U.S.C. 2519; 4. to a party pursuant to 18 U.S.C. 2518 (8)(d), (9), and (10) and 18 U.S.C. 3504.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarrante invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration* (GSA): A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in file jackets.

RETRIEVABILITY:

A record is retrieved by the name of the individual who appears first on the application or affidavit that is first received.

SAFEGUARDS:

The records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th and Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for

contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are federal investigative agencies, federal prosecutors, and personnel of the Criminal Division, Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G), (H) and (I), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM–021

SYSTEM NAME:

The Stocks and Bonds Intelligence Control Card File System.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Avenue, NW.;* Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, and their known associates, who are actual, potential, or alleged violators, of statutes dealing with stocks, bonds, and other securities.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is an alphabetical listing of all individuals, and their associates, who are actual, potential, or alleged violators of the statutes dealing with counterfeiting, forging, and theft of stocks, bonds, and other securities including those who traffic, or are suspected of trafficking, in such stocks, bonds, or other securities. Records concerning subject matters described in this system may also be contained in JUSTICE/CRM–001.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM.

This system is established and maintained pursuant to 44 U.S.C. 3101, and is intended to assist in implementing and enforcing the criminal laws of the United States codified in title 18, United States Code and elsewhere, particularly the laws relating to offenses involving stocks and bonds. The system is also maintained to implement the provisions codified in 28 CFR 0.55.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate federal, state, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a federal, state, local, or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate federal, state, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (6) a record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter; (7) a record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction or after extradition proceedings, may be disseminated to a federal, state, local, or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintence, transportation, or release of such a person; (8) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (9) a record may be disseminated to a federal, state, local, foreign, or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; (10) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter; (11) a record may be disseminated to the public, news media, trade associations, or organized groups, when the purpose of the dissemination is educational or informational, such as descriptions of crime trends or distinctive or unique modus operandi, provided that the record does not contain any information identifiable to a specific individual other than such modus operandi.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections

conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards.

RETRIEVABILITY:

A record is retrieved by the name of the individual.

SAFEGUARDS:

Records are safeguarded and protected in accordance with applicable Departmental rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of the records in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General; Criminal Division; U.S. Department of Justice; 10th Street and Constitution Avenue, NW.; Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning the system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1), or (k)(2). To the extend that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are federal, state, local, and foreign government agencies and prosecutors, private organizations and individuals, and personnel of the Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM–022

SYSTEM NAME:

Witness Immunity Records.

SYSTEM LOCATION:

U.S. Department of Justice: Criminal Division: 10th Street and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential or actual witnesses for whom immunity (pursuant to 18 U.S.C. 6001–6005) is proposed.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains background information on the individual and the case of matter in which he is expected to testify in a processing before or ancillary to a court or grand jury of the United States or an agency of the United States. The information maintained in the system is entered from DOJ Form-LAA–111, "Request for Immunity Authorization", which is completed by the United States Attorneys, or from other formal requests for immunity from Federal agencies. The system also contains a record of action taken by the Criminal Division on the request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintain pursuant to 44 U.S.C. 3101. The system is also maintained to implement the provisions of 18 U.S.C. 6001–6005 and 18 U.S.C. 2514.

PURPOSE OF THE SYSTEM:

The system is essential to the Division's efforts in granting immunity requests as stated in 18 U.S.C. 6001–6005. Requests for immunity may be made by a United States Attorney or a Federal agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) A record may be disseminated to a federal, state, local, or foreign law enforcement agency to alert such agency to the proposed immunity or, to the extent necessary for identification purposes, to elicit information concerning the potential or actual witness which may be necessary to an evaluation of the proposed immunity; (2) a record relating to a proposed immunity that has been referred to the Department of Justice for approval, may be disseminated to the referring agency to notify such agency of the status of the referral or of any decision or determination that has been made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents are stored in file folders in locked cabinets; selected summary data are stored on magnetic disks and on manual index cards which are also kept in locked cabinets.

RETRIEVABILITY:

Summary data, e.g., names, request numbers, dates of receipt and completion are retrieved from manual index cards for requests received prior to June 1986; for June 1986 and subsequent years, summary data are retrieved from magnetic disks. File folders are accessed through the manual or automated indexes.

SAFEGUARDS:

The records are safeguarded and protected in accordance with applicable Departmental rules. Security for the automated records include strictly controlled access codes and passwords. Only authorized Criminal Division employees will have access to the system.

RETENTION AND DISPOSAL:

Dispose 10 years after close of request.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th Street and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

The major part of this system is exempted from this requirement

pursuant to 5 U.S.C. 552a (j)(2) or (k)(2). Inquiry concerning this system should be directed to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a (j)(2) or (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request". Include in the request the name of the individual involved, his birth date and place, or other identifying number of information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring the contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

1. Federal government prosecutors; 2. Federal agencies; 3. Department of Justice attorneys and personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2), (3) and (e)(4) (G), (H) and (I), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM-024

SYSTEM NAME:

Freedom of Information/Privacy Act Records.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, *Bond Building, 1400 New York Avenue, NW.*, Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act, persons who request access to or correction of records pertaining to themselves contained in Criminal Division systems of records pursuant to the Privacy Act; and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains copies of all correspondence and internal memorandums related to Freedom of Information and Privacy Act requests, and related records necessary to the processing of such requests received on or after January 1, 1975.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et seq. and 28 CFR 16.40 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in systems of records maintained by the Criminal Division.

Release of information to the news media: Information permitted to be released pursuant to the news media and the public pursuant to 28 CFR 50.2 may be made available from system of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released to 5 U.S.C. 552, may be made available to a Member or Congress or staff acting upon the Member's behalf when the Member of staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Record *Administration (NARA), and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually in alphabetical order in file cabinets.

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records.

SAFEGUARDS:

Access to physical records is limited to personnel of the Freedom of Information/Privacy Act Unit of the Criminal Division and known Department of Justice personnel who have a need for the record in the performance of their duties. The records are safeguarded and protected in accordance with applicable Department rules.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of records contained in this system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

A Part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k) (1), or (k) (2). Inquiry concerning this system should be directed to the system manager listed above.

RECORD ACCESS PROCEDURE:

A part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2), (k) (1), or (k) (2), to the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request

for access to a record contained in this system shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Requests.' Include in the request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requester shall also provide a return address for transmitting the information. Access requests shall be directed to the system manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Criminal Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Records secured from other systems of records have been exempted from the provisions of the Privacy Act to the same extent as the system of records from which they were obtained. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (c), and (e) and have been published in the **Federal Register.**

JUSTICE/CRM-025

SYSTEM NAME:

Tax Disclosure Index File and Associated Records.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, Bond Building, 1400 New York Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Taxpayers about whom the Criminal Division has requested and/or obtained disclosure of tax material from the Internal Revenue Service pursuant to 26 U.S.C. 6103.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains all requests for tax material, any such material provided by the Internal Revenue Service or duplicated or extracted by the Criminal Division from such material, and related records necessary to the application for and/or safeguarding of such material received on or after January 1, 1977.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 26 U.S.C. 6103(p)(4).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record (A) to any officer or employee of the Criminal Division who is personally and directly engaged in preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any matter involving tax administration; and (B) to any person outside of the Criminal Division where such dissemination is or reasonably appears to be in furtherance of proper preparation for any proceeding (or investigation which may result in such proceeding) pertaining to the enforcement of a specifically designated Federal criminal statute not involving tax administration or to the enforcement of a Federal criminal statute in any manner involving tax administration. Such dissemination shall be permitted to the extent authorized under 26 U.S.C. 6103(h), 26 U.S.C. 6103(i), 26 CFR 404.6103(h)(2)–1, 26 CFR 404.6103(i)–(l), and Rule 6(e), FR Crim. P. The above mentioned routine uses include the following:

(1) Dissemination to an attorney of the Criminal Division assigned responsibility with respect to an above-mentioned proceeding or an investigation which may result in such proceeding;

(2) Dissemination to an officer or employee of the Department of Justice with supervisory or clerical responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(3) Dissemination to an officer or employee of another Federal agency (as defined at 5 U.S.C. 551(l)) with investigative, supervisory, or clerical responsibility working under the direction and control of such attorneys of the Department of Justice as are assigned responsibility with respect to an above-mentioned proceeding, or an investigation which may result in such proceeding;

(4) Dissemination to a taxpayer to whom such record relates, or to such taxpayer's legal representative, to properly interview, consult, depose, or interrogate or otherwise obtain information relevant to an above-mentioned proceeding, or an investigation which may result in such proceeding, from such taxpayer or his legal representative;

(5) Dissemination during the course of an investigation which may result in an above-mentioned proceeding to any witness who may be called on to give evidence in such a proceeding to properly interview, consult, depose, or interrogate or otherwise obtain relevant information from such potential witness;

(6) Dissemination to any person having special knowledge or technical skills (such as handwriting analysis, photographic development, sound recording enhancement, or voice identification) to properly obtain the services of such person in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(7) Dissemination to an officer or employee of the Department of Justice, another Federal agency (as defined at 5 U.S.C. 551(l)), or a foreign government to properly utilize international contacts and judicial assistance in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(8) Dissemination to an officer or employee of the Internal Revenue Service to obtain additional disclosure pursuant to 26 U.S.C. 6103 in an above-mentioned proceeding, or an investigation which may result in such proceeding;

(9) Dissemination to a Federal grand jury;

(10) Dissemination to an officer or employee of the Department of Justice to obtain a court order to compel testimony pursuant to 18 U.S.C. 6002 and 6003 in any above-mentioned proceeding, or an investigation which may result in such proceeding;

(11) Dissemination to any party to an above-mentioned proceeding, to properly conduct negotiations concerning, or obtain authorization for, disposition of the proceeding, in whole or in part, or to obtain stipulations of fact in connection with the proceeding;

(12) Dissemination to a judicial or administrative body (such as the United States Parole Commission) in an above-mentioned proceeding or in preparation therefore, or in any post-conviction proceeding resulting from an above-mentioned proceeding;

(13) Dissemination to a court reporter in an above-mentioned proceeding, or as required, in preparation therefor.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

A record contained in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

A record is retrieved by name of the taxpayer in indices maintained in individual sections of the Criminal Division.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. Buildings in which records are located are under security guard, and access to premises is by official identification. Records are stored in spaces which are locked outside of normal office hours and in safe type filing cabinets which are locked when not being accessed. Access to such cabinets is limited to Division personnel whose duties and responsibilities require such access and to whom access may be permitted. A record of access is kept which indicates the name of each person who gains access to material from the secured area and the date and time of each access.

RETENTION AND DISPOSAL:

Records not retained are returned to the Internal Revenue Service or rendered undisclosable in accordance with 26 U.S.C. 6103(p)(4)(f)(ii). Currently there are no provisions for disposal of records contained in this system that are not returned to the Internal Revenue Service or are otherwise rendered undisclosable.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). Inquiry concerning the system should be addressed to the system manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a(j)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record contained in this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name of the individual involved, his birth date and place or any other identifying number or information which may be of assistance in locating the record, the name of the case or matter involved, if known, and the name of the judicial district involved, if known. The requestor will also provide a return address for transmitting the information. Access requests will be directed to the system manager listed above. Records in this system are exempt from the access provisions of the Act in accordance with the applicable exemption notice.

CONTESTING RECORD PROCEDURES:

Taxpayers desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Records in this system are exempt from the contesting provisions of the Act in accordance with the applicable exemption notice.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the Internal Revenue Service, Federal investigative agencies, Federal prosecutors, and personnel of the Criminal Division, Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4)(G), and (H) and (I), (e) (5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/CRM—026

SYSTEM NAME:

Index of Prisoners Transferred Under Prisoner Transfer Treaties.

SYSTEM LOCATION:

U.S. Department of Justice; Criminal Division; *Bond Building, 1400 New York Avenue, NW,* 10th and Constitution Ave., NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prisoners transferred to or from prisons in the United States under prisoner transfer treaties with other countries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indicies bearing individual names of prisoners involved in transfers and the tape recordings and occasional verbatim transcripts of consent verification hearings held pursuant to 18 U.S.C. 4107 and 4108, as well as copies of consent verification forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained to implement the provisions of 18 U.S.C. 4107(e) and 4108(e). The records maintained in the system are used in conjunction with litigation relating to transfer of prisoners under prisoner transfer treaties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by personnel of the Office of International Affairs of the Criminal Division to confirm the status of verification consent proceedings and to provide a readily retrievable record in the event of litigation on the issue of consent to the transfer. In addition, a record may be disseminated to the court, to court personnel, and to parties and their counsel in any litigation brought on the issue of proper consent to a prisoner transfer; to a state, local or foreign government, at its request, when the record relates to one of its past or present prisoners who have been the subject of a consent verification hearing; and, to any foreign government that is a party to an applicable treaty in a scheduled report that is required by the treaty.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in the

system not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record of the system of records may be disclosed to NARA and GSA National Archives and Records Service (NARS) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Verification consent forms and tape records are stored in file drawer safes.

RETRIEVABILITY:

A record is retrieved from index cards by the name of the individual and from the file jackets by location and date of the verification consent hearings which appear on the index cards.

SAFEGUARDS:

The records are stored in file drawer safes. Access to them is limited to personnel of the Office of International Affairs, Criminal Division, United States Department of Justice. The office in which the records are contained is securely locked at night and on weekends.

RETENTION AND DISPOSAL:

Currently it is planned to maintain records for 10 years in file safes referred to above and then transfer them to the Federal Records Center for retention.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division; U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

A request for access to a record contained in this system shall be made in writing to the system manager, with the envelope and letter clearly marked "Privacy Act Request". The request shall include the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assistance in locating the record, and the name of the case or matter involved, if known. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Court records and prisoner statements.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/CRM-027

SYSTEM NAME:

Office of Special Investigations (OSI) Displaced Persons Listings.

SYSTEM LOCATION:

U.S. Department of Justice, Criminal Division, *Bond Building, 1400 New York Avenue, N.W.*, Washington, DC 20530, and Federal Records Center, Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied for entry visas into the United States under the Displaced Persons Acts in force from 1948 to 1952 and for whom the United States Army Counterintelligence Corps assembled visa investigation files.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of alphabetical indexes bearing the names of persons who applied for entry visas under the Displaced Persons Acts, their visa applications, investigative reports and any other supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is intended to assist in implementing and enforcing the criminal laws of the United States, particularly those Criminal Statutes codified in "Criminal Laws," United States Code. The system is also maintained to implement the provisions codified in 28 CFR 0.55 and 0.61.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by OSI personnel as source material to locate potential witnesses who might be able to provide information of investigative interest. However, a record maintained in this sytem of records may be disseminated as a routine use of such record as follows: (1) Records, or some part thereof, relating to a particular visa applicant, may become a part of an investigative record maintained in a published system of records entitled "Central Criminal Division Index File and Associated Records, JUSTICE/CRM-001" and be subject to the routine uses of that system; (2) a record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement; (3) a record may be disseminated to a Federal, State, local, foreign, or international enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency; and (4) a record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index records in this system will be stored by name and control number on an IBM System/38. The actual records are papers in files stored in file boxes on shelves in locked record storage rooms.

RETRIEVABILITY:

Records stored in this system can be retrieved by the name of the individual, and by the control number of the record.

SAFEGUARDS:

Appropriate steps have been taken to preserve security and minimize the risk of unauthorized access to the system. Staff members who use the computer to input data or who have access to the stored data have been given specific identification codes or passwords by the system security officer which will restrict access to specific data. The files will be kept in a locked room with restricted access.

RETENTION AND DISPOSAL:

Currently there are no provisions for the disposal of records in the system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General, Criminal Division, U.S. Department of Justice, 10th and Constitution Avenue, NW, Washington, DC 20530.

NOTIFICATION PROCEDURE:

Inquire in writing to the system manager listed above.

RECORD ACCESS PROCEDURES:

Portions of this system are exempt from disclosure and contest by 5 U.S.C. 552a(k)(2). Make all requests for access to those portions not so exempted by writing to the system manager identified above. Clearly mark the envelope and letter "Privacy Access Requests;" provide the full name and notarized signature of the individual who is the subject of the record, his/her date and place of birth, or any other identifying number or information which may assist in locating the record; and, a return address.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information maintained in the system to the system manager listed above. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

The information in this system was originally compiled during the course of investigations undertaken by the United States Army Counter Intelligence Corps pursuant to the Displaced Persons Acts in effect from 1948 to 1952. For the most part, the information in this system was obtained directly from the visa applicant himself, but the records would also contain information from other individuals or entities which would have shed light on the information supplied by the visa applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain categories of records in this system from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e), and have been published in the **Federal Register.**

JUSTICE/CRM-999

APPENDIX TO CRIMINAL DIVISION'S SYSTEMS OF RECORDS; FIELD OFFICE ADDRESSES OF ORGANIZED CRIME AND RACKETEERING SECTIONS WHERE RECORDS MAY BE LOCATED:

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Atlanta Field Office, 75 Spring Street (SW.), U.S. Courthouse—Suite 2002, Atlanta, Georgia 30303.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Boston Strike Force, P.O. Box 1433, Boston, Massachusetts 02109.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Brooklyn Strike Force, Room 327–A, 35 Tillary Street, Brooklyn, New York 11201.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Buffalo Strike Force, U.S. Courthouse, 68 Court Street—Rm. 420, Buffalo, New York 14202.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Camden Field Office, 2600 Mount Ephraim Avenue, Camden, New Jersey 08104–3210.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Chicago Strike Force, Room 1402, 219 South Dearborn Street, Chicago, Illinois 60604.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Cleveland Strike Force, Suite 450—Investment Bldg., 601 Rockwell Avenue, Cleveland, Ohio 44114.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Detroit Strike Force, Rm. 940—Federal Bldg., 231 West Lafayette St., Detroit, Michigan 48226.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Ft. Lauderdale Field Office, 299 E. Broward Blvd., Suite 309–E, Federal Bldg., Ft. Lauderdale, Florida 33301.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, U.S. Courthouse—Room C–242, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Houston Field Office, P.O. Box 610148, Houston, Texas 77208–0148.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Kansas City Strike Force, 811 Grand Avenue, Rm. 127—U.S. Courthouse, Kansas City, Missouri 64106.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Las Vegas Strike Force, Valley Bank Plaza, 300 S. 4th Street, Suite 1005, Las Vegas, Nevada 89101.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Los Angeles Strike Force, Rm. 2311—Fed. Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Miami Strike Force, 77 S.E. 5th St., Suite 401, Miami, Florida 33131.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, 142 Orange Street, 3rd Floor, New Haven, Conn. 06515, or P.O. Box 1693, New Haven, Conn. 06507.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Newark Strike Force, Rm. 635—Fed. Bldg., 970 Broad Street, Newark, New Jersey 07101.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, New Orleans Strike Force, Hale Boggs Federal Building, 500 Camp Street—Room 308, New Orleans, Louisiana 70130.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Philadelphia Strike Force, 615 Chestnut Street, Suite 700, Philadelphia, Pennsylvania 19106.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, P.O. Box 996, Postal Annex Building, Providence, Rhode Island 02901, or U.S. Courthouse—Federal Bldg., Rm. 213, Kennedy Plaza, Providence, Rhode Island 02901.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Room 318—New Federal Building, 100 State Street, Rochester, New York 14614.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, San Francisco Strike Force, Box 36132, 450 Golden Gate Avenue, San Francisco, California 94102.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, P.O. Box 7012—Federal Station, Syracuse, New York 13201, or U.S. Courthouse and Fed. Bldg., Rm. 1141—100 S. Clinton, Syracuse, New York 13260.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, 700 Twiggs Street, Room 711, Tampa, Florida 33602.

ORGANIZED CRIME AND RACKETEERING SECTION:

U.S. Department of Justice, Box 571, Ben Franklin Station, Washington, DC 20044.

JUSTICE/DEA-001

SYSTEM NAME:

Air Intelligence Program.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Aircraft Owners; (B) Licensed Pilots.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) FAA Civil Aircraft Registry; (B) FAA Aircraft Owners Registry; (C) FAA Airman Directory; (D) Entries into NADDIS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The System is maintained to provide intelligence and law enforcement activities pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513) and Reorganization Plan No. 2 of 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system provides a research data base for identification of aircraft, aircraft owners and pilots that are known or suspected of involvement in illicit air transportation of narcotics. Information developed from this system is provided to the following categories of users for law enforcement purposes on a routine basis: (A) Other Federal law enforcement agencies; (B) State and local law enforcement agencies; (C) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the content of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Reference materials are maintained on microfiche. Information developed from the reference materials is entered onto the NADDIS magnetic tape.

RETRIEVABILITY:

This system is indexed by name and identifying numbers.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized DEA employees with appropriate clearance on a need-to-know basis.

RETENTION AND DISPOSAL:

Reference materials are retained until updated and then destroyed. Entries into NADDIS are retained for *twenty-five* years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Intelligence, Drug Enforcement Administration; 1405 Eye Street, NW., Washington, DC 20537.

NOTIFICATION PROCEDURE:

The reference materials in this system are matters of public record. Information developed from this system and entered into the Narcotics and Dangerous Drug Information System (NADDIS) has been exempted from compliance with subsection (d) of the Act by the Attorney General.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Federal Aviation Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), and (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-003

SYSTEM NAME:

Automated Records and *Consolidated* Orders System/Diversion Analysis and Detection System (ARCOS/DADS).

SYSTEM LOCATION:

Drug Enforcement Administration, 1105 Eye Street, NW., Washington, D.C. 20537. Also field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

CATEGORIES OF RECORDS IN THE SYSTEM:

The information contained in this system consists of individual business transactions between levels of handlers of controlled substances to provide an audit trail of all manufactured and/or imported controlled substances to the dispensing level.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained pursuant to the reporting requirements of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826(d)) and to enable the United States to fulfill its treaty obligations under the Single Convention on Narcotic Drugs and the Convention on Phychotropic Substances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users for the purposes stated: (A) Other Federal law enforcement and regulatory agencies for law enforcement or regulatory purposes; (B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes; (C) The International Narcotics Control Board as required by treaty obligations.

The ARCOS/DADS system of records generates the following reports: (1) Reports to the United Nations on Narcotics and Psychotropic Substances; (2) Aggregate Individual Quota Allocation Supportive Data; (3) Usage of Controlled Substances; (4) Controlled Substance Summary by reporting Registrant; (5) Controlled Substance Summary by Location; (6) Controlled Substance Usage & Inventory Summary—by Schedule; (7) Discrepancy Notice Reports; (8) Discrepancy Error Analysis Report; (9) Potential Diversion reports; (10) Incomplete Transfers; (11) Unauthorized Purchases; (12) Excess Inventory & Purchases; (13) Order Form Monitoring; (14) Improper Reporting of Partial Shipments; (15) Discrepancies in Quantities; (16) Waste & Sampling of Controlled Substances Beyond Limits; (17) Controlled Substances Used in Manufacturing of Non-controlled Substances; (18) Controlled Substances Used in Research; (19) Controlled Substances Sold to Government Agencies; (20) Controlled Substances Destroyed; (21) Controlled Substances Imported/Exported; (22) Quota Excess.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA)*; A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All automated data files associated with ARCOS-DADS are maintained in the Department of Justice Data Center and the Drug Enforcement Administration Data Center.

RETRIEVABILITY:

The system is indexed by name and identifying number. In addition a number of telecommunication terminals have been added to the existing network.

SAFEGUARDS:

The portion of the records maintained in DEA headquarters is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to ARCOS Unit employees who have appropriate security clearances on a need to know basis. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Input data received from registrants is maintained for 60 days for backup purposes and then destroyed by shredding or electronic erasure. ARCOS master inventory records are retained for eight consecutive calendar quarters As the end of a new quarter is reached the oldest quarter of data is purged from the record. ARCOS transaction history will be retained for a maximum of five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESSES:

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration; 1405 Eye Street, NW., Washington, D.C. 20537.

RECORD SOURCE CATEGORIES:

Business forms and individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d) (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA–004

SYSTEM NAME:

Congressional Correspondence File.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the United States Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Inquiries from Members of Congress; (B) Reply to Congressional inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is maintained to provide a history of Congressional inquiries. The information is not disseminated outside the Department of Justice.

Release of information to the news media: Information permitted to be released to the media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to *5 U.S.C.* 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The documents in this system are maintained in standard file folders.

RETRIEVABILITY:

The system is indexed by the name of the Member of Congress.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are stored in bar lock filing cabinets and access to the system is restricted to members of the DEA Congressional Affairs Staff.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

irector, Congressional Affairs, Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Members of Congress.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-005

SYSTEM NAME:

Controlled Substances Act Registration Records (CSA).

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on the following categories of individuals registered under the Controlled Substances Act including registrants doing business under their individual name rather than a business name: (A) Physicians and related practitioners; (B) Dentists; (C) Veterinarians; (D) Persons conducting research with controlled substances; (E) Importers of controlled substances; (F) Exporters of controlled substances; (G) Manufacturers of controlled substances; (H) Distributors of controlled substances; (I) Pharmacies.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Controlled Substances Act Registration Records are maintained in a manual system which contains the original of the application for registration under 224, 224a, 225, *225a,* 226, 227, 268, and *363a,* order forms (DEA-222's) and any correspondence concerning a particular registrant. In addition, the same basic data is maintained in an automated system for quick retrieval.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Drug Enforcement Administration is required under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91-513) to register all handlers of controlled substances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Controlled Substances Act Registration Records produce special reports as required for statistical analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated: (A) Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes; (B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes; (C) Persons registered under the Controlled Substances Act (Pub. L. 91-513) for the purpose of verifying the registration of customers and practitioners.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The automated portion of this system is maintained on magnetic tape and the manual portion is by batch.

RETRIEVABILITY:

The automated system is retrieved by name and registration number. The manual portion is filed in batches by date the application was processed. A microfiche system of the names by State is maintained for quick reference

purposes. In addition, a number of telecommunication terminals have been added to the existing network.

SAFEGUARDS:

This system of records is maintained in DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to DEA personnel on a need-to-know basis. A specific computer program is necessary to extract information. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

Records in the manual portion of the system are retired to the Federal Records Center after one year and destroyed after eight years. The automated data is stored in the Department of Justice Computer Center and destroyed after five years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information *Section,* Drug Enforcement Administration; 1405 Eye Street NW., Washington, DC 20537. Inquiries should include inquirer's name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from: (A) Registrants *and applicants* under the Controlled Substances Act (Pub. L. 91–513); (B) DEA Investigators.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4) (G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b) (c), and (e) and have been published in the Federal Register.

JUSTICE/DEA–006

SYSTEM NAME:

Freedom of Information/Privacy Act Records.

SYSTEM LOCATION:

Freedom of Information *Section,* Drug Enforcement Administration, 1405 I Street, NW., Room 200, Washington, DC 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who request disclosure of records pursuant to the Freedom of Information Act; persons who request access to or correction of records pertaining to themselves contained in DEA's system of records pursuant to the Privacy Act: and, where applicable, persons about whom records have been requested or about whom information is contained in requested records.

CATEGOREIS OF RECORDS IN THE SYSTEM:

The system contains: (1) Copies of all correspondence and internal memorandums related to the Freedom of Information Act and Privacy Act request, and related records necessary to the processing of such requests receive after January 1, 1975, (2) documents responsive to Freedom of Information Act/Privacy Act requests that are contained in other DEA systems of records, and (3) copies of all documents relevant to appeals and lawsuits under the Freedom of Information Act and Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and is maintained pursuant to the authority of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Reorganization Plan No. 2 of 1973; and is maintained to implement the provisions of 5 U.S.C. 552 and 552a and the provisions of 28 CFR 16.1 et seq. and 28 CFR 16.40 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use of such records as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate Federal, State, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records contained in a system of records maintained by the Freedom of Information *Section.*

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are maintained in standard case file folders.

RETRIEVABILITY:

A record is retrieved by the name of the individual or person making a request for access or correction of records.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electonic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the system is stored in Diebold combination vault and access is restricted to the staff of the Feedom of Information *Section,* on a need-to-know basis.

RETENTION AND DISPOSAL:

Currently there are no provisions for disposal of records contained in this system. Destruction schedules will be developed as the system requirements become known.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Room 200, Washington, DC 20537.

NOTIFICATION PROCEDURE:

A part of this system is exempted from this requirement under 5 U.S.C. 552a (j) or (k). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request is received by the Drug Enforcement Administration, 1405 I Street, Washington, D.C. 20537. A request shall be made in writing with the envelope and the letter clearly marked "Privacy Request". Each Privacy request shall contain the name of the individual involved, his date and place of birth, and other verification of identity as required by 28 CFR 16.41. Each requestor shall also provide a return address for transmitting the information. Requests shall be directed to the Chief, Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above except individuals desiring to contest or amend information maintained in the system should direct their written request to the System Manager listed above, and state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the processing responding to requests, and other agencies referring requests for access to or correction of records originating in the Drug Enforcement Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (h) of 5 U.S.C. 552a; in addition, this system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(k)(1) and (k)(2) from subsections (c)(3), (d), (e)(1), (e)(4)(G) and (H), and (f) of 5 U.S.C. 552a. This system is exempted because the records contained in this system reflect Drug Enforcement Administration law enforcement and investigative information. Individual access to these records might compromise ongoing investigations, reveal confidential informants or constitute unwarranted invasions of the personal privacy of third parties who are involved in a certain investigation. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(c), and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-008

SYSTEM NAME:

Investigative Reporting and Filing System.

SYSTEM LOCATION:

Drug Enforcement Administration: 1405 I Street, NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Drug offenders
B. Alleged drug offenders
C. Persons suspected of drug offenses
D. Confidential informants
E. Defendants
F. Witnesses
G. Non-implicated persons with pertinent knowledge of some circumstances or aspect of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need for recall will exist. In the regulatory portion of the system, records are maintained on the following categories of individuals: (a) Individuals registered with DEA under the Comprehensive Drug Abuse Prevention and Control Act of 1970; (b) Responsible officials of business firms registered with DEA; (c) Employees of DEA registrants who handle controlled substances or occupy positions of trust related to the handling of controlled substances; (d) Applicants for DEA registration and their responsible employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Investigative Reporting and Filing System includes, among other things, a system of records as defined in the Privacy Act of 1974. Individual records, i.e., items of information on an individual, may be decentralized in separate investigative file folders. Such records, as well as certain other records on persons and subjects not covered by the Act, are made retrievable and are retrieved by reference to the following subsystems.

A. The Narcotics and Dangerous Drugs Information System (NADDIS) consists of two centralized automated indices and machine records on subjects cited in and extracted from investigative reports. The two indices represent a name index and a number index which are used to access one or more specific records for examination. The system serves as both an index to the more voluminous written reports upon which it is based and as an autonomous means for developing investigative leads and aids in selecting source materials for studies of a strategic nature. The system is accessible by telecommunications by appropriately equipped DEA headquarters and field offices. Records which comprise the system are also accessed by special computer runs. These runs are typically generated from selection criteria which cannot be utilized (input) via the telecommunications equipment. Bulk products generated via off-line runs may be formatted on computer tape, in printout or on microfiche depending on the needs of the user.

Direct references to the discrete file folders in which the source reports are filed are provided within each record. Therefore, the NADDIS records point to the more comprehensive manual reports maintained centrally at Headquarters. Records are retrievable by name and by certain identifying numbers in the online mode and by virtually any record data element in the off-line mode.

B. The Confidential Source Subsystem within the Investigative Reporting and Filing System consists of demographic and administrative data concerning: (a) Persons who under the specific direction of a DEA agent, with or without the expectation of payment or other valuable consideration, furnish information regarding drug trafficking, or perform other lawful services; and (b) persons who furnish information to DEA on an occasional basis.

The information contained in this subsystem is extracted directly from investigative files and confidential informant files contained in the system. This subsystem contains no names. The subsystem consists of alphanumeric identifiers coupled with demographic and administrative data concerning the confidential source. The subsystem

serves primarily as an administrative tool to enable DEA management to perform periodic reviews of confidential sources required by DEA guidelines and regulations, to enable DEA to maintain move effective management controls over the expenditure of funds to confidential sources and to enable DEA to more systematically assess the performance of particular confidential sources. In addition, the system will generate statistical reports which will assist DEA management in evaluating the overall effectiveness of the utilization of confidential sources of information.

The system is accessed by designated ADP terminals on the strictest need to know basis.

C. Manual name indices covering foreign investigative activities are maintained by DEA foreign field offices. A residual card index is retained by DEA headquarters and domestic field offices that predates the automated central index. The items of information on the manual index records are extracted only from investigative reports and point to the more comprehensive information in pertinent investigative file folders. The records in the field office indices are subsets of the central automated and manual indices. Records are retrievable by name only by this manual technique. Four basic categories of files are maintained within the Investigative Reporting and Filing System. DEA does not maintain a dossier type file in the traditional sense on an individual. Instead, the files are complied on separate investigations, topics and on a functional basis for oversight and investigative support. (a) Criminal Investigative Case Files; (b) General Investigative Files, Criminal and Regulatory; (c) Regulatory Audit and Investigative Files; (d) Confidential Information Files.

The basic document contained in these files is a multipurpose report of investigation (DEA–6) in which investigative activities and findings are rigorously documented. The reports pertain to the full range of DEA criminal drug enforcement and regulatory investigative functions that emanate from the Comprehensive Drug Prevention and Control Act of 1970. Within the categories of files listed above, the general file category includes preliminary investigations of a criminal nature, certain topical or functional aggregations and reports of preregistrant inspections/investigations. The case files cover targeted conspiracies, trafficking situations and formal regulatory audits and investigations. Frequently the criminal drug cases are the logical extension of one or more preliminary investigations. The distinction between the case file and general file categories, therefore is based on internal administrative policy and should not be construed as a differentiation of investigation techniques or practices. These files, except for Confidential Information Files, contain also adopted reports received from other agencies to include items that comprise, when indexed, individual records within the meaning of the Act. The central files maintained at DEA Headquarters include, in general, copies of investigative reports and most of the supporting documents that are generated or adopted by DEA Headquarters and field offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained to enable DEA to carry out its assigned law enforcement and regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513), Reorganization Plan No. 2 of 1973, and to fulfill United States obligations under the Single Convention on Narcotic Drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system may be used as a data source or reference facility for numerous summary, management and statistical reports produced by the Drug Enforcement Administration. Only on rare occasions do such reports contain identifiable individual records. Information contained in this system is provided to the following categories of users as a matter of routine use for law enforcement and regulatory purposes: (a) Other federal law enforcement and regulatory agencies; (b) State and local law enforcement and regulatory agencies; (c) Foreign law enforcement agencies with whom DEA maintains liaison; (d) The Department of Defense and Military Departments; (e) The Department of State; (f) U.S. intelligence agencies concerned with drug enforcement; (g) The United Nations; (h) Interpol; (i) To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: (a) To federal agencies for national security clearance purposes and to federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; (b) To the Office of Management and Budget upon request in order to justify the allocation of resources; (c) To State and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; (d) To the news media for public information purposes; and (e) To respondents and their attorneys for purposes of discovery, formal and informal in the course of an adjudicatory, rulemaking, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records, *Administration (NARA) and to the General Services Administration (GSA)*: A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspection conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Administration regulations include detailed instructions for the preparation, adoption, handling, dissemination, indexing of individual records, storage, safeguarding of investigative reports and the accounting of disclosure of individual records.

STORAGE:

1. The Headquarters central files and the field office subsets of the Investigative Reporting and Filing System are maintained in standard file folders. Standard formats are employed. Manual indices are maintained using standard index record formats.

2. The Narcotics and Dangerous Drugs information subset is stored electronically on the Department of Justice computer center separate from DEA Headquarters.

RETRIEVABILITY:

Access to individual records is gained by reference to either the automated or

manual indices. Retrievability is a function of the presence of items in the index and the matching of names in the index with search argument names or identifying numbers in the case of the automated system. Files identified from field office indices are held by the field office of Headquarters. Files identified from the automated index may not be held by the interested office, but the originators of such files are identified. In addition a number of telecommunication terminals have been added to the existing network, including a terminal installation at the J. Edgor Hoover Building, 9th and Pennsylvania Avenue NW., Washington, D.C. 20535.

SAFEGUARDS:

The Investigative Reporting and Filing system is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to investigative information is limited to those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

1. Physical security when investigative files are attended is provided by responsible DEA employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of continers or facilities is made in consideration of the sensitivity or National Security Classification, as appropriate, of the files and the extent of security guard and/or surveillance afforded by electronic means.

2. Protection of the automated index is provided by physical procedural and electronic means. The Master file resides on the Department of Justice computer center and is physically attended or guarded on a full-time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surreptitious access to an unattended terminal is precluded by a complex sign-on procedure. The procedure is provided only to persons designated and authorized by DEA. For certain terminals, access is further restricted by cryptological equipment.

3. An automated log of queries is maintained for each terminal. Improper procedure results in no access. Terminals are signed-off after use. The terminals are otherwise located in locked facilities after normal working hours.

4. The dessemination of investigative information on an individual outside the Department of Justice is made in accordance with the routine uses as described herein or otherwise in accordance with the conditions of disclosure prescribed by the Act. The need to know of the recipent is determined in both cases by persons designated and authorized by DEA as a prerequisite of the release.

RETENTION AND DISPOSAL:

Records contained within this system are retained for *twenty-five (25)* years.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Operations Division, Drug Enforcement Administration, 1405 I Street NW., Washington D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(a) DEA personnel, (b) Cooperating individuals; (c) Suspects and defendants; (d) Federal, State and local law enforcement and regulatory agencies; (e) Other federal agencies: (f) Foreign law enforcement agencies; (g) Business records by subpoena; (h) Drug and chemical companies; (i) Concerned citizens.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c)(3) and (4), (d), (e)(1), (2) and (3), (*e*)(4)(G) and (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-009

SYSTEM NAME:

Medical Records.

SYSTEM LOCATION:

Drug Enforcement Administration; 1405 Eye Street NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) DEA Employees; (B) Cooperating Individuals;

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Annual physical examinations; (B) Reports of disease or injury pertaining to DEA Special Agents and Chemists; (C) Reports of job related injury or illness for employees and cooperating individuals; (D) Pre-employment physical examination of DEA Special Agents and Investigators; (E) Physical examination reports of non-federal police personnel applying to attend the National Training Institute.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained to establish and maintain an effective and comprehensive health program for employees pursuant to 5 U.S.C. 7901, 29 U.S.C. 655 and Executive Order 11807 of September 28, 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for internal DEA use. The only disclosure outside the agency would be to a physician when authorized by the subject.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from system of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personnel privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND IMPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in standard file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, the records are stored in file safes in an alarmed, controlled access area. Access to the system is limited to employees of the medical office on a need-to-know basis.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Medical Administration. Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537. Inquiries should contain the following information: Name; Date and Place of Birth; Dates of Employment with DEA; Employee number.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained; Employees of Medical Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-010

SYSTEM NAME:

Planning and Inspection Division Records.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537. Also, field offices. See Appendix I for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) DEA employees, past and present; (B) Applicants for employment with DEA; (C) Drug offenders, alleged drug offenders, and persons suspected of drug offenses; (D) Offenders, alleged offenders, and persons suspected of committing Federal and state crimes broadly characterized as corruption or integrity offenses; (E) Confidential informants; (F) Witnesses; (G) Nonimplicated persons with pertinent knowledge of circumstances or aspects with pertinent knowledge of circumstances or aspects of a case or suspect. These are pertinent references of fact developed by personal interview or third party interview and are recorded as a matter for which a probable need will exist.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Investigative reports with supporting memoranda and work papers relating to investigations of individuals and situations. (B) General files which include, among other things, supporting memoranda and work papers and miscellaneous memoranda relating to investigations of and the purported existence of situations and allegations about individuals. (C) Audit and inspection reports of inspections of DEA offices, personnel, and situations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reorganization Plan No. 1 of 1968 and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users as a matter or routine uses for law enforcement and regulatory purposes: A. Other Federal law enforcement and regulatory agencies; B. State and local law enforcement and regulatory agencies; C. Foreign law enforcement agencies with whom DEA maintains liaison; D. The Department of State; E. The Department of Defense and Military Departments; F. U.S. Intelligence agencies concerned with drug enforcement; G. The United Nations; H. Interpol; I. To individuals and organizations in the course of investigations to elicit information.

In addition, disclosures are routinely made to the following categories for the purposes stated: A. To Federal agencies for national security clearance purposes and to Federal and state regulatory agencies responsible for the licensing or certification of individuals in the fields of pharmacy and medicine; B. To the Office of Management and Budget upon request in order to justify the allocations of resources; C. To state and local prosecutors for assistance in preparing cases concerning criminal and regulatory matters; D. To the news media for public information purposes; E. To Federal, State and local governmental agencies who are conducting suitability for employment investigations on current or prospective employees.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the *National Archives and Records Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records are maintained in standard investigation folders. Automated records are maintained on magnetic disks.

RETRIEVABILITY:

Access to manual records can be accomplished by the use of a card index maintained alphabetically by employee name. Access to the automated system is achieved by reference to personal identifiers, other data elements or any combination thereof.

SAFEGUARDS:

These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees

and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the Office of Internal Security and upper level management officials. The records are stored in a vault protected by alarm and cipher locks. Access to the system will be on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Case files are destroyed after five years unless the Office of Internal Security of the Chief Counsel determines that these files are required for potential or ongoing litigation. This determination will be subject to annual review. General files and audit files shall be retained as long as the subject is employed at DEA and for two years after termination.

SYSTEM MANAGER(S) AND ADDRESS:

Security Programs Manager, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA Investigations; (B) Federal, State and local law enforcement agencies; (C) Cooperating individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c), (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H) (e) (5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-011

SYSTEM NAME:

Operations Files

SYSTEMS LOCATION:

Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Cooperating Individuals; (B) Confidential Informants.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Biographic and background information; (B) Official Contact Reports; (C) Intelligence Reports (DEA–6).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained to assist in intelligence operations pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513) and Reorganization Plan No. 2 of 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is used to keep a history of intelligence operations against narcotics traffickers and their support networks. Information contained in this system is provided to the following categories of users for law enforcement purposes on a routine basis: (A) Other Federal law enforcement agencies; (B) State and local law enforcement agencies; (C) Foreign law enforcement agencies with whom DEA maintains liaison; (D) United States Intelligence and Military Intelligence agencies involved in durg enforcement; (E) The United States Department of State.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in standard case files.

RETRIEVABILITY:

These files are retrieved manually by subject matter category and coded identification number.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, all files are stored in GSA approved security containers approved for Secret material and treated as if they carried a Secret classification whether classified or not. Access to the files is restricted to authorized DEA employees with Top Secret clearances on a limited need-to-know basis.

RETENTION AND DISPOSAL:

These records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Intelligence, Drug Enforcement Administration, 1405 Eye Street N.W., Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA Reports; (B) Reports of federal, state and local agencies; (C) Reports of foreign agencies with whom DEA maintains liaison.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-012

SYSTEM NAME:

Registration Status/Investigation Records.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street NW. Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have a Controlled Substances Act registration number under their personal name who have had some action taken against their license or registration.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) DEA reports of investigation; (B) Information received from state regulatory agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained to enable the Drug Enforcement Administration to perform its regulatory functions under the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system of records is provided for law enforcement and regulatory purposes to the following categories of users on a routine basis: (A) Other federal law enforcement and regulatory agencies; (B) State and local law enforcement and regulatory agencies; (C) To respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rule-making, or other hearing held pursuant to the Controlled Substances Act of 1970.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress. Information contained in systems or records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

These records are maintained in standard case file folders.

RETRIEVABILITY:

This system is indexed by name of registrant.

SAFEGUARDS:

This system of records is maintained in DEA Headquarters which is protected by 24-hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized employees of the Diversion Operation Section on a need-to-know basis.

RETENTION AND DISPOSAL:

These records are retained as long as there is a need for the file. These are working files and may be destroyed when no longer required or merged into the Investigative Case File and Reporting System.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration; 1405 Eye Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA Investigators: (B) State and local regulatory agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(4)(G) and (H), (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-013

SYSTEM NAME:

Security Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537. Also, field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) DEA personnel; (B) Cooperating individuals and informants; (C) Drug traffickers and suspected drug traffickers; (D) Individuals who might discover DEA investigations or undercover operations by chance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains reports concerning the categories of individuals stated above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained to identify and correct security problems in the area of intelligence operations and installations pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513) and Reorganization Plan No. 2 of 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is utilized to generate reports on security problems in the area of intelligence operations and installations. In addition, information is provided to the following categories of users for law enforcement purposes on a routine basis: (A) Other federal law enforcement agencies; (B) State and local law enforcement agencies; (C) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information on the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the

Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in standard case folders.

RETRIEVABILITY:

The information in this system is retrieved by subject matter category or by coded identification number.

SAFEGUARDS:

This system of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, these records are stored in GSA approved security containers authorized for Secret material. Access to the system is restricted to authorized DEA personnel who have Top Secret Clearances on a limited need-to-know basis.

RETENTION AND DISPOSAL:

Records in this system are retained as long as the individual remains active and then destroyed or retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Intelligence, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section Drug Enforcement Administration, 1405 I Street, NW, Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA Reports; (B) Reports of federal, state and local agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA-014

SYSTEM NAME:

System to Retrieve Information from Drug Evidence (STRIDE/Ballistics).

SYSTEM LOCATION:

Drug Enforcement Administration; 1405 Eye Street, NW., Washington, D.C. 20537. Also, field office. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Defendants and suspected violators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Ballistics report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to provide drug intelligence for law enforcement purposes pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Reorganization Plan No. 2 of 1973.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system is provided to the following categories of users for law enforcement purposes on a routine basis: (A) Other federal law enforcement agencies; (B) State and local law enforcement agencies; (C) Foreign law enforcement agencies with whom DEA maintains liaison.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is stored on magnetic tape.

RETRIEVABILITY:

The system is indexed by case number *and exhibit number.* The information can be retrieved by name of DEA case number *and exhibit number.* In addition, a number of telecommunication terminals have been added to the existing network.

SAFEGUARDS:

This system of records is maintained at DEA, headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to authorized DEA employees with appropriate clearance on a need-to-know basis. Information that is retrievable by terminals requires user identification numbers which are issued to authorized employees of the Department of Justice.

RETENTION AND DISPOSAL:

The information contained in this system is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Forensic Sciences Section, Drug Enforcement Administration; 1405 Eye Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

DEA Reports: Scientific Analysis.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G), (H), (e)(5) and (8), (f), (g), (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (C) and (e) and been published in the Federal Register.

Justice/DEA-015

SYSTEM NAME:

Training Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537 and DEA Office of Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

CATEGORIES OF INDIVIDUALS COVERED BY THE THE SYSTEM:

Individuals who have attended training programs sponsored by the Drug Enforcement Administrative Office of Training.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Students names; (B) Dates and locations of schools; (C) Class average and individual student grades; (D) Locations of student's employers; (E) Number of years experience in general law enforcement and drug law enforcement; (F) Classification of student's employers by state, local, county, or Federal; (G) Type of school attended; (H) Class rosters; (I) Biographic data; (J) Evaluation reports; (K) Application and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to provide educational and training programs on drug abuse and controlled substances law enforcement pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is maintained to assist in performing the administrative functions of the Office of Training and is used to prepare class directories, class rosters, program evaluation reports and statistical reports. In addition, information from this system is provided to Federal, state and local law enforcement and regulatory agencies employing former students and biographical data may be provided to students and former students in the form of class rosters and alumni publications.

Release of information to the news media: Information permitted to be released to the news media and the public may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information of Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):*A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, AND ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The manual records in this system are maintained on index cards and in file folders and the automated portion is maintained on magnetic tapes.

RETRIEVABILITY

Data may be retrieved by the student's last name, school location code, or by beginning course dates.

SAFEGUARDS:

Those records maintained at DEA Headquarters are protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. In addition, access to file is limited to Office of Training personnel on a need-to-know basis. Those records maintained at the Drug Enforcement Administration, Office of Training, *FBI Academy Quantico, Virginia.* Access to file is restricted to DEA personnel on a need-to-know basis.

RETENTION AND DISPOSAL

Records in this system are currently maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Training, Drug Enforcement Administration *FBI Academy.*

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street NW., Washington, DC 20537.

Inquiries should contain name; date and place of birth; and dates of attendance at courses sponsored by the Office of Training.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) Students: (B) Instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-016

SYSTEM NAME:

Drug Enforcement Administration Accounting System (DEAAS II).

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537. Also field offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who submit vouchers requesting payment for goods or services rendered, except payroll vouchers for DEA employees. These include vendors, contractors, experts, witnesses, court reporters, travelers, relocated employees, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

All vouchers paid except payroll vouchers for DEA employees. In addition all advance of funds issued to DEA travelers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with the Budget and Accounting Procedures Act of 1950 as amended, 31 U.S.C. 66 and U.S.C. 200(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

After payment of the vouchers, the accounting data is used for the purpose of internal management reporting and external reporting to agencies such as OMB, U.S. Treasury, and the GAO.

Release of information to the News Media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congess: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual voucher files are maintained alphabetically by payee's name. Travel advance information and other budget and accounting data are maintained by an online computerized file Information on travel advances is stored by employee identification number, other budget and accounting data is maintained by obligation number or other program identifier.

RETRIEVABILITY:

Information from manual voucher files is retrieved by using the name of the payee. Travel advance information is retrieved by employee identification number; other budget and accounting data is retrieved by obligation number or other program identifier.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded in accordance with organizational rules and procedures. Access to manual voucher files is restricted to employees on a need to know basis. Information that is retrievable by terminals can be retrieved only by authorized employees of the Department of Justice who have been issued user identification numbers.

RETENTION AND DISPOSAL:

The payment documents are retained at this location for three fiscal years (current and two prior years). The records are then shipped to a Federal Records Center for storage in accordance with the General Record Schedule published by the General Services Administration. In the computerized file for travel advances, only the last two transactions in any particular account are retained in the file. Old transactions are automatically purged as new transactions are entered.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administator, Office of Administration, Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information *Section,* Drug Enforcement Administration, 1405 Eye Street NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Submitted by the payee involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-017

SYSTEM NAME:

Grants of Confidentiality Files (GCF).

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for grants of confidentiality.

CATEGORIES OF RECORDS IN THE SYSTEM:

(A) Requests for and actual Grants of Confidentiality; (B) Correspondence relating to above; (C) Documents relating to investigations of said applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to 21 U.S.C. 872 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records are utilized for the purpose of investigating applicants prior to the granting of confidentiality. In the course of such investigations, information may be disseminated to state and local law enforcement and regulatory agencies to other federal law enforcement and regulatory agencies.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on standard case folders.

RETRIEVABILITY:

The information in this system is retrieved by name of grantee.

SAFEGUARDS:

This systems of records is maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business

within the building who are escorted by DEA employees. In addition, the records are stored in bar lock filing cabinets and access to the system is restricted to members of the DEA employees on a "need to know basis."

RETENTION AND DISPOSAL:

Records in this system are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street, NW., Washington, D.C. 20537. Inquiries should include the inquirer's name, date, and place of birth.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(A) DEA investigative reports; (B) Applicants; (C) Reports from other federal, state and local agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA-018

SYSTEM NAME:

DEA Applicant Investigations (DAI)

SYSTEM LOCATION:

Drug Enforcement Administration; 1405 Eye Street, NW, Washington D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with DEA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in records may include date and place of birth, citizenship, marital status, military and social security status. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived, arrests and convictions for any violations against the law, information from inquiries directed to present and former supervisors, co-workers, associates, educators, etc, credit and National Agency checks, and other information developed from the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Executive Order No. 10450.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USER AND THE PURPOSES OF SUCH USES:

These records are used by DEA to implement an effective screening process for applicants. To foreign, federal, state and local law enforcement and regulatory agencies, where appropriate, for referral to avoid duplication of the investigative process and where the appropriate agency is charged with the responsibility of investigating or prosecuting potential violations of law.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in standard investigative folders.

RETRIEVABILITY:

These records are retrieved by use of a card index maintained alphabetically by employee name.

SAFEGUARDS:

These records are maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Access to the system is restricted to employees of the office of Internal Security and upper level management officials. The records are stored in safe-type combination lock file cabinets.

RETENTION AND DISPOSAL:

These records are maintained during period of employment and for 5 years after termination of employment and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Security Programs Manager, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to: Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537. Inquiries should include the inquirer's name, date, and place of birth.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

DEA investigations, federal, state and local law enforcement agencies.

Cooperating individuals, employees, educational institutions, references, neighbors, associates, credit bureaus, medical officials, probation officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (d)(1) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements at 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/DEA-020

SYSTEM NAME:

Essential Chemical Reporting System.

SYSTEM LOCATION:

Drug Enforcement Administration (DEA). 1405 I Street, NW., Washington, DC 20537. Also, DEA Field Offices. See Appendix 1 for list of addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individual who submit reports concerning the sale, loss, or theft of precursor or other chemical essential to the manufacture of controlled substances.

B. Individuals who are reported as the purchaser, importer, or individual suffering the loss or theft of precursor or other chemical essential to the manufacture of controlled substances.

C. Individuals who are reported as the person placing an order for precursor or other chemical essential to the manufacture or controlled substances.

D. Individual who are reported as being involved in or having knowledge of the details relative to the loss or theft of precursor or other chemical essential to the manufacture of controlled substances.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Precursor dine reports submitted to DEA pursuant to Pub. L. No. 95–633. (2) Information extracted from precursor reports and maintained on magnetic tape. (3) Reports submitted voluntarily to DEA concerning chemicals essential to the manufacture of controlled substance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained pursuant to the reporting requirements contained in Pub. L. 95–633.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is provided to the following categories of users for the purposes stated:

(A) Other Federal law enforcement and regulatory agencies for law enforcement or regulatory purposes.

(B) State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

(C) Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(D) Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of or at the request of the individual who is the subject of the record.

(E) Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in management inspections under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Essential chemical report documents will be maintained in manual file folders. Information extracted will be maintained on magnetic tape.

RETRIEVABILITY:

The information maintained on magnetic tape will be retrievable by the name of any individual mentioned in the report.

SAFEGUARD:

The proposed system of records will be maintained in DEA Headquarters which is protected by twenty-four hour guard serivce and electronic surveillance. Access to the building is restricted to DEA employees and those persons transacting business within the building who are escorted by DEA employees. Manual files will be maintained in the DEA central files and access to these documents will be restricted to DEA employees on a need-to-know basis. Access to information maintained on magnetic tape will require a specific computer program to extract information. Access to information through ADP terminals will require a user identification code which will be issued to authorized DEA employees on a strict need-to-know basis.

RETENTION AND DISPOSAL:

Until DEA gains experience to establish the useful life of the records in this system, the records will be maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator for Operations, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington DC 20537.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals required to submit prescursor reports pursuant to Pub. L. 95–633, and individuals who voluntarily submit reports concerning the sale, distribution or importation of chemicals essential to the manufacture of controlled substances.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA–021

SYSTEM NAME:

DEA *Aviation Unit* Reporting System

SYSTEM LOCATION:

Drug Enforcement Administration (DEA) *Investigative Support Section, Aviation Unit,* DEA/Justice, P.O. Box 534, Addison, Texas 75001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DEA pilots.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Records relating to the operation and maintenance of DEA aircraft. (2) Records relating to pilot qualifications (CSC Form 671).

This system is maintained to monitor the utilization and maintenance of DEA aircraft and the qualifications of DEA pilots in furtherance of DEA enforcement operations conducted pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Federal Aviation Administration for purposes of aircraft documentation and pilot certification.

(2) Department of Defense for communication purposes.

(3) United States Coast Guard for communication purposes.

(4) Communications relay services under contract with DEA for communications purposes.

(5) Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of

a particular case would constitute an unwarranted invasion of personal privacy.

(6) Release of information to Members of Congress. Information contained in the systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(7) Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The automated portions of the records is maintained on an ADP disk storage device. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Information relating to individuals in the system is retrieved by pilot name or identifying number assigned by DEA.

SAFEGUARDS:

Access to the system is restricted to DEA personnel on a need-to-know basis. The records are maintained in a secure room at the Addison Aviation Facility in accordance with DEA security procedures and are protected by an electronic alarm system.

RETENTION AND DISPOSAL:

The automated records are maintained for five years and then purged from the data base. Manual records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, *Investigative Support Section.* Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Information pertaining to individuals in the system is obtained from reports submitted by DEA pilots.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-023

SYSTEM NAME:

Clerical, Technical and Professional (CTAP) Program Files.

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537 and field offices (see Appendix #1 for addresses).[1]

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Clerical technical and professional employees (GS/1–12) of DEA who volunteer to participate in the CTAP program.

CATEGORIES OF RECORDS IN THE SYSTEMS:

Biographic, educational and career development records of CTAP employees, interview and evaluation forms concerning CTAP employees and individual career development plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

OMB Circular No. A–48 (September 23, 1971). Federal Personnel Manual, Chapter 410.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is disclosed to DEA counselors and supervisors to develop and plan individualized career development programs for DEA employees.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2, may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personnel privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests that information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Record *Administration (NARA) and to the General Service Administration (GSA)*: A record from a system of records may be dislcosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in the system are maintained in manual file folders and on ADP equipment.

RETRIEVABILITY:

Records will be retrieved by employee name.

SAFEGUARDS:

The records in the system will be maintained in facilities which meet DEA security requirements. Access to the system will be restricted to DEA employees on a need-to-know basis.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Administrator, Office of Administration Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

DEA employees, CTAP Counselors, DEA personnel files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-027

SYSTEM NAME:

DEA Employee Profile System (DEPS)

SYSTEM LOCATION:

Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DEA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following eight categories of information will be maintained in the system:

1. Personal identification
2. Work experience
3. Language & geographical areas
4. Formal education
5. Special skills
6. Record of training
7. Consideration for vacancies
8. Awards

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained to effectively place and assign employees to positions to further the mandates of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records will be used principally by the Personnel Management Division. Selected data will be forwarded by this personnel section to the Career Development Board and operational units throughout DEA for the purpose of:

1. Identifying employees with particular skills or qualifications for assignment to special projects.

2. Identification of candidates for overseas assignments who have specific language skills.

3. Insuring that the Career Development Board will be reviewing the entirety of an applicant's background.

4. Calculating DEA's human resources on hand and to project more accurately future resource needs and capabilities.

Information from this system will not be disseminated outside of DEA.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records will be maintained on magnetic tape and a disk storage device.

RETRIEVABILITY:

The information in this system can be retrieved by the individual's name, special skills information, special knowledge information or by some combination of the above information.

SAFEGUARDS:

The records of the system will be maintained at DEA Headquarters which is protected by twenty-four hour guard service and electronic surveillance. Access to the building is restricted to DEA employees and those transacting business within the building who are escorted by DEA employees. In addition, the area where the tapes and disks are stored is a secured area and access is restricted to those employees who have business in the area and those non-DEA people who are transacting business within the area and escorted by a DEA employee. Inquiries to the system are only made by the written request of the Chief, Personnel Management Division.

RETENTION AND DISPOSAL:

Records in this system are retained as long as the individual is employed by DEA.

SYSTEM MANAGER(S) AND ADDRESS

Deputy Assistant Administrator, Office of Administration, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537. Inquiries should include inquirer's name, date of birth, and social security number.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures

RECORD SOURCE CATEGORIES:

1. DEA employee
2. Servicing personnel Office
3. The Justice Uniform Personnel System (Juniper)

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/DEA-INS-111

SYSTEM NAME:

Automated Intelligence Records System (Pathfinder)

SYSTEM LOCATION:

U.S. Department of Justice, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537 and El Paso Intelligence Center (EPIC), El Paso, Texas 79902.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Those individuals who are known, suspected, or alleged to be involved in (a) narcotic trafficking, (b) narcotic-arms trafficking, (c) alien smuggling or transporting, (d) illegally procuring, using, selling, counterfeiting, reproducing, or altering identification documents relating to status under the immigration and nationality laws, (e) terrorist activities (narcotic, arms or alien trafficking/smuggling related), (f) crewman desertions and stowaways, (g) arranging or contracting a marriage to defraud the immigration laws; *and (h) facilitating the transportation of narcotics proceeds;* (2) In addition to the categories of individuals listed above, those individuals who (a) have had citizenship or alien identification documents put to fraudulent use or have reported them as lost or stolen, (b) arrive in the United States from a foreign territory by private aircraft, and (c) are informants or witnesses (including non-implicated persons) who have pertinent knowledge of some circumstances or aspect of a case or suspect may be the subject of a file within this system; and (3) In the course of criminal investigation and intelligence gathering, DEA and INS may detect violation of non-drug or non-alien related laws. In the interests of effective law enforcement, this information is retained in order to establish patterns of criminal activity and to assist other law enforcement agencies that are charged with enforcing other segments of criminal law. Therefore, under certain limited circumstances, individuals known, suspected, or alleged to be involved in non-narcotic or non-alien criminal activity may be the subject of a file maintained within this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

In general, this system contains computerized and manual intelligence information gathered from DEA and INS investigative records and reports. Specifically, intelligence information is gathered and collated from the following DEA and INS records and reports: (1) DEA Reports of Investigation (DEA–6), (2) DEA and INS Intelligence Reports, (3) INS Air Detail Office Index (I–92A), (4) INS Anti-Smuggling Indices (G–70), (5) INS Marine Intelligence Index, (6) INS Fraudulent Document Center Index, (7) INS Terrorist Index, (8) INS Reports of Investigation and Apprehension (I–44, I–213, G–166) *and (9) U.S. Coast Guard Vessel 408 file.* In addition, data is obtained from commercially available flight plan information concerning individuals known, suspected or alleged

to be involved in criminal smuggling activities using private aircraft.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system has been established in order for DEA and INS to carry out their law enforcement, regulatory, and intelligence functions mandated by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236), Reorganization Plan No. 2 of 1973, the Single Convention on Narcotic Drugs, (18 UST 1407), and Sections 103, 265, and 290 and Title III of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1305, 1360, 1401 et seq.). Additional authority is derived from Treaties, Statutes, Executive Orders and Presidential Proclamations which DEA and INS have been charged with administering.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system will be used to produce association and link analysis reports and such special reports as required by intelligence analysts of DEA and INS. The system will also be used to provide "real-time" responses to queries from Federal, state, and local agencies charged with border law enforcement responsibilities.

Information from this system will be provided to the following categories of users for law enforcement and intelligence purposes provided a legitimate and lawful "need to know" is demonstrated: (a) Other Federal law enforcement agencies, (b) state and local law enforcement agencies, (c) foreign law enforcement agencies with whom DEA and INS maintain liaison, (d) U.S. intelligence and military intelligence agencies involved in border criminal law enforcement, (e) clerks and judges of courts exercising appropriate jurisdiction over subject matter maintained within this system, and (f) Department of State; (g) various Federal, State, and local law enforcement committees and working groups including Congress and senior Administration officials; (h) The Department of Defense and military departments; (i) The United Nations; (j) The International Police Organization (Interpol); (k) to individuals and organizations in the course of investigations to elicit information; (1) to the Office of Management and Budget, upon request, in order to justify the allocation of resources; (m) to respondents and their attorneys for purposes of discovery, formal and informal, in the course of an adjudicatory, rulemaking, or other hearing held pursuant to the Controlled Substances Act of 1970; and (n) in the event there is an indication of a violation or potential violation of law whether civil, criminal, regulatory, or administrative in nature, the relevant information may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulations, or order issued pursuant thereto.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual subsets of the Pathfinder Information System are maintained on standard index cards and manual folders. Standard security formats are employed. *The records are stored on computer at the DOJ computer center, Washington, D.C.*

RETRIEVABILITY:

Access to individual records can be accomplished by reference to either the manual indices or the automated information system. Access is achieved by reference to personal identifiers, other data elements or any combination thereof.

SAFEGUARDS:

The Pathfinder System of Records is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to intelligence information is limited to those persons or agencies with a demonstrated and lawful need to know for the information in order to perform assigned functions.

Physical security when intelligence files are attended is provided by responsible DEA and INS employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification as appropriate, of the files, and the extent of security guard and/or surveillance afforded by electronic means.

Protection of the automated information system is provided by physical, procedural, and electronic means. The master file resides in the DEA Office of Intelligence Secured Computer System and is physically attended or safe-guarded on a full time basis. Access or observation to active telecommunications terminals is limited to those with a demonstrated need to know for retrieval information. Surrepititious access to an unattended terminal is precluded by a complex authentication procedure. The procedure is provided only to authorized DEA and INS employees. Transmission from DEA Headquarters to El Paso, Texas is accomplished via a dedicated secured line.

An automated log of queries is maintained for each terminal. Improper procedure results in no access and under certain conditions completely locks out the terminal pending restoration by the master controller at DEA Headquarters after appropriate verification. Unattended terminals are otherwise located in locked facilities after normal working hours.

The dissemination of intelligence information to an individual outside the Department of Justice is made in accordance with the routine uses as described herein and otherwise in accordance with conditions of disclosure prescribed in the Privacy Act. The need to know is determined in both cases by DEA and INS as a prerequisite to the release of information.

RETENTION AND DISPOSAL:

Records maintained within this system are retained for fifty-five (55) years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Administrator, Office of Intelligence, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537 and Associate Commissioner, *Enforcement,* Immigration and Naturalization Service, 425 Eye Street, NW, Washington, D.C. 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to Freedom of Information Section, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537.

RECORD ACCESS PROCEDURE:

Same as notification procedure.

CONTESTING RECORD PROCEDURES:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Commercially available flight plan information source; Confidential informants; DEA intelligence and investigative records/reports; INS investigative, intelligence and statutory mandated records/reports; records and reports of other Federal, state and local agencies; and reports and records of foreign agencies with whom DEA maintains liaison.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(g), (H) and (I), (e)(5) and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/DEA—999

DEA Appendix 1—List of record location addresses. Copies of all or part of any system of records published by the Drug Enforcement Administration pursuant to 5 U.S.C. 552a may be maintained at the DEA field offices listed below. However, procedures for processing inquiries concerning DEA systems of records have been centralized in DEA Headquarters. Inquiries concerning all DEA systems of records should be addressed to:

FREEDOM OF INFORMATION SECTION:

Drug Enforcement Administration, 1405 Eye Street, NW., Washington, DC 20537.

Drug Enforcement Administration Field Offices:

Atlanta Division

Atlanta Division Office, 75 Spring Street, SW., Room 740, Atlanta, Georgia 30303
Charleston Resident Office, 334 Meeting Street, Room 325, Charleston, South Carolina 29403
Columbia Resident Office, 1101 Laurel, P.O. Box 702, Room 204, Columbia, South Carolina 29202
Columbus Resident Office, P.O. Box 1565, Columbus, Georgia 31902
Greensboro Resident Office, 2300 W. Meadowview Road, Suite 224, Greensboro, North Carolina 27407
Knoxville Resident Office, 1111 Northshore Drive, Room 610, Knoxville, Tennessee 37919
Memphis Resident Office, 167 N. Main Street, 401 Federal Building, Memphis, Tennessee 38103
Nashville Resident Office, 801 Broadway, A929, Estes Kefauver Building, FB–USCH, Nashville, Tennessee 37203
Savannah Resident Office, 124 Barnard Street, Room B–220, Savannah, Georgia 31401
Wilmington Resident Office, 272 Front Street, Suite 423, Wilmington, North Carolina 28401

Boston Division

Boston Division Office, G–64 JFK Federal Building, Boston, Massachusetts 02203
Bridgeport Resident Office, 915 Lafayette Boulevard, FB–USCH, Room 200, Bridgeport, Connecticut 06604
Burlington Resident Office, P.O. Box 327, Essex Junction, Vermont 05452
Concord Resident Office, 55 Pleasant Street, Federal Building, P.O. Box 1314, Concord, New Hampshire 03301
Hartford Resident Office, 450 Main Street, Room 628, Hartford, Connecticut 06103
Portland Resident Office, 1355 Congress Street, Suite D, Portland, Maine 04102
Providence Resident Office, 232 John O. Pastore Federal Building, Exchange Terrace, Providence, Rhode Island 02903
Springfield Resident Office, 1550 Main Street, Room 408, Springfield, Massachusetts 01103

Chicago Division

Chicago Division Office, 219 Dearborn Street, Chicago, Illinois 60604
Fargo Resident Office, P.O. Box 1127, Fargo, North Dakota 58107
Hammond Resident Office, 507 State Street, Room 632, Hammond, Indiana 46320
Indianapolis Resident Office, 575 N. Pennsylvania, Room 290, Indianapolis, Indiana 46204
Milwaukee Resident Office, 517 E. Wisconsin, 228A FB–USCH, Milwaukee, Wisconsin 53202
Minneapolis Resident Office, 110 S. 4th Street, 402 Federal Building, Minneapolis, Minnesota 55401
Springfield Resident Office, 524 S. Second Street, Suite 650, Springfield, Illinois 62701

Dallas Division

Dallas Division Office, 1880 Regal Row, Dallas, Texas 75235
Fort Worth Resident Office, 501 W. 10th Street, U.S. Courthouse, Room 506, Fort Worth, Texas 76102
Oklahoma City Resident Office, 200 NW Fifth Street, Federal Building, Suite 960, Oklahoma City, Oklahoma 73102–3202
Tulas Resident Office, 333 W. Fourth Street, Room 3335, Tulsa, Oklahoma 74103
El Paso Resident Office, 4110 Rio Bravo, Suite 100, El Paso, Texas 79902
Alpine Resident Office, P.O. Box 1282, Alpine, Texas 79830
Lubbock Resident Office, 2345 50th Street, Suite 120, Lubbock, Texas 79412
Midland, Texas, Post of Duty, 200 E. Wall, Federal Building, Room 105, Midland, Texas 79701
Tyler, Texas, Post of Duty, 3301 Golden Road #5, Tyler, Texas 75713

Denver Division

Denver Division Office, 316 US Customs House, P.O. Box 1860, Denver, Colorado 80201
Cheyenne Resident Office, 2120 Capitol Avenue, 8020 Federal Center, Cheyenne, Wyoming 82001
Salt Lake City Resident Office, 125 State Street, 8416 Federal Building, Salt Lake City, Utah 84138
Albuquerque District Office, 5301 Central Avenue NE., 1st National Bank Building East, Suite 900, Albuquerque, New Mexico 87108
Glenwood Springs Resident Office, 401 23rd Street, Suite 104, Glenwood Springs, Colorado 81601
Las Cruces Resident Office, P.O. Box 399, Las Cruces, New Mexico 88004

Detroit Division

Detroit Division Office, 231 W. Lafayette, 357 Federal Building, Detroit, Michigan 48226
Cincinnati Resident Office, 505 Main Street, 7405 Federal Office Building, Cincinnati, Ohio 45202
Cleveland Resident Office, 601 Rockwell Avenue, Room 300, Cleveland, Ohio 44114
Grand Rapids Resident Office, 110 Michigan Avenue, NW., 310 FB–USCH, Grand Rapids, Michigan 49503
Louisville Resident Office, 600 Federal Place, 1006 Federal Building, Louisville, Kentucky 40202
Saginaw Resident Office, 100 S. Warren Street, Room 1061, Federal Building, Saginaw, Michigan 48606

Houston Division

Houston Division Office, 333 West Loop North, Houston, Texas 77024
Corpus Christi Resident Office, 400 Mann Street, P.O. Box 2443, Suite 403, Corpus Christi, Texas 78403
Galveston Resident Office, 6000 Broadway, Suite 104, Galveston, Texas 77550
Beaumont, Texas, Post of Duty, 700 North Street, Suite 102, Beaumont, Texas 77701–1899
McAllen District Office, 3017 S. 10th Street, McAllen, Texas 78503
Brownsville, Resident Office, 1100 FM 802, Suite, 200, Brownsville, Texas 78521

Laredo Resident Office, P.O. Box Drawer 2307, Laredo, Texas 78044
San Antonio Resident Office, 1802 NE Loop 410, 1800 Central Building, 4th Floor, San Antonio, Texas 78217
Austin Resident Office, 55 N. Interregional Highway, P.O. Box 8, Austin, Texas 78767
Eagle Pass Resident Office, 342 Rio Grande, Room 102, Eagle Pass, Texas 78852

Los Angeles Division

Los Angeles Division Office, 305 S. Figueroa Street, Los Angeles, California 90071
Guam Resident Office, 238 O'Hara Street, Suite 502C, Agana, Guam 96910
Honolulu Resident Office, 300 Ala Moana Boulevard, Room 3129, P.O. Box 50163, Honolulu, Hawaii 96850
Las Vegas Resident Office, 300 Las Vegas Boulevard South, FB–USCH, Room 204, P.O. Box 16023, Las Vegas, Nevada 89101–0023
Reno Resident Office, 4600 Kietzke Lane, 209 Building I, Reno, Nevada 89502
Riverside Resident Office, 3610 Central Avenue, Room 511, P.O. Box 2946, Riverside, California 92516
Santa Ana Resident Office, 34 Civic Center Plaza, P.O. Box 12609, Santa Ana, California 92712
Santa Barbara Resident Office, 6445 Calle Real, Suite C, Goleta, California 93117

Miami Division

Miami Division Office, 8400 NW 53rd Street, Miami, Florida 33166
Ft. Lauderdale Resident Office, 299 E. Broward Boulevard, FB–USCH, Suite 404, Ft. Lauderdale, Florida 33301
Ft. Myers Resident Office, 2345 Union Street, Suite D, Ft. Myers, Florida 33902
Gainsville Resident Office, 1717 NE 9th Street, Suite 134, P.O. Box 2918, Gainsville, Florida 32601
Jacksonville Resident Office, 4077 Woodcock Drive, Suite 210, Jacksonville, Florida 32207
Marathon Resident Office, 11400 Overseas Highway, P.O. Box 1269, Room 215, Marathon, Florida 33050
Orlando Resident Office, 498 Palm Springs Plaza Drive, Suite 801, Altamonte Springs, Florida 32701
Panama City Resident Office, 410 Jenks Avenue, P.O. Box 1486, Panama City, Florida 32402
Tampa Resident Office, 700 Twiggs Street, Suite 400, Tampa, Florida 33602
Tampa Task Force Airport Detail, 700 Twiggs Street, Suite 400, Tampa, Florida 33602
West Palm Beach Resident Office, 701 Clematis Street, Room 223, West Palm Beach, Florida 33401
San Juan District Office, 416 Ponce de Leon Avenue, Chase Building, Suite 514, Hato Rey, Puerto Rico 00918

Newark Division

Newark Division Office, 970 Broad Street, Federal Office Building, Room 806, Newark, New Jersey 07102
Atlantic City Resident Office, P.O. Box AB, Northfield, New Jersey 08225
Camden, New Jersey Resident Office, c/o DEA, P.O. Box 428, Bellmawr, New Jersey 08031

New Orleans Division

1661 Canal Street, Suite 2200, New Orleans, Louisiana 70112
Baton Rouge Resident Office, 4560 North Boulevard, Suite 118, Baton Rouge, Louisiana 70806
Birmingham Resident Office, 236 Goodwin Crest, Suite 520, Birmingham, Alabama 35209
Gulfport Mississippi, Post of Duty, P.O. Box 1387, Gulfport, Mississippi 39502
Jackson Resident Office, 100 W. Capitol Street, 1501 Federal Building, Jackson, Mississippi 39269
Little Rock Resident Office, One Union National Plaza, Suite 850, Little Rock, Arkansas 72201
Mobile Resident Office, 2 Office Park, Suite 216, Mobile, Alabama 36609
Shreveport Resident Office, 8A20A Federal Building, Shreveport, Louisiana 71101

New York Division

New York Division Office, 555 W. 57th Street, Suite 1900, New York, New York 10019
Albany Resident Office, Clinton Avenue & North Pearl Street, 746 Leo W. O'Brien Federal Building, Albany, New York 12207
Buffalo Resident Office, 28 Church Street, Suite 300, Buffalo, New York 14202
Rochester Resident Office, P.O. Box 14210, Rochester, New York 14614
Long Island Resident Office, One Huntington Quadrangle, Suite 1C–02, Melville, New York 11747
New York DEA Drug Task Force, 555 W. 57th Street, Suite 1700, New York, New York 10019–2978
JFK Airport Station, P.O. Box 361, Jamaica, New York 11430

Philadelphia Division

Philadelphia Division Office, 600 Arch Street, Room 10224, William J. Green Federal Building, Philadelphia, Pennsylvania 19106
Harrisburg Resident Office, P.O. Box 557, Harrisburg, Pennsylvania 17108–0557
Pittsburgh Resident Office, 1000 Liberty Avenue, Federal Building, Room 2306, Pittsburgh Pennsylvania 15222
Wilmington Resident Office, 844 King Street, J. Caleb Boggs Federal Building, Rms. 5305–5307, Wilmington, Delaware 19801

Phoenix Division

Phoenix Division Office, One N. First Street, Suite 201, Phoenix, Arizona 85004
Yuma Resident Office, 3150 Winsor Avenue, Suite 202, Yuma, Arizona 85364
Tucson Resident Office, 2110 E. Airport Drive, Tucson, Arizona 85706
Nogales Resident Office, 3970 Fairway Drive, Nogales, Arizona 85621

San Diego Division

San Diego Division Office, 402 W. 35th Street, National City, California 92050
Calexico Resident Office, 38 W. 4th Street, P.O. Box J, Calexico, California 92231
Tecate Resident Office, Highway 188, P.O. Box 280, Tecate, California 92080

San Francisco Division

San Francisco Division Office, 450 Golden Gate Avenue, P.O. Box 36035, Room 12215, San Francisco, California 94102
Fresno Resident Office, 2202 Monterrey Street Room, 104F, Fresno, California 93721
Sacramento Resident Office, 2941 Fulton Avenue, P.O. Box 214556, Sacramento, California 95821
San Jose Resident Office, 280 S. First Street, Room 2133, San Jose, California 95113

Seattle Division

Seattle Division Office, 220 W. Mercer, Suite 301, Seattle, Washington 98119
Anchorage Resident Office, 701 C Street, Anchorage, Alaska 99513
Blaine Resident Office, 170 C Street, P.O. Box 1680, Blaine, Washington 98230
Boise Resident Office, 2404 Bank Drive, American Reserve Building, Suite 212, Boise, Idaho 83705
Eugene Resident Office, 211 E. 7th Avenue, 230 Federal Building, Eugene, Oregon, 97401
Great Falls Resident Office, 1111 4th Street South, P.O. Box 2887, Great Falls, Montana 59403
Portland Resident Office, 1220 S.W. 3rd Avenue, Room 1566, Portland, Oregon 97204
Spokane Resident Office, 920 W. Riverside, P.O. Box 1504, USCH, Spokane, Washington 99201

St. Louis Division

St. Louis Division Office, 120 S. Central Avenue, Suite 200, St. Louis, Missouri 63105
Cape Girardeau, Missouri, Post of Duty, 339 Broadway, Room 159, Cape Girardeau, Missouri 63701
Des Moines Resident Office, 210 Walnut Street, P.O. Box 1784, USCH, Federal Building, Room 667, Des Moines, Iowa 50309
Kansas City Resident Office, 812 N. 7th Street, Room 206, Kansas City, Kansas 66101
Omaha Resident Office, 215 N. 17th Street, Federal Building, P.O. Box 661, Downtown Station, Omaha, Nebraska 68101
Sioux Falls Resident Office, P.O. Box 1109, Sioux Falls, South Dakota 57101
Wichita Resident Office, 1919 Amidon, Suite 218, Wichita, Kansas 67230

Washington, DC Divsiion

Washington, DC Division Office, 400 Sixth Street SW., Room 2558, Washington, DC 20024
Charleston Resident Office, 22 Capital Street, P.O. Box 1146, Charleston, West Virginia 25324
Clarksburg, West Virginia, Post of Duty, 168 W. Main Street, P.O. Box 262, Room 502, Clarksburg, West Virginia 26301
Charleston Resident Office, 22 Capital Street, P.O. Box 1146, Charleston, West Virginia 25324
Norfolk Resident Office, 200 Granby Mall, Federal Building, Suite 320, Norfolk, Virginia 23510
Richmond Resident Office, 400 N. 8th Street, P.O. Box 10150, Richmond, Virginia 23240
Baltimore District Office, 31 Hopkins Plaza, 955 Federal Building, Baltimore, Maryland 21201

El Paso Intelligence Division

El Paso Intelligence Division, 2211 E. Missouri, Suite 200, El Paso, Texas 79903

Laboratories

Special Testing & Research Laboratory, 7704 Old Springhouse Road, McLean, Virginia 22102–3494
Mid-Atlantic Laboratory, 460 New York Avenue NW, Washington, DC 20537
Northeast Laboratory, 555 W. 57th Street, New York, New York 10019
Southeast Laboratory, 5205 NW 84th Avenue, Miami, Florida 33166
North Central Laboratory, 610 S. Canal Street, Room 500, Chicago, Illinois 60607
South Central Laboratory, 1880 Regal Row, Dallas, Texas 75235
Southwest Laboratory, P.O. Box 1536, National City, California 92050
Western Laboratory, 450 Golden Gate Avenue, Box 36075, San Francisco, California 94102

Other DEA Offices

Aviation Unit

Addison Aviation Facility, DEA/Justice, P.O. Box 534, Addison, Texas 75001

Foreign Offices

Ankara, Turkey Country Office, DEA/Justice, American Embassy, APO New York, New York 09254
Istanbul Resident Office, DEA/Justice, American Consulate General, APO New York, New York 09380
Athens Greece Country Office, DEA/Justice, American Embassy, APO New York, New York 09253
Bangkok, Thailand Country Office, DEA/Justice, American Embassy, APO San Francisco, California 96346
Chiang Mai Resident Office, DEA/Justice, American Embassy, Box C, APO San Francisco, California 96346
Songkhla Resident Office, DEA/Justice, American Embassy, Box S, APO San Francisco, California 96346
Bern, Switzerland County Office, DEA/Justice, American Embassy, Department of State Pouch Mail 20520
Bogota, Colombia Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34038
Barranquilla Resident Office, DEA/Justice, American Embassy, APO Miami, Florida 34038
Cali Resident Office, DEA/Justice, American Embassy, APO Miami, Florida 34038
Medellin Resident Office, DEA/Justice, American Embassy, APO Miami, Florida 34038
Bonn, W. Germany Country Office, DEA/Justice, American Embassy, Box 290, APO New York, New York 09080
Frankfurt Resident Office, DEA/Justice, American Consulate General, APO New York, New York 09213
Brasilia, Brazil Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34030
Sao Paulo Resident Office, c/o Brasilia Country Office, APO Miami, Florida 34030
Brussels, Belgium Country Office, DEA/Justice, American Embassy, APO New York, New York 09667
Buenos Aires, Argentina Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34034
Cairo, Egypt Country Office, DEA/Justice, American Embassy, Box 10, FPO New York, New York 09527
Caracas, Venezuela Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34037
Copenhagen, Denmark Country Office, DEA/Justice, American Embassy, APO New York, New York 09170
Caracao, Netherlands Antilles Country Office, DEA/Justice, c/o U.S. Consulate General, Department of State Pouch Mail 20520
Guatemala City, Guatemala Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34024
Hong Kong Country Office, DEA/Justice, American Consulate General, Box 30, FPO San Francisco, California 96659
Islamabad, Pakistan Country Office, DEA/Justice, Department of State, Pouch Mail 20520
Karachi Resident Office, DEA/Justice, Department of State, Pouch Mail 20520
Lahore Resident Office, DEA/Justice, Department of State, Pouch Mail 20520
Peshawar Resident Office, DEA/Justice, Department of State, Pouch Mail 20520
Jakarta, Indonesia Country Office, DEA/Justice, Department of State, Pouch Mail 20520
Kingston, Jamaica Country Office, DEA/Justice, Department of State, Pouch Mail 20520
Kuala Lumpur, Malaysia Country Office, DEA/Justice, Department of State, Pouch Mail 20520
La Paz, Bolivia Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34032
Santa Cruz Resident Office, c/o La Paz, Bolivia Country Office, APO Miami, Florida 34032
Lagos, Nigeria Country Office, DEA/Justice, Department of State, Pouch Mail 20520
Cochabamba Resident Office, c/o La Paz, Bolivia Country Office, APO Miami, Florida 34032
Lima, Peru Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34031
London, England Country Office, DEA/Justice, American Embassy, Box 40, FPO New York, New York 09510
Madrid, Spain Country Office, DEA/Justice, American Embassy, APO New York, New York 09285
Manila, Philippines Country Office, DEA/Justice, American Embassy, APO San Francisco, California 96528
Mexico City, Mexico Country Office, DEA/Justice, P.O. Box 3087, Laredo, Texas 78041
Guadalajara Resident Office, DEA/Justice, P.O. Box 3088, Laredo, Texas 78041
Hermosillo Resident Office, P.O. Box 1090, Nogales, Arizona 85621
Mazatlan Resident Office, DEA/Justice, Department of State, Pouch Mail 20520
Merida Resident Office, DEA/Justice, American Consulate, P.O. Box 3087, Laredo, Texas 78044
Monterrey Resident Office, DEA/Justice, American Consulate, P.O. Box 3098, Laredo, Texas 78040

Nassau, Bahamas Country Office, DEA/Justice, P.O. Box N8197, Department of State, Pouch Mail 20520
New Delhi, India Country Office, DEA/Justice, American Consulate, Department of State, Pouch Mail 20520
Nicosia, Cypress Country Office, DEA/Justice, American Embassy, FPO New York, New York 09530
Ottawa Country Office, 100 Wellington Street, DEA/Justice, American Embassy, Ottawa, Ontario, Canada KIP–5T1
Montreal Resident Office, DEA/Justice, P.O. Box 65, Postal Station, Desjardins, Montreal, American Consulate General, Montreal, Quebec, Canada HSB 161
Panama City, Panama Country Office, DEA/Justice, American Embassy, Box E, APO Miami, Florida 34002
Paris, France Country Office, DEA/Justice, American Embassy, APO New York, New York 09777
Marseilles Resident Office, DEA/Justice, American Embassy, APO New York, New York 09777
Quito, Ecuador Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34039
Guayaquil Resident Office, DEA/Justice, U.S. Consulate, APO Miami, Florida 34039
Rome, Italy Country Office, DEA/Justice, American Embassy, APO New York, New York 09794–0007
Milan Resident Office, DEA/Justice, American Embassy, Box M, APO New York, New York 09794
San Jose, Costa Rica Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34020
Santiago, Chile Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34033
Santo Domingo, Dominican Republic Country Office, DEA/Justice, American Embassy, APO Miami, Florida 34041
Seoul, Korea Country Office, DEA/Justice, American Embassy, APO San Francisco, California 96301
Singapore Country Office, DEA/Justice, American Embassy, FPO San Francisco, California 96699–0001
The Hague, Netherlands Country Office, DEA/Justice, American Embassy, APO New York, New York 09159
Tokyo, Japan Country Office, DEA/Justice, American Embassy, APO San Francisco, California 96503
Vienna, Austria Country Office, DEA/Justice, American Embassy, APO New York, New York 09108

JUSTICE/FBI 001

SYSTEM NAME:

National Crime Information Center (NCIC)

SYSTEM LOCATIONS:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Wanted Persons: 1. Individuals for whom Federal warrants are outstanding.

2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdictions originating the entry and felony or misdemeanor warrant has been issued for the individual with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria.

3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictionary boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the initial entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even through no arrest warrants were issued.

5. Individuals who have committed or have been identified with an offense committed in a foreign country, which would be a felony if committed in the United States, and for whom a warrant of arrest is outstanding and for which act an extradition treaty exists between the United States and that country.

6. Individuals who have committed or have been identified with an offense committed in Canada and for whom a Canada-Wide Warrant has been issued which meets the requirements of the Canada-U.S. Extradition Treaty, 18 U.S.C. 3184.

B. Individuals who have been charged with serious and/or significant offenses.

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting himself or others to personal and immediate danger.

2. A person of any age who is missing under circumstances indicating that his disappearance was not voluntary.

3. A person of any age who is missing and in the company of another person under circumstances indicating that his physical safety is in danger.

4. A person who is missing and declared unemancipated as defined by the laws of his state of residence and does not meet any of the entry criteria set forth in 1, 2, or 3 above.

D. Individuals designated by the U.S. Secret Service a posing a potential danger to the President of other authorized protectees.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts, including certificates of origin or title.

B. Stolen License Plate File: 1. Stolen or missing license plate.

C. Stolen/Missing Gun File: 1. Stolen or missing guns. 2. Recovered gun, ownership of which has not been established.

D. Stolen Article File.

E. Wanted Person File: Described in Categories of individuals covered by the system: A. "Wanted Persons."

F. Securities File: 1. Serially numbered stolen, embezzled, counterfeited, missing securities.

2. "Securities" for present purposes of this file are currenty (e.g., bills, bank notes) and those documents or certificates which generally are considered to be evidence or debt (e.g., bonds, debentures, notes) or ownership of property (e.g., common stock, preferred stock), and documents which represent subscription rights, warrants) and which are of those types trades in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Boat File.

H. Computerized Criminal History File: A cooperative federal-State program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies.

I. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Persons."

J. U.S. Secret Service Protective File: Described in "Categories of individuals covered by the system: D".

K. Identification records regarding persons enrolled in the United States Marshals Service Witness Security Program who have been charged with

serious and/or significant offenses: Described in "Categories of Individuals Covered by the System: B."

L. Foreign Fugitive File: Identification data regarding persons who are fugitives from foreign countries, who are described in "CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM: A. Wanted Persons, 5."

M. Canadian Warrant File: Identification data regarding Canadian wanted persons who are described in "CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM: A. Wanted Persons, 6."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 28 U.S.C. 534; Department of Justice Appropriation Act, 1973, Pub. L. 92–544, 86 Stat. 1115, Securities Acts Amendment of 1975 Pub. L. 94–29, 89 Stat. 97; and Exec. Order No. 10450, 3 CFR (1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, penal and other institutions, and certain foreign governments. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen missing gun file, stolen article file, wanted person file, securities file and boat file may be accessed by the Royal Canadian Mounted Police. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only here such dissemination is authorized by Federal or state statutes and approved by the Attorney General of the United States.

Data in NCIC files, other than the Computerized Criminal History File, is disseminated to (1) a nongovernmental agency or subunit thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute; (2) a noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicles registration and driver record information to criminal justice agencies; (3) a governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communications services to criminal justice agencies; and (4) the national Automobile Theft Bureau, a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described above, are for the purpose of providing information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a nongovernmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missing child.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2, may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise requested to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf whom the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Administration *(NARA) and to the General Services Administration (GSA)*: A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On-line access to data in NCIC is achieved by using the following search descriptors 1. Vehicle file:

(a) Vehicle identification number:

(b) License plate number:

(c) NCIC number (unique number assigned by the NCIC computer to each NCIC record). 2. License Plate file: (a) License plate number: (b) NCIC number. 3. Gun file: (a) Serial number of gun: (b) NCIC number. 4. Article File: (a) Serial number of article: (b) NCIC number. 5. Wanted Person File U.S. Secret Service Protective File, Foreign Fugitive File, and Canadian Warrant File: (a) Name and one of the following numerical identifiers, date of birth, FBI Number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record), Social Security number (It is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system). Operator's license number (drivers number). Miscellaneous identifying number' (military number or number assigned by Federal, state, or local authorities to an individual's record). Origination agency case number. (b) Vehicle or license plate known to be in the possession of the wanted person. (c) NCIC number (unique number assigned to each NCIC record). 6. Securities File: (a) Type, serial number, denomination of security; (b) Type of security and name of owner of security; (c) Social Security number of owner of security; (d) NCIC number. 7. Boat File: (a) Registration document number; (b) Hull serial number: (c) NCIC number. 8. Computerized Criminal History File: (a) Name, sex, race and date of birth: (b) FBI number: (c) State identification number; (d) Social Security number; (e) Miscellaneous

number. 9. Missing Person File—Same as "Wanted Person" File.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC.

Computerized Criminal History File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center: a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can have access data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a stated control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history filed in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each State Control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept of inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on the system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminal history must have terminal operators screened and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of the data. d. All remote terminals on NCIC Computerized Criminal History will maintain a hard copy of computerized criminal history inquiries with notations of individual making request for record (90 days).

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in file as follows:

1. Vehicle File: a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) therein, will be purged from file 90 days after the end of the license plate's expiration year as shown in the record. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's will remain in file for the year of entry plus 4. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates or origin or title, and serially numbered stolen vehicles engines or transmissions will remain in file for the year of entry plus 4.
(Job No. NC1–65–82–4, Part E. 13 h. (1))

2. License Plate File: Unrecovered stolen license plates not associated with a vehicle will remain in file for one year after the end of the plate's expiration year as shown in the record.
(Job No. NC1–65–82–4, Part E. 13 h. (2))

3. Gun file: a . Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.
(Job No. NC1–65–82–4, Part E. 13 h. (3))

4. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.
(Job No. NC1–65–82–4, Part E. 13 h. (4))

5. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from the file after 48 hours).
(Job No. NC1–65–87–11, Part E. 13 h. (7))

6. Securities File: Unrecovered, stolen, embezzled, counterfeited or missing securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.
(Job No. NC1–65–82–4, Part E. 13 h. (5))

7. Boat File: Unrecovered stolen boats will be retained in file for the balance of the year entered plus 4.
(Job No. NC1–65–82–4, Part E. 13 h. (6))

8. Mission Persons File: Will remain in the file until the individual is located or, in the case of unemancipated persons, the individual reaches the age of emancipation as defined by laws of his state.
(Job No. NC1–65–87–11, Part E. 13 h. (8))

9. Computerized Criminal History File: When an individual reaches age of 80.
(Job No. N1–65–76–1)

10. U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

11. Foreign Fugitive File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

12. Canadian Warrant File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover F.B.I. Building, 9th and Pennsylvania Avenue NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURES:

Same as the above.

RECORD ACCESS PROCEDURE:

It is noted the Attorney General is exempting this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to requester. The procedures by which an individual may obtain a copy of his computerized Criminal History are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC CCH File, it is available to that individual for review, upon presentation of appropriate identification and in accordance with applicable State and

Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that he is the individual that he purports to be. The record on file will then be verified as his through comparison of fingerprints.

Procedure 1. All requests for review must be made by the subject of his record through a law enforcement agency which has access to the NCIC CCH File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperative law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain his record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, D.C. by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate his prints to an existing record by having his identification prints compared with those already on file in the FBI or possibly, in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in his record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC system is obtained from local, State, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c)(3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H), (e)(8) (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/FBI—002

SYSTEM NAME:

The FBI Central Records System.

SYSTEM LOCATION:

a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue, N.W., Washington, DC 20535; b. 59 field divisions (see Appendix); c. 13 Legal Attachés (see Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to *subjects*, suspects, victims, witnesses, and close relatives and associates who are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto who are considered relevant to an applicant investigation, personnel inquiry, or *other* personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto who are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, *and* contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "Categories of Records in the System." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The FBI Central Records Systems—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in files. This abstract system is both a textual and an automated capability for locating mail. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has 264 classifications used in its basic filing system which pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the 264 classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes):

1. Training Schools; National Academy Matters; FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958–962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government. Title 18, United States Code, Section 2385.

4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnaping. Title 18, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Section 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue law as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the *headquarters of the Drug*

Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act, Prostitution; Selling Whiskey Within Five Miles Of An Army Camp. 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

5. Theft from Interstate Shipment. Title 18, United States Code, Section 659; Title 18, United States Code, Section 660; Title 18, United States Code, Section 2117.

16. Violations of Federal Injunction (obsolete). Consolidated into Classification 69, "Contempt of Court".

17. Fraud Against the Government—Veterans Administration, Veterans Administration Matters. Title 18, United States Code, Section 287, 289, 290, 371, or 1001; and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 354, 77th Congress.

20. Federal Grain Standards Act (obsolete) 1920 only. Subjects were alleged violators of contracts for sale. Shipment of Interstate Commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints received concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration or the field component of that Agency.

22. National Motor Vehicle Traffic Act, 1922–27 (obsolete). Subjects were possible violators of the National Motor Vehicle Theft Act; Automobiles seized by Prohibition Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of the Agency.

24. Profiteering 1920–42. (obsolete) Subjects are possible violaters of the Lever Act—Profiteering in food and clothing or accused company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code, Sections 104 and 105.

28. Copyright Matter, Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law, 1922–25 (obsolete). Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Sections 2421–2424.

32. Identification (Fingerprint) Matters. This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. (obsolete) Unlawful Transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the Office of Personnel Management in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921–22. (obsolete) Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application for Pardon to Restore Civil Rights. 1921–35. (obsolete) Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship. (obsolete) Title 18, United States Code, Sections 91 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1451–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacturer, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States, Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of Smokey Bear Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Section 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973; Title 18, United States Code, Section 243; Title 18, United States Code, Section 244, Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government: (Includes Department of Health, Education and Welfare; Department of Labor (CETA), and Miscellaneous Government Agencies) Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; enemployment

Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal. Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. National Bankruptcy Act. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General as authorized by 28 U.S.C. 533 and AG memorandum #781, dated 11/9/72. These investigations can be conducted only upon such a request and consist of an indices and arrest check, and only in limited important trials where defendant could have influence over a juror.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114. Interference With Government Communications, Title 18, U.S.C., Section 1632.

53. Excess Profits On Wool. 1918 (obsolete). Subjects possible violator of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, DC.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, and 607; Title 42, United States Code, Section 1973; Title 26, United States Code, Sections 9012 and 9042; Title 2, United States Code, Sections 431, 432, 433, 434, 435, 436, 437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89–77th Congress.

58. Bribery; Conflict of Interest. Title 18, United States Code, Sections 201–203, 205–211; Pub. L. 89–4 and 89–136.

59. World War Adjusted Compensation Act of 1924–44. (obsolete) Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of Section 704.

60. Anti-Trust. Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprision of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 322, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter, other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wages and Hours Law) (Title 29, United States Code, Sections 201–219); Conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, Title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are placed in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI *and folders for current and former employees.*

68. Alaskan matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court. Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation. Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act, Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations; Obstruction of Justice, Obstruction of Court Orders. Title 18, United States Code, Sections 1503 through 1510.

73. Application for Pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and requests for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner, Escape and Rescue; Probation Violator, Parole Violator; Parole Violator; Mandatory Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code, Sections 3651–3656; and Title 18, United States Code, Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Section 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers

the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933–45. (obsolete) Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance (obsolete)). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigation of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. Fraud Against the Government—Small Business Administration. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1906, 1907, and 1909.

87. Interstate Transportation of Stolen Property (Heavy Equipment—Commercialized Theft). Title 18, United States Code, Sections 2311, 2314, 2315 and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, *Crimes Against Family Members*, Congressional Assassination Statute. Title 18, United States Code, Sections 1111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary; Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. Racketeer Enterprise Investigations. Title 18, United States Code, Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgment obtained against him by the United States Government.

94. Research matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureau's Cases). The classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Foreign Agents Registration Act, Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program wherein the FBI inspected industrial plants for the purpose of making suggestions to the operations of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field. e.g., Smith Act violations.

101. Hatch Act (obsolete). Pub. L. 252, 76th Congress.

102. Voorhis Act, Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Livestock, Title 18, United States Code, Section 667, 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 116–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees. 1944–55 (obsolete). Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigations concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S., Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete) This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by country.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Pub. L. 93–438.

118. Applicant, Intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulation of Lobbying Act, Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act, Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th Congress) (obsolete). This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D., Agency for International Development (obsolete). This classification covers security and loyalty investigations of personnel employed by or under consideration for employment with the European Recovery Program, Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act. Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 81st Congress.

128. International Development Program (Foreign Operations Administration) (obsolete). This classification covers background investigations conducted on individuals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry. Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741 to 752 and 781 to 799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foudation Act. Applicant (obsolete). Pub. L. 507, 81st Congress.

134. Foreign Counterintelligence Assets. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force) (obsolete). This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contacts with American Legion officers.

137. Informants. Other Than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the *Office of Personnel Management* wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; Fraud Against the Government, Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transportation of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene *Materials.* Title 18, United States Code, Sections 1462, 1464 and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. Fraud Against the Government—Department of Housing and Urban Development, Matters. Title 18, United States Code, Sections 1010, 709, 657 and 1006; Title 12, United States Code, Sections 1715 and 1709.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Sections 31 through 35.

150. Harboring of Federal Fugitives, Statistics (obsolete).

151. (Referral cases received from the Office of Personnel Management under Pub. L. 298). Agency for International Development; Department of Energy; National Aeronautics and Space Administration; National Science Foundation; Peace Corps; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; International Communications Agency. This classification covers referrals from the *Office of Personnel Management* where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps.; Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the Internatinal Communications Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241 through 1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Sections 1231, 1232 and 1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211 through 1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.

156. Employee Retirement Income Security Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Pub. L. 86–257, Section 504.

159. Labor-Management *Reporting* and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 503, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161 Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House. Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1064.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code. Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering *Paraphernalia*. Title 18. United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87–637.

170. Extremist Informants (obsolete) This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.

172. Sports Bribery. Title 18, U.S. Code, Section 224.

173. Public Accommodations. Civil Rights Act of 1964 Public Facilities, Civil Rights Act of 1964 Public Education, Civil Rights Act of 1964 Employment, Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code. Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.

175. Assaulting, Kidnapping or Killing the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.

178. Interstate Obscene or Harrassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Section 891–896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business: Illegal Gambling Business, Obstruction; Illegal Gambling Business, Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duly constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117 and 12001.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606, and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Action of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identity Matters. (obsolete) This classification covers the FBI's study and examination of criminal *elements'* efforts to create false identities.

192. Hobbs Act—Financial Institutions; Commercial *Institutions; Armored Carrier*. Title 18, United States Code, Section 1951.

193. Hobbs Act—Commercial Institutions (obsolete). Title 18, United States Code, Section 1951; and Title 47, United States Code, Section 506.

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing status exists.

205. Foreign Corrupt Practices Act of 1977. Title 15, United States Code, Section 78.

206. Fraud Against the Government—Department of Defense, Department of Agriculture, Department of Commerce, Community Services Organization, Department of Transportation. (See classification 46 (supra) for statutory authority for this and the four following classifications.)

207. Fraud Against the Government—Environmental Protection Agency, National Aeronautics and Space Administration, Department of Energy, Department of Transportation.

208. Fraud Against the Government—General Services Administration.

209. Fraud Against the Government—Department of Health, and Human Services (Formerly, Department of Health, Education, and Welfare).

210. Fraud Against the Government—Department of Labor.

211. Ethics in Government Act of 1978, Title VI (Title 28, Sections 591–596).

212. Foreign *Counterintelligence*—Intelligence Community Support. This is an administrative classification for the FBI's operational and technical support to other Intelligence Community agencies.

213. Fraud Against the Government—Department of Education.

214. Civil Rights of Institutionalized Persons Act (Title 42, United States Code. *Section* 1997).

215. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

216. Foreign Counterintelligence Matters. (Same authority as 215)

217. Foreign Counterintelligence Matters. (Same authority as 215)

218. Foreign Counterintelligence Matters. (Same authority as 215)

219. Foreign Counterintelligence Matters. (Same authority as 215)

220. Foreign Counterintelligence Matters. (Same authority as 215)

221. Foreign Counterintelligence Matters. (Same authority as 215)

222. Foreign Counterintelligence Matters. (Same authority as 215)

223. Foreign Counterintelligence Matters. (Same authority as 215)

224. Foreign Counterintelligence Matters. (Same authority as 215)

225. Foreign Counterintelligence Matters. (Same authority as 215)

226. Foreign Counterintelligence Matters. (Same authority as 215)

227. Foreign Counterintelligence Matters. (Same authority as 215)

228. Foreign Counterintelligence Matters. (Same authority as 215)

229. Foreign Counterintelligence Matters. (Same authority as 215)

230. thru 240. FBI Training Matters.

241. DEA Applicant Investigations.

242. Automation Matters.

243. Intelligence Identities Protection Act of 1982.

244. Hostage Rescue Team.

245. Drug Investigative Task Force.

246. thru 248. Foreign Counterintelligence Matters. (Same authority as 215)

249. Toxic Waste Matters—Investigations involving toxic or hazardous waste violations.

250. Tampering With Consumer Products (Title 18, U.S. Code, Section 1365)

251. Controlled Substance—Robbery;—Burglary (Title 18, U.S. Code, Section 2118)

252. Violent Crime Apprehension Program (VICAP). Case folders containing records relevant to the VICAP Program, in conjunction with the National Center for the Analysis of Violent Crime Record System at the FBI Academy; Quantico, Virginia.

253. False Identification Crime Control Act of 1982 (Title 18, U.S. Code, Section 1028—Fraud and Related Activity in Connection With Identification Documents, and Section 1738—Mailing Private Identification Documents Without a Disclaimer)

254. Destruction of Energy Facilities (Title 18, U.S. Code, Section 1365) relates to the destruction of property of nonnuclear energy facilities.

255. Counterfeiting of State and Corporate Securities (Title 18, U.S. Code, Section 511) covers counterfeiting and forgery of all forms of what is loosely interpreted as securities.

256. Hostage Taking—Terrorism (Title 18, U.S. Code, Section 1203) prohibits taking of hostage(s) to compel third party to do or refrain from doing any act.

257. Trademark Counterfeiting Act (Title 18, United States Code, Section 2320) covers the international trafficking in goods which bear a counterfeited trademark.

258. Credit Card Fraud Act of 1984 (Title 18, United States Code, Section 1029) covers fraud and related activities in connection with access devices (credit and debit cards).

259. Security Clearance Investigations Program. (Same authority as 215)

260. Industrial Security Program. (Same authority as 215)

261. Security Officer Matters. (Same authority as 215)

262. Overseas Homicide/Attempted Homicide—International Terrorism. Title 18, United States Code, Section 2331.

263. Office of Professional Responsibility Matters.

264. Computer Fraud and Abuse Act of 1986. Electronic Communications Privacy Act of 1986. Title 18, United States Code, Section 1030; Title 18, United States Code, Section 2701.

Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar documents forwarded to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, e.g., pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Division to have immediate access of pertinent information duplicative of data found in the central records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives):

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs:

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime.

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950. December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants:

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilitates

access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that all investigative information, which is placed in computerized form, is actually extracted from the main files and that the duplicative computerized information is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form in accordance with the routine uses which are set forth below.

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperation program, where assistance in obtaining information is provided to state and local police agencies.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description and use, and where maintained, i.e. FBI Headquarters and/or Field Office. The number in parentheses in the field office column indicates the number of field offices which maintain these indices. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 27 separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destroy: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Administrative Index (ADEX)	Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they were believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. The index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1978.	Inactive	Yes	Yes (29)
Anonymous Letter File	Consists of photographs of anonymous communications and extorionate credit transactions; kidnapping, extortion and threatening letters.	Active	Yes	No
Associates of DEA Class 1 Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class 1 Narcotics Violators.	Active	Yes	Yes (59)
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judge, or a high level Department position.	Active	Yes	No
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress.	Active	Yes	No
Bank Fraud and Embezzlement Index.	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid..	Active	No	Yes (1)
Bank Robbery Album	Consists of photos of bank robbers, burglars, and larceny subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. The index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office).	Active	No	Yes (47)
Bank Robbery Nickname Index	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order.	Active	No	Yes (1)
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the subject has not been identified but a note was left. The role is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No
Bank Robbery Suspect Index	Consists of a control file or index cards with photos, if available, of bank robbers or burglars. In some field offices these people may be part of the bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album.	Active	No	Yes (33)
Car Ring Case Photo Album	Consists of photos of subjects and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3)
Car Ring Case Photo Album and Index.	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. But the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1)
Car Ring Case Toll Call Index	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap.	Active	No	Yes (2)
Car Ring Theft Working Index	Contains cards on individuals involved in car ring theft cases on which the FBI laboratory is doing examination work.	Active	Yes	No

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may repeat the offense. It is used in investigating the above violations.	Active	No	Yes (3)
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in information reports. The index is used to facilitate the distributing or channeling of informant reports to appropriate files.	Active	No	Yes (9)
Check Circular File	Consists of fliers filed numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks..	Active	Yes	Yes (43)
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscribers' names and addresses) utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations. During subsequent investigations, telephone numbers, obtained through subpoenas, are matched with the telephone numbers on file to determine connections or associations.	Active	Yes	No
Con Man Index	Consists of computerized names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles.	Active	Yes	No
Confidence Game (Flim Flam) Album	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid.	Active	No	Yes (4)
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1)
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency.	Active	No	Yes (2)
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
DEA Class 1 Narcotics Violators Listing.	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.	Active	Yes	Yes (59)
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid.	Active	No	Yes (4)
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	Inactive	Yes	No
False Identities List	Consists of a listing a names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	Inactive	No	Yes (31)
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	Inactive	No	Yes (2)
FBI/Inspector General (IG) Case Pointer System (FICPS).	Consists of computerized listing of individual names of organizations which are the subject of active and inactive fraud investigations, along with the name of the agency conducting the investigation. Data is available to IG offices throughout the federal government to prevent duplication of investigative activity.	Active	Yes	No
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No
Foreign Counterintelligence (FCI)	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid of the FCI Asset program.	Active	Yes	No
Fraud Against the Government Index	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as investigative aid.	Active	No	Yes (1)
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43)
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1)
Hoodlum License Plate Index	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such person in the course of investigation. The one index which is not fully retrievable in maintained by a resident agency.	Active	No	Yes (3)
Identification Order Fugitive Flier File	Consists of fliers numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49)
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal information, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military bases (discontinued), and potential criminal informants.	Active	No	Yes (59)

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Informants in Other Field Offices, Index of.	Consists of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that may be of value to other field offices. Basic background information would also be included on the index card.	Active	No	Yes (15)
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1)
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11)
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No
Known Check Passers Album	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4)
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was not fully retrievable, the index was destroyed and thus is not included in the total.	Active	No	Yes (5)
La Cosa Nostra (LCN) Membership Indet.	Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55)
Leased Line Letter Request Index	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid.	Active	Yes	No
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It is used for reference in preparing mail cover requests.	Active	Yes	No
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No
National Bank Robbery Album	Consists of fliers on bank robbery suspects held sequentially a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject. FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42)
National Fraudulent Check File	Contains photographs of the signatures on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No
National Security Electronic Surveillance Card File.	Contains cards recording electronic surveillances previously authorized by the Attorney General and previously and currently authorized by the FISC; current and previous assets in the foreign counterintelligence field; and a historical, inactive section which contains cards believed to record nonconsented physical entries in national security cases, previously toll billings, mail covers and leased lines. The inactive section also contains cards reflecting previous Attorney General approvals and denials for warrantess electronic surveillance in the national security cases.	Active	Yes	No
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects.	Active	Yes	No
Organized Crime Photo Album	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction.	Active	No	Yes (13)
Photospread Identification Elimination File.	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14)
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4)
Royal Canadian Mounted Police, (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17)
Security informant index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
Security Subjects Control Index	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1)
Security Telephone Number Index	Contains cards with telephone subscriber information subpenaed from the telephone company in any security investigation. It is maintained numerically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1)
Selective Service Violators Index	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No
Sources of information index	Consists of cards on individuals and organizations such as banks, motels, local governments that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10)
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibility.	Active	No	Yes (28)
Stolen Checks and Fraud by Wire Index.	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1)

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43)
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Active	No	Yes (2)
Telephone Number Index—Gamblers	Contains information on persons identified usually as a result of a subpena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2)
Telephone Subscriber and Toll Records Check Index.	Contains cards with information on person identified as the result of a formal request or subpena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing parties identity, subscribers address, date of request from the telephone company, and file number.	Active	No	Yes (1)
Thieves Couriers and Fences Photo index.	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Top Echelon Criminal Informer Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes.	Active	Yes	No
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive on the top 10 usually assures a greater national news coverage as well as nationwide circulation of the flier.	Active	Yes	Yes (44).
Top Thief Program Index	Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	Active	No	Yes (27)
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4)
Truck Thief Suspect Photo Album	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid.	Active	No	Yes (1)
Traveling Criminal Photo Album	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	No	Yes (1)
Veterans Administration (VA)/Federal Housing Administration Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1)
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photographs, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46)
Wheeldex	Contains the nicknames and the case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1)
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such check in view of the tight time frame usually required.	Active	Yes	No
Witness Protection Program Index	Contains cards on individuals who have been furnished a new identity by the U.S. Justifice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshalls Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	No

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950 Title 44, United States Code, Chapter 31, Section 3101; and Title 36, Code of Federal Regulations, Chapter XII, require Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government. Title 28, United States Code, Section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records, both investigative and administrative, are maintained in this system in order to permit the FBI to

function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge.

Information in this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement *employee or concerning a victim's compensation under a state statute.* Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or, (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system pertaining to the use, abuse or traffic of controlled substances may be disclosed as a routine use to federal, state or local law enforcement agencies and to licensing or regulatory agencies empowered to engage in the institution and prosecution of cases before courts and licensing boards in matters relating to controlled substances, including courts and licensing boards responsible for the licensing or certification of individuals in the fields of pharmacy and medicine.

Information in this system may be disclosed as a routine use in a proceeding before a court or adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit Systems Protection Board, before which the FBI is authorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property. *This would include releases of information in accordance with 28 CFR 50.2.*

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, or the trademark statutes. Titles 15 and 17, U.S. Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such titles.

The FBI has received inquiries from private citizens and Congressional offices on behalf of *constituents* seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

Release of Information to Members of Congress:

Information contained in this system, the release of which is required by the Freedom of Information-Privacy Acts, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information in behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906, to the extent that legislation governing the records permits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

RETRIEVABILITY:

The FBI General Index must be searched to determine what

information, if any, the FBI may have in its files. Index records, or pointers to specific FBI files, are created on all manner of subject matters, but the predominant type record is the name index record. It should be noted the FBI does not index all individuals who furnish information or all names developed during the course of an investigation. Only that information considered pertinent, relevant, or essential for future retrieval, is indexed. In certain major cases, individuals interviewed may be indexed to facilitate the administration of the investigation. The FBI has automated that portion of its index contomated that portion of its index containing the most recent information—15 years for criminal related matters and 30 years for intelligence and other type matters. Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. Searches against the automated records are accomplished on a "batch off-line" basis for certain submitting agencies where the name search requests conform to FBI specified formats and also in an "on-line" mode with the use of video display terminals for other requests. The FBI will not permit any organization, public or private, outside the FBI to have direct access to the FBI indices system. All searches against the indices data base will be performed on site within FBI space by FBI personnel with the assistance of the automated procedures, where feasible. Automation of the various FBI field office indices has been under way for approximately five years; completion is anticipated during FY 1988. This automation initiative has been on a "day-one" basis. This indices system points to specific files within a given field office. Additionally, certain complicated investigative matters may be supported by specialized computer systems or by individual microcomputers. Indices created in these environments are maintained as part of the particular computer system and accessible only through the system or through printed listings of the indices.

The FBI will transfer historical records to the National Archives consistent with 44 U.S.C. 2103. No record of individuals or subject matter will be retained for transferred files; however, a record of the file numbers will be retained to provide full accountability of FBI files and thus preserve the integrity of the filing system.

SAFEGUARDS:

Records are maintained in a restricted area and are accessed only by agency personnel. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand-dollar fine or 10 years imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the jobs. Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted form to prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with on-line access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, D.C., and this computerized data is also transmitted in encrypted form.

RETENTION AND DISPOSAL:

As the result of an extensive review of FBI records conducted by NARA, records evaluated as historical and permanent will be transferred to the National Archives after established retention periods and administrative needs of the FBI have elapsed. As deemed necessary, certain records may be subject to restricted examination and usage, as provided by 44 U.S.C. Section 2104.

FBI record disposition programs relevant to this System are conducted in accordance with the FBI Records Retention Plan and Disposition Schedule which was approved by the Archivist of the United States and the U.S. District Court, District of Columbia. Investigative, applicant and administrative records which meet the destruction criteria will be destroyed after 20 or 30 years at FBI Headquarters and after 1, 5, 10 or 20 years in FBI Field Offices. Historical records will be transferred to the National Archives after 30 or 50 years, contingent upon investigative and administrative needs. The administrative indices and listings described within this System were appraised separately and disposition authority established. (Job No. NC1–65–82–4 and amendments)

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation; Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. *Requests for access to information maintained at FBI Headquarters must be* addressed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535. *Requests for information maintained at FBI field divisions or Legal Attaches must be made separately and addressed to the specific field division or Legal Attache listed in the appendix to this system notice.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically, it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(8) (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have

been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e).

Appendix of Field Divisions and Legal Attaches for the Federal Bureau of Investigation Field Divisions:

502 U.S. Post Office and Court House, Albany, N.Y. 12207.
301 Grand Ave., N.E., Albuquerque, N. Mex. 87102.
Room 500, 300 North Lee Street, Alexandria, Va. 22314.
Federal Building, Room E–222, 701 C Street, Anchorage, Alaska 99513.
275 Peachtree Street, N.E., Atlanta, Ga. 30302.
7142 Ambassador Road, Baltimore, Md. 21207.
Room 1400–2121 Building, Birmingham, Ala. 35203.
John F. Kennedy Federal Office Building, Boston, Mass. 02203.
Room 1400–111 West Huron Street, Buffalo, N.Y. 14202.
115 U.S. Court House and Federal Building, Butte, Mont. 59702.
6010 Kenley Lane, 28210, Charlotte, N.C.
Room 905, Everett McKinley Dirksen Building, Chicago, Ill. 60604.
Room 9023, Federal Office Building, 550 Main street, Cincinnati, Ohio 45202.
3005 Federal Office Building, Cleveland, Ohio 44199.
1529 Hampton Street, Columbia, S.C. 29201.
1801 North Lamar, Suite, 300, Dallas, Tex. 75202.
Room 1823, Federal Office Building, Denver, Colo. 80202.
Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226.
202 U.S. Court House Building, El Paso, Tex. 79901.
Kalanianaole Federal Building, Room 4307, 300 Ala. Moana Boulevard, Honolulu, Hawaii 96850.
6015 Federal Building and U.S. Court House, Houston, Tex. 77002.
575 No. Pennsylvania St., Room 679, Indianapolis, Ind. 46204.
Federal Building, Room 1553, 100 W. Capitol St., Jackson, Miss. 39269.
Oaks V, Fourth Floor, 7820 Arlington Expressway, Jacksonville, Fla. 32211.
Room 300—U.S. Courthouse, Kansas City, Mo. 64106.
Room 800, 111 Northshore Drive, Knoxville, Tenn. 37919.
Room 219, Federal Office Building, Las Vegas, Nev. 89101.
215 U.S. Post Office Building, Little Rock, Ark. 72201.
11000 Wilshire Boulevard, Los Angeles, Calif. 90024.
Room 502, Federal Building, Louisville, Ky. 40202.
841 Clifford Davis Federal Building, Memphis, Tenn. 38103.
3801 Biscayne Boulevard, Miami, Fla. 33137.
Room 700, Federal Building and U.S. Court House, Milwaukee, Wis. 53202.
392 Federal Building, Minneapolis, Minn. 55401.
One St. Louis Centre, 1 St. Louis Street, Mobile, Ala. 36602.
Gateway I. Market Street, Newark, N.J. 07102.
Federal Building, 150 Court Street, New Haven, Conn. 06510.
701 Loyola Avenue, New Orleans, La. 70113.
26 Federal Plaza, New York, N.Y. 10278.
Room 839, Granby Mall, Norfolk, Va. 23510.
50 Penn Place, N.W., 50th at Pennsylvania, Oklahoma City, Okla. 73118.
Room 7401, Federal Building, 215 North 17th Street, Omaha, Nebr. *68102.*
8th Floor, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
Suite 400, 201 E. Indianola, Phoenix, Ariz.*85012.*
1300 Federal Office Building, Pittsburgh, Pa. 15222.
Crown Plaza Building, Portland, Oreg. 97201.
200 West Grace Street, Richmond, Va. 23220.
Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825.
2704 Federal Building, St Louis, Mo. 63103.
3203 Federal Building, Salt Lake City, Utah 84138.
433 Old Post Office Bldg., 615 E. Houston, San Antonio, Tex. *78205.*
Federal Office Building, Room *6S–31, 880* Front Street, San Diego, Calif. 92188.
450 Golden Gate Avenue, San Francisco, Calif. 94102.
U.S. Courthouse and Federal Building, Room 526, Hato Rey, P.R. 00918.
5401 Paulsen Street, Savannah, Ga. 31405.
915 Second Avenue, Seattle, Wash. *98174.*
535 West Jefferson Street, Springfield, Ill. 62702.
Room 610, Federal Office Building, Tampa, Fla. 33602.
Washington Field Office, Washington D.C. 20535.
Federal Bureau of Investigation Academy, Quantico, Va. 22135.

Legal Attaches: (Send c/o the American Embassy for the Cities Indicated):

Bern, Switzerland.
Bogota, Colombia *(APO, Miami 34038).*
Bonn, Germany (Box 310, APO, New York 09080).
Canberra, Australia (APO, San Francisco *96404–5000).*
Hong Kong, B.C.C. (FPO, San Francisco 96659).
London, England (Box 40, FPO, New York 90510).
Mexico City, Mexico.
Montevideo, Uruguay (APO, Miami 34035).
Ottawa, Canada.
Panama City, Panama *(Box E, APO, Miami 34002).*
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).

Justice/FBI–003

SYSTEM NAME:

Bureau Mailing Lists.

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Bldg. 10th and Pennsylvania Ave., NW., Washington, DC 20535, 59 field divisions and 13 Legal Attaches (see Appendix to 002).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

With regard to lists maintained at FBI Headquarters, individuals who have requested receipt of Bureau material and who meet established criteria (basically law enforcement or closely related areas). With regard to lists maintained in field divisions or Legal attaches, individuals and organizations who may be in position to furnish assistance to the FBI's law enforcement efforts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and business affiliation, if appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S. Code Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For mailing of FBI material whenever necessary. For example, various fugitive publications are furnished to local law enforcement agencies.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon

the *member's* behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from this system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized. In field divisions most mailing lists are maintained on addressograph.

RETRIEVABILITY:

ID number in computer, alphabetically for addressograph

SAFEGUARDS:

Computer records are maintained in limited access space of the Technical Services Division.

RETENTION AND DISPOSAL:

Revised on a monthly basis. Field offices revise the lists as necessary and/or on an annual basis. The records are destroyed when administrative needs are satisfied. (Job No. NC1–65–82–4, Part E. 13 i.)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, D.C. 20535

NOTIFICATION PROCEDURE:

Director, FBI, Washington, D.C. 20535

RECORD ACCESS PROCEDURE:

Inquiry addressed to Director, FBI, Washington, D.C. 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

The mailing list information is based either on information supplied by the individual or public source data.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–004

SYSTEM NAME:

Routine Correspondence Handled By Preprinted Form.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Routine correspondence from citizens not requiring a dictated response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original correspondence and 3 × 5 index card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal reference use of record of such correspondence.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filing of original correspondence plus 3 × 5 index card.

RETRIEVABILITY:

Correspondence alphabetically and chronologically; index card alphabetically.

SAFEGUARDS:

Maintained by FBI personnel; locked file cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Original correspondence retained 90 days and destroyed: 3 × 5 index cards maintained one year and destroyed. (GRS #14, Item 3)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, DC 20535

NOTIFICATION PROCEDURE:

Director, FBI, Washington, DC 20535

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, DC 20535

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–005

SYSTEM NAME:

Routine Correspondence Prepared Without File Yellow.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Citizens who correspond with the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Tickler copy of routine response *and* original citizen's letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Temporary record of *routine* inquiries without substantive, historical or record value for which no record is to be made in central FBI files.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in

systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA): A record from a system of records may be disclosed as a routine use to NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders. Pertinent information from correspondence is temporarily stored on magnetic tape and disks.

RETRIEVABILITY:

Paper records are retrieved by name and date of correspondence. Automated records are retrieved by name, locality, and date.

SAFEGUARDS:

Access to all records is limited to FBI personnel. Paper records are maintained in locked file cabinets. Access to automated records is restricted through the use of password.

RETENTION AND DISPOSAL:

Paper records retained 90 days and destroyed through confidential trash disposal (GRS #14, Item 3). A one-year retention period has been established for the automated records. (Job No. N1–65–87–5)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, DC 20535.

NOTIFICATION PROCEDURE:

Director, FBI Washington, DC 20535.

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, DC 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUTICE/FBI—006

SYSTEM NAME:

Electronic Surveillance (Elsur) Indices.

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, D.C. 20535. Those field offices which have conducted electronic surveillances also maintain this index. See appendix to System 002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been the targets of direct electronic surveillance coverage by the FBI, who have participated in coversations monitored by an FBI electronic installation, or who have been known to have owned, leased, or licensed premises on which the FBI has conducted an electronic surveillance, and names of persons mentioned during conversations between persons being monitored. Not all field office electronic surveillance indices contain this last category of individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Elsur Indices are maintained on 3 x 5 cards *which* set forth the name of each person monitored or the proprietor of permises on which an electronic surveillance was conducted by the FBI since January 1, 1960, a source number to identify the electronic surveillance, the date the conversation occurred, the location of the field office which conducted the monitoring, and the address and/or telephone number where the electronic surveillance occurred.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Elsur Indices were initiated in October, 1966, at the instructions of the Department of Justice. The authority for the maintenance of these records is Title 5, Section 301, USC, which grants the Attorney General the authority to issue rules and regulations prescribing how Department of Justice information can be employed. Title 18, USC, Section 2519, also sets forth recordkeeping requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Elsur Indices are utilized: (1) To respond to judicial inquiries about possible electronic surveillance coverage of witnesses, defendants, or attorneys involved in Federal court proceedings, and (2) To enable the Government to certify whether a person regarding whom court-order authority is being sought for electronic coverage has ever been so covered in the past. The actual users of the indices are always employees of the FBI.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* Record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906 *to the extent that legislation governing the records permits.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained manually on 3 x 5 cards.

RETRIEVABILITY:

Names are indexed alphabetically. Telephones monitored are indexed by telephone number. Locations monitored in which a person has been known to have a proprietary interest are indexed by address.

SAFEGUARDS:

They are maintained in a guarded room at all times, with a special locking system for off-duty hours when they are not in use.

RETENTION AND DISPOSAL:

Until advised to the contrary by the Department, the courts or Congress, these indices will be maintained indefinitely. *The indices have been declared permanent by NARA. (Job No. NC1–65–82–4, Part E. 2 t.)*

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Inquiry addressed to Director, FBI, Washington, D.C. 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Category of Individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), *and* (H), (e) (5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/FBI–007

SYSTEM NAME:

FBI Automated Payroll System.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg.; 10th and Pennsylvania Avenue NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Current employees of the Federal Bureau of Investigation (FBI), (B) Resigned employees of the FBI are retained in the automated file for the current year for the purpose of clearing all pay actions and providing for any retroactive actions that might be legislated.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains full record for each employee reflecting all elements relative to payroll status, plus accounting records and authorization records through which payrolls are issued and by which payrolls are issued and by which payrolls are audited. For example, this system contains the employees' Social Security Number, time and attendance data, and place assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

System is established and maintained in accordance with Federal pay requirements, and all legislative enactments, *Office of Personnel Management* regulations, General Accounting Office rulings and decisions, Treasury Department regulations, and Office of Management requirements, and Office of Management and Budget regulations relative thereto, Title 5, U.S. Code, Section 301 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biweekly issuance of payroll and related matters. Quarterly issuance of State Tax Report and Federal Insurance Contributions Act Report. Resign and End-of-Year Federal Tax Records (W–2's). Bi-weekly, quarterly, fiscal and annual Budget and Accounting Reports. Appropriate information is made available to the Internal Revenue Service and state and city tax bureaus.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and disks for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by Social Security Number. (The authority to solicit an employee's Social Security Number is based on Title 26, Code of Federal Regulations, Section 31.6011(b)–2(b).)

SAFEGUARDS:

Information contained in the system is relative to the individual employee's payroll status and is considered confidential to that employee and to official business conducted for that employee's pay and accounting purposes. It is safeguarded and protected in accordance with the FBI's Computer Center's regulations that permit access and use by only authorized personnel.

RETENTION AND DISPOSAL:

Master payroll and accounting records are stored electronically and retained for a period of three years. Federal tax files are retained for four years. Auxiliary files pertinent to main payroll functions are retained for periods varying from three pay periods to three years, depending on support files needed for any retroactive or audit purposes. (GRS # 2; GSA Reg. 3; GSA Bulletin FPMR B–47, "Archives and Records"; and Job No. NC1–65–82–4, Part E. 13 c. (1))

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, Ninth and Pennsylvania Avenue, *NW.*, Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request of access to information may be made by an employee through his supervisor or by a former employee by writing to the Federal Bureau of Investigation, 9th and Pennsylvania Avenue, *NW.*, Washington, D.C. 20535, Attention Payroll Office.

CONTESTING RECORD PROCEDURES:

Contest of any information shoud be set out in detail and a check of all supportive records will be made to determine the factual data in existence, which is predetermined by source documents and accounting procedures governing pay matters.

RECORD SOURCE CATEGORIES:

Source of information is derived from personnel actions, employee authorizations, and time records which are issued and recorded in accordance with regulations governing Federal pay.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–008

SYSTEM NAME:

Personal Information Network System (PINS).

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Building, 10th Street and Pennsylvania Avenue, NW. Washington, DC. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Bureau of Invstigation employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains personnel information which includes information set forth on (1) FBI form 3–634 in lieu of Standard Form 50—Notification of Personnel Action, (2) SF 176–T–Federal Employee Group Life Insurance Plan, (3) FBI form 12–60 in lieu of SF 1126—Notification of Pay Change, (4) SF 2801 and CSC 1084—Application for and additional information in support of retirement, respectively, (5) SF 2809—Federal Employee Health Benefit Plan and (6) various intra-agency forms and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to regulations set forth in the Federal Personnel Manual. Title 5, U.S. Code, Section 310 and Title 44, U.S. Code, Section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The PINS is used (1) to prepare the Notification of Personnel Action, copies of which are furnished to the *Office of Personnel Management*, (2) to locate and charge out personnel files for official use, (3) to generate lists of employees which are used internally by authorized personnel for record keeping, planning, and decision making purposes, and (4) as a source for the dissemination of information (A) to federal, state and local agencies and to private organizations pursuant to service record inquires and (B) pursuant to credit inquires (In response to proper credit inquires from credit bureaus and financial institutions, the FBI will verify employment and furnish salary and length of service).

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in PINS is stored by disc and magnetic tape.

RETRIEVABILITY:

Information is retrieved (1) on-line through Cathode Ray Tubes by keying the name or Social Security Number of the employee and (2) off-line by tape reading. (It is noted the authority to solicit an employee's Social Security Number is based on Title 26, Code of Federal Regulations, Section 31.6011(b)–2(b).)

SAFEGUARDS:

Areas housing the system and access terminals are located in secure buildings available to authorized FBI personnel and escorted maintenance and repair personnel only. Access terminals are operational only during normal daytime working hours at which time they are constantly attended.

RETENTION AND DISPOSAL.

Electronically stored records for employees and former employees are maintained indefinitely in a vault under the control of a vault supervisor. Pursuant to regulations set forth in the Federal Personnel Manual a copy of the Notification of Personnel Action is made a part of the employees' personnel file.

The automated records are disposable when administrative needs have expired. (Job No. NC1–65–82–4, Part E. 13 c. (1)).

SYSTEM MANAGER(S) AND ADDRESS:

Director; Federal Bureau of Investigation, John Edgar Hoover Building, 10th Street and Pennsylvania Avenue, NW. Washington, DC. 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' Include in the request the name and return address of the requestor. Access requests will be directed to the Director, Federal Bureau of Invstigation.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Director FBI stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are present and former FBI employees and employee personnel files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–009

SYSTEM NAME:

Identification Division Records System.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, D.C. *20537–9700.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals fingerprinted as a result of arrest or incarceration.

B. Persons fingerprinted as a result of Federal employment applications, military service, alien registration and naturalization purposes and individuals desiring to have their fingerprints placed on record with the FBI for personal identification purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Criminal fingerprint cards and related criminal justice information submitted by authorized agencies having criminal justice responsibilities.

B. Civil fingerprint cards submitted by Federal agencies and civil fingerprint cards submitted by persons desiring to have their fingerprints placed on record for personal identification purposes.

C. Identification records sometimes referred to as "rap sheets" which are compilations of criminal history information pertaining to individuals who have criminal fingerprint cards maintained in the system.

D. An alphabetical name index pertaining to all individuals whose fingerprints are maintained in the system. The criminal records and the civil records are maintained in separate files and each file has an alphabetical name index related to the data contained therein.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established, maintained and used under authority granted by 28 U.S.C. 534, 15 U.S.C. 78q, 7 U.S.C. 12a, and Pub. L. No. 92–544 (86 Stat. 1115), *and Pub. L. No. 99–399.* The authority is also codified in 28 CFR 0.85 (b), and (j).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The FBI operates the identification Division Records System to perform identification and criminal history record information functions for federal, state, local, and foreign criminal justice agencies, and for noncriminal justice agencies, and other entities where authorized by Federal statute, state statute pursuant to Pub. L. 92–544 (86 Stat. 1115). Persidential executive order, or regulation of the Attorney General of the United States. In addition, identification assistance is provided in disasters and for other humanitarian purposes.

Release of information to the news media: Guidelines applicable for the release of information to the news media and the public are set forth in 28 CFR 20.33(a)(4), 20.33(c), and 50.2.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use *to NARA and GSA* in records management and inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored manually in file cabinets either in its natural state or on microfilm. In addition, some of the information is stored in computerized data storage devices.

RETRIEVABILITY:

(1) All information in the system is retrievable by technical fingerprint classification and positive identification is effected only by comparison of the unique identifying characteristics appearing in fingerprint impressions submitted for search against the fingerprint cards maintained within the system.

(2) An auxiliary means of retrieval is through alphabetical name indexes which contain names of the individuals, their birth date, other physical descriptors, and the individuals technical fingerprint classification and FBI numbers, if such have been assigned.

SAFEGUARDS:

Information in the system is unclassified. Disclosure of information from the system is made only to authorized recipients upon authentication and verification of the right to access the system by such persons and agencies. The physical security and maintence of information within the system is provided by FBI rules, regulations and procedures.

RETENTION AND DISPOSAL:

(1) The Archivist of the United States has approved the destruction of records maintained in the criminal file when the records indicate individuals have reached 80 years of age, and the destruction of records maintained in the civil file when the records indicate individuals have reached 75 years of age.

(Job No. NC1–65–76–1 and NN–171–160)

(2) Fingerprint cards and related arrest data in the system are destroyed seven years following notification of the death of an individual whose records is maintained in the system.

(Job No. 351–S190)

(3) Fingerprint cards submitted by state and local criminal justice agencies are returned upon the request of the submitting agencies. The return of a fingerprint card under this procedure results in the deletion from the system of all arrest information related to that fingerprint card.

(4) Fingerprint cards and related arrest data are removed from the Indentification Division Records System upon receipt of Federal court orders for expunctions when accompanied by necessary identifying information. Recognizing lack of jurisdiction of local and state courts over an entity of the Federal Government, the Identification Division Records System, as a matter of comity, returns fingerprint cards and related arrest data to local and state criminal justice agencies upon receipt of orders of expunction directed to such agencies by local and state courts when accompanied by necessary identifying informations.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investgation, 10th and Pennsylvania Avenue N.W., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURE:

The Attorney General has exempted the Identification Deivision Records system from compliance with subsection (d) of the Act. However, pursuant to 28 CFR 16.30–34, and Rules and Regulations promulgated by the Department of Justice on May 20, 1975 at 40 FR 22114 (Section 20.34) for Criminal Justice Information Systems, an individual is permitted access to his indentification record maintained in the identification Divison Records System and procedures are furnished for correcting or challenging alleged deficiencies appearing therein.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

See Categories of Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G) and (H), (5) and (8); (f); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI–010

SYSTEM NAME:

Employee Travel Vouchers and Individual Earning Records.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue, NW., Washington, D.C. 20535. Records pending audit are located at Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and current employees of the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll, travel and retirement records of current and former employees of the FBI.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each executive agency, or his delegate, is responsible for establishing and maintaining an adequate payroll system, covering pay, leave and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a, and 200(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by Departmental personnel to prepare and document payment to employees of the FBI and to carry out financial matters related to the payroll or accounting functions.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA): A record from a system of records may be disclosed as a routine use to the National Archives and Records NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual on paper files.

RETRIEVABILITY:

The records can be retrieved by name; and either social security account number or employee identification number.

SAFEGUARDS:

Accessed by Bureau employees at FBI Headquarters and by Field Office employees at Records Centers. Transmittal document contains Bureau statement concerning security, i.e., who may access or view records. Records are maintained in rooms under the control of employees during working hours and maintained in locked file cabinets in locked rooms at other times. Security guards further restrict access to the building to authorized personnel only.

RETENTION AND DISPOSAL:

Employee Travel Vouchers are destroyed 6 years, 3 months, after the period covered by the account (GRS #6, Item 1A2). Individual Earnings Records are destroyed 56 years after date of last entry (GRS #2, Item 1).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Written inquiries, including name, date of birth, and social security number, to determine whether this system contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

RECORD ACCESS PROCEDURE:

CONTESTING RECORD PROCEDURES:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

RECORD SOURCE CATEGORIES:

Travel vouchers turned in by individual employees for official business. Pay records—time and attendance records, pay determined by the agency.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI-011

SYSTEM NAME:

Employee Health Records.

SYSTEM LOCATION:

Federal Bureau of Investigation, Administrative Services Division, Health Service, J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue, NW., Washington, DC. 20535 and the following field offices: New York, Newark, Philadelphia, Chicago, Los Angeles, San Francisco, and FBI Academy, Quantico, Virginia. Addresses for field offices can be found in the appendix of Field Offices for the Federal Bureau of Investigation in System notice Justice/FBI 002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of visits to health facilities relating to sickness, injuries or accidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each agency is responsible, under 5 U.S.C. 7902, for keeping a record of injuries and accidents to its employees and for reducing accidents and health risks. These records are maintained under the general authority of 5 U.S.C. 301 so that the FBI can be kept aware of the health related matters of its employees and more expeditiously identify them.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These records are maintained by the FBI to identify matters relating to the health of its present and former employees. Information is available to employees of the FBI whose job function relates to identifying and resolving health matters of former and current personnel of the FBI.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Previous procedure of creation and maintenance of 3 x 5 index cards to record individual health service visits is being phased out and a folder will be created to maintain an employee health record and SF 510, "Nursing Notes".

RETRIEVABILITY:

The index cards and folders are retrievable by the name of an individual.

SAFEGUARDS:

These records are maintained by FBI personnel during working hours and in locked file cabinets during non-working hours. Security guards further restrict access to the building to authorized personnel.

RETENTION AND DISPOSAL:

Remaining index cards will be destroyed 6 years after date of last entry (GRS #1, Item 19). The folder containing the health record and nursing notes will be maintained in the

Health Unit for 5 years after the last entry. Thereafter, the contents of the folder will be transferred to the Employee Medical Folder, an appendage of the Official Personnel Folder.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC. 20535.

NOTIFICATION PROCEDURE:

Written inquiries, including name, address and social security number, to determine whether this system of records contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., *Washington, DC. 20535, and/or individually to the field offices which maintain similar records.*

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC. 20535, *and the above-mentioned field offices at addresses referred to in system notice Justice/FBI 002.*

RECORD SOURCE CATEGORIES:

Employees of the Federal Bureau of Investigation originate their own records. *Nursing Notes appear on SF 510.*

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI-012

SYSTEM NAME:

Time Utilization Record/Keeping (TURK) System.

SYSTEM LOCATION:

Administrative Services Division. Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents, Accounting Technicians, Investigative Assistants, and Laboratory Technicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains bi-weekly time utilization data of Special Agents, Accounting Technicians, Investigative Assistants and Laboratory Technicians.

AUTHORITY FOR MAINTANANCE OF THE SYSTEM:

This system of records is maintained under the authority of 31 U.S.C. 66a which requires the head of the Department, or his delegate, to establish a system of accounting and internal control designed to provide full disclosure of the financial results of the FBI's activities; adequate financial information needed for the FBI's management purposes and effective control over and accountability for all funds, property and other assets for which the FBI is responsible.

ROUTINE USES OF RECORDS MAINTANED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For the purpose of producing cost accounting reports reflective of personnel utulization, records may be made available to the General Accounting Office, the Office of Management and Budget and the Treasury Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and discs for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by name and/or social security number:

SAFEGUARDS:

Information is safeguarded and protected in accordance with the FBI's Computer Center regulations that permit access and use by authorized personnel only.

RETENTION AND DISPOSAL:

Bi-weekly magnetic tapes are retained for a period of 3 years. Hard copy records are retained in accordance with instructions contained in GRS #8, Items 7 and 8, and GSA Bulletin FPMR-47, "Archives and Records". Hard copy records are destroyed; magnetic tapes are erased and reused. (Job No. NCI-65-82-4, Part E.13c.(1))

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW, Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written requests for access to information may be made by an employee through his supervisor or by former employees by writing to: Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW, Washington, D.C. 20535 (Attn: Administrative Services Division). Contesting of any information should be set out in written detail and forwarded to the above address. A check of all supportive records will be made to determine the factual data in existence.

RECORD SOURCE CATEGORIES:

Source of information is derived from daily time utilization recording made by the employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI-013

SYSTEM NAME:

Security access control system (SACS)

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, both FBI employees and outside visitors, who have been granted access to the J. Edgar Hoover Building.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains computerized information concerning names, badge numbers, and the dates and times of entries of those individuals, including escorted visitors, who have been issued access badges to the J. Edgar Hoover Building.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Executive Order 12065, the Privacy Act of 1974 (5 U.S.C. 552a(e)(10)) and Pub. L. No. 90-620, as amended (44 U.S.C. Chapters 21 and 33). Each of these two statutes, as well as the Executive Order, is directed toward security of United States Government records maintained by Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Category of users: Federal Bureau of Investigation management officials and security personnel. The information is used to determine the status of individuals entering the building and maintain control of badges issued to

individuals requiring access to the J. Edgar Hoover Building.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The automated portion of the records is maintained on a magnetic tape. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Alphabetically by last name; numerically by access badge number.

SAFEGUARDS:

Maintained in a locked room, which is manned 24 hours per day, with access limited to FBI security personnel.

RETENTION AND DISPOSAL:

Computerized records are maintained for one year and hard copy computer listings are maintained for six months. Cards containing badge information are destroyed when administrative needs have expired. Duplicate badges are maintained on individuals granted permanent access to the building until access is no longer required and/or upon separation or transfer. (Job No. NC1–65–82–4, Part B. 66c. (8); Part E. 13 c. (1))

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI—014

SYSTEM NAME:

FBI Alcoholism Program.

SYSTEM LOCATION:

FBI Headquarters, Administrative Services Division, 10th and Pennsylvania Avenue NW., Washington, DC 20535; and FBI Field Divisions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains information on current and former FBI employees who have been counseled or otherwise treated regarding alcohol abuse or referred to the Alcoholism Program Coordinator or Counselor.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and records regarding employees and/or their families who have been referred to the Alcoholism Program Coordinator or Counselor, the results of any counseling which may have occurred, recommended treatment and results of treatment, in addition to interview appraisals and other notes or records of discussions held with employees relative to this program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Pub. L. 91–616 and Pub. L. 92–255, as amended by Pub. L. 93–282, Section 122, and the implementing regulations, 42 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSE OF SUCH USES:

All disclosures of information pertaining to an individual are made in compliance with Public Law No. 91–616, Section 333, and the Confidentiality of Alcoholism and Drug Abuse Patient Records Regulations, 42 CFR Part 2.2, as amended, for the sole purpose of administering the program.

These records are used to document the nature of an individual's alcohol abuse problem and progress made, and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by employee's name.

SAFEGUARDS:

Files are maintained in locked file cabinets, or safes under the immediate control of the Alcoholism Program Coordinator or other authorized individuals. Access is strictly limited to the Coordinator and other authorized personnel.

RETENTION AND DISPOSAL

Files are destroyed 3 years after case is closed. (GRS #1, Item 27 b.; Job No. NC1–65–82–4, Part B. 67d.)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURES:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Requests made by employees should be made in writing to the Director, FBI, Washington, D.C. 20535. Requests must contain employee's full name, date and place of birth, and current office of assignment and/or home address where records are to be sent. If the individual making the request is a former employee, he/she must submit a duly notarized signature in order to establish identity. In addition, the requester must specify the location of the system of records sought, i.e., those maintained at FBI headquarters or those maintained in a particular field division.

CONTESTING RECORD PROCEDURES:

Requests for correction/amendment of records in this system should be made in writing to the Director, FBI, Washington, D.C. 20535, specifying the information to be amended, and the reasons and justifications for requesting such amendment.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–015

SYSTEM NAME:

National Center for the Analysis of Violent Crime (*NCAVC*).

SYSTEM LOCATION:

Federal Bureau of Investigation, Training Division, FBI Academy, Behavioral Science Unit, Quantico, Virgina 22135.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals who relate in any manner to official FBI investigations into violent crimes including, but not limited to, *subjects*, suspects, victims, witnesses, close relatives, medical personnel, and associates who are relevant to an investigation.

B. Individuals who are the subject of unsolicited information or who offer unsolicited information, and law enforcement personnel who request assistance and/or make inquiries concerning records.

C. Individuals who are the subject of violent crime research studies including, but not limited to, criminal personality profiles, scholarly journals, and news media references.

CATERGORIES OF RECORDS IN THE SYSTEM:

The National Center for the Analysis of Violent Crime will maintain in both manual and automated formats case investigation reports on all forms of solved and unsolved violent crimes. These violent crimes include, but are not limited to, acts or attempted acts of murder, kidnapping, incendiary arson or bombing, rape, physical torture, sexual trauma, or evidence of violent forms of death.

A. Violent Criminal Apprehension Program (VICAP) case reports submitted to the FBI by a duly constituted Federal, State, county, or municipal law enforcement agency in any violent criminal matter. VICAP reports include but are not limited to, crime scene descriptions, victim and offender descriptive data, laboratory reports, criminal history records, court records, news media references, crime scene photographs, and statements.

B. Violent crime case reports submitted by FBI headquarters or field offices.

C. Violent crime research studies, scholarly journal articles, textbooks, training materials, and news media references of interest to NCAVC personnel.

D. An index of all detected trends, patterns, profiles and methods of operation of known and unknown violent criminals whose records are maintained in the system.

E. An index of the names, addresses, and contact telephone numbers of professional individuals and organizations who are in a position to furnish assistance to the FBI's NCAVC operation.

F. An index of public record sources for historical, statistical and demographic data collected by the U.S. Bureau of the Census.

G. An alphabetical name index pertaining to all individuals whose records are maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C., Section 3101; 41 CFR Subpart 101–11.2 and 28 U.S.C., Section 534.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

As currently envisioned, the NCAVC will be administered by the FBI through its Training Division's Behavioral Science Unit Located at the FBI Academy, Quantico, Virginia. Its primary mission is to consolidate research, training, and operational support activities for the express purposes of providing expertise to any legitimate law enforcement agency confronted with unusual, bizarre, and/or particularly vicious or repretitive violent crimes.

Records described above are maintained in this system to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, the information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who need the information to perform their official duties.

Information in this system may be disclosed as a routine use to any Federal, State, local, or foreign government agency directly engaged in the criminal justice process where access is directly related to a law enforcement function of the recipient agency in connection with the tracking identification, and apprehensive of persons believed to be engaged in repeated or exceptionally violent acts of criminal behavior.

Information in this system may be disclosed as a routine use in a proceeding before a court or adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit System Protection Board, before which the FBI is authorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding or, if deemed necessary, to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example could be where the activities of an individual are disclosed to a member of the public to elicit his/her assistance in FBI apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy and to the extent the information is relevant to the protection of life or property.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest. Examples would include: to obtain public or media assistance in the tracking, identifying, and apprehending of persons believed to be engaged in repeated acts of violent criminal behavior; to notify the public and/or media of arrests; to protect the public from imminent threat to life or property where necessary; and to disseminate information to the public and/or media to obtain cooperation with violent crime research, evaluation, and statistical programs.

Information in this system may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration [NARA] in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906 to the extent that legislation governing the record permits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored manually in locked file cabinets, either in its natural state or on microfilm, at the NCAVC in Quantico, Virginia. The active main files are maintained in hard copy form and some inactive records are maintained on microfilm.

In addition, some of the information is stored in computerized data storage devices at the NCAVC and FBI Computer Center in Washington, D.C. Investigative information which is maintained in computerized form may be stored in memory on disk storage on computer tape, or on computer printed listings.

RETRIEVABILITY:

On-line computer access to NCAVC files is achieved by using the following search descriptors:

A. A data base which contains the names of individuals, their birth dates,

physical descriptions, and other identification numbers such as FBI numbers, if such have been assigned.

B. Summary variables contained on VICAP reports submitted to the NCAVC as previously described.

C. Key words citations to violent crime research studies, scholarly journal articles, textbooks, training materials, and media references.

SAFEGUARDS:

Records are maintained in restricted areas are accessed only by FBI employees. All FBI employees receive a complete pre-employment background investigation. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand dollar fine or 10 years' imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the job.

Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices and to and from FBI Headquarters, is transmitted in encrypted form to prevent interception and interpretation.

Information transmitted in teletype form between the NCAVC in Quantico, Virginia and the FBI Computer Center in Washington, D.C., is encrypted prior to transmission at both places to ensure confidentiality and security of the data.

FBI field offices involved in certain complicated, investigative matters may be provided with on-line access to the computerized information which is maintained for them on disc storage in the FBI Computer Center in Washington, D.C. This computerized data is also transmitted in encrypted form.

RETENTION AND DISPOSAL:

Records are proposed for destruction after 50 years or upon termination of the program, whichever is earlier. The disposition schedule is pending with NARA as Job No. N1-65-86-13.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 10th and Pennsylvania Avenue, NW., Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORDS ACCESS PROCEDURES:

Requests for access to records in this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." The request must provide the full name, complete address, date of birth, place of birth, and notarized signature of the individual who is the subject of the record requested. The request should also include the general subject matter of the document or its file number—along with any other known information which may assist in making a search of the records. The request must also provide a return addressing for transmitting the information. Access requests should be addressed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

CONTESTING RECORD PROCEDURE:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535. The request should state clearly and concisely (1) the reasons for contesting the information, and (2) the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature of its responsibilities to investigate violations of law within its investigative jurisdiction and ensure the internal security of the United States, collects information from a wide variety of sources. Basically, information is obtained, as a result of investigative efforts, from other Government agencies, law enforcement agencies, the general public, informants, witnesses, and public source material.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e).

JUSTICE/INS-002

SYSTEM NAME:

Application/Petition Tracking System (APTS).

SYSTEM LOCATION:

District offices of the Immigration and Naturalization Service, as detailed in JUSTICE/INS-*999*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed applications or petitions for benefits under the Immigration and Nationality Act, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of applicant or petitioner, date and country of birth, alien identification number, form number of application or petition, date filed or received in INS office, control number, status, and location of relating file or records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system will be used by employees of the Immigration and Naturalization Service to determine the status of the pending application or petition and to locate relating files and other records promptly. This system of records is used to serve the public by providing data for responses, when authorized, to inquiries; complaints, and so forth.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system of records is maintained on magnetic disk.

RETRIEVABILITY:

Records are retrieved by the name or alien identification number of the applicant or petitioner, or the control number of the application or petition. Access to the system is restricted to employees of the Immigration and Naturalization Service responsible for the control, processing, and adjudication of petitions and applications. Method of access is by keyboard terminals located in areas restricted to authorized INS personnel.

SAFEGUARDS:

This system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures.

RETENTION AND DISPOSAL:

Records will be deleted from the automated data base ninety (90) days after final decision on the application or petition.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, *Information Systems* Central Office, Washington, D.C.; District Directors in district offices in the United States where this system of records is located.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director of the Immigration and Naturalization Service office where the application or petition was filed. If the filing location is not known, inquiries may be addressed to the Associate Commissioner, *Information Systems* Central Office, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536.

RECORD ACCESS PROCEDURES:

In all cases, requests for access to a record from this system of records shall be in writing or in person. If request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and, if known, the relating file number. To identify a record relating to an individual the requester should provide the individual's full name; date and place of birth; alien, citizen, or employee identification number; and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office nearest his residence or the office in which he believes a record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

All information is entered from the original application or petition forms completed by the individuals, with the addition of the date of filing or receipt by INS, a control number assigned at the time of receipt, section assignments, and status information updated by each division or unit handling the pending matter.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-003

SYSTEM NAME:

Position Accounting/Control System (PACS).

SYSTEM LOCATION:

Central Office, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Immigration and Naturalization Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Position data: Position number; category code; organization code; position title; pay plan; series; grade; description; accounting classification code; active/inactive code; fund control number; amount authorized; hours authorized; new program element code; input control number; input transaction code; date position created or vacated; SF-52 date; announcement date and number; Entered on Duty (EOD) date; projected vacant date; date last classified; date Position Management Committee (PMC) approved; date position last audited or reviewed; date of transaction; position appeal date, if any; union coverage code appealed to code; position freeze code, competitive level code; remarks code.

B. Payroll data: Social Security Account Number (SSAN); pay period number; payroll subobject code; last pay period amount and hours; cumulative amount and hours; accrual amount and hours; prior month YTD amount and hours; payroll current/prior/manual (C/P/M) code.

C. Personnel data: position number; organization code; position title; payplan; series; grade; description; accounting classification code; incumbent's name, Social Security Account Number, next Quality Step Increase (QSI) date; nature of action; transaction date; FLSA exemption code; and effective date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103); Delegation of Authority to Departments (5 U.S.C. 301); Position Management Systems and Employment Ceilings, Bureau of the Budget Circular No. A-64 (June 28, 1965; January 2, 1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system is used for reports to INS managers of position authorization and cost data by geographic area, organizational unit, program activity, and budget allocation, including the composition of the INS work force (on-board strength and vacancies); status of each vacancy; turnover and occupancy rate statistics; aggregate position data by grade level, organization unit, program activity, type of position, etc.; actual costs for each position and projected position costs for the next fiscal year; and authorization of positions through funds control and periodic review mechanisms.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff request the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services*

Administration (GSA): A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are maintained on magnetic disk and tape at the Department of Justice Data Management Service. All other records are maintained as paper documents at the Central Office, 425 I Street N.W., Washington, D.C. and four regional personnel offices.

RETRIEVABILITY:

Records are retrieved by position number, organization code, accounting classification code, or program element code.

ACCESS CONTROLS:

Access to the system is restricted to employees of the Immigration and Naturalization Service responsible for position accounting and management. Biweekly reports are distributed only to authorized INS personnel. Remote terminals for additional access are located in areas restricted to authorized INS personnel.

SAFEGUARDS:

The data in the automated system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. Paper forms are stored in metal file cabinets which are locked outside of normal duty hours.

RETENTION AND DISPOSAL:

Records are deleted from the automated data base within 60 days after termination of the position authorization. Employee personnel information in the automated data base is deleted when the position becomes vacant. The data base is updated biweekly to maintain accurate, current information on position status and characteristics.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Management.

NOTIFICATION PROCEDURE:

Inquires should be addressed to the Associate Commissioner, Management, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536.

RECORD ACCESS PROCEDURES:

In all cases, requests for access to a record shall be in writing, by mail or in person. If request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the subject matter and, if known, the relating file number. To identify a record relating to an individual, requester should provide the individual's full name, date and place of birth, employee identification number, and, if known, position number. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the Associate Commissioner, Management. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Position management data is obtained from official records in INS personnel offices. Payroll data is obtained from the computerized Department of Justice Payroll System (JUSTICE/OMF—003). Personnel managment data is obtained from the Department of Justice Personnel System (JUNIPER).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-004

SYSTEM NAME:

Top Priority Program (TPP).

SYSTEM LOCATION:

Central Office, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, groups of individuals, or organizations that are expected to generate continuing public interest over a period of time and whose activities lie within the jurisdiction of the Immigration and Nationality Act, including but not limited to those involved in schemes to defraud the government, notorious crime figures, and perpetrators of horrendous or unusual crimes.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Index records of individuals covered by the system, including name of person, group, or organization, and status, reference, and locator information on the related INS case file, if any, in field offices.

2. Temporary file folders established at headquarters containing personal information about the individuals, such as the date and place of birth, immigration status in the United States, marital status, and names of family members and associates; and progress reports on the priority cases.

Authority for maintenance of the system: Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information regarding status and progress of top priority cases is disseminated to INS managers, the Attorney General, officials of other Federal law enforcement agencies, Members of Congress, and to the President. No personal information is disseminated outside the Department of Justice.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of or at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records are maintained as paper documents in manually operated index machines and file drawers.

RETRIEVABILITY:

Records are retrieved by the name of the individual, group of individuals, or organization.

SAFEGUARDS:

The data is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Access to records is restricted to INS employees. All records are stored in locked containers outside normal office hours.

RETENTION AND DISPOSAL:

Records are deleted from the system one year after the individual or organization ceases to be active in the Top Priority Program. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Investigations, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Assistant Commissioner, Investigations, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; name of organization, if any; description of subject matter; and, if known, the related file number.

RECORD ACCESS PROCEDURES:

A person desiring to access or contest a record shall submit his request in writing to the agency official designated under "Notification Procedure" above. If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request." If a requester wishes access to a record, he must identify the record by furnishing the information listed under "Notification Procedure" above. If the requester wishes to contest a record, he must also clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). In addition, he must provide a return address for transmitting any information.

CONTESTING RECORD PROCEDURES:

A person desiring to access or contest a record shall submit his request in writing to the agency official designated under "Notification Procedure" above. If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request." If a requester wishes access to a record, he must identify the record by furnishing the information listed under "Notification Procedure" above. If the requester wishes to contest a record, he must also clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). In addition, he must provide a return address for transmitting any information.

RECORD SOURCE CATEGORIES

Data is obtained from official records of the Immigration and Naturalization Service. These records include information obtained from other Goverment agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-005

SYSTEM NAME:

Case Control System.

SYSTEM LOCATION:

District offices and suboffices of the Immigration and Naturalization Service (INS) in the United States, as detailed in JUSTICE/INS-999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are covered by various provisions of the immigration and nationality laws of the United States, including current and former applicants or petitioners for benefits; petitioners for naturalization or citizenship; individuals under detention, supervised department, or deportation processes; individuals who are under investigation; students; and others whose case files have been assigned to the INS Office having jurisdiction over the individual's place of residence.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains automated index and summary records to aid in the management of files and administrative control of the processing of various kinds of active cases within each office where a part of this system is located:

A. "A-file" tracking: index records of individuals covered by the system, including name of person, identification or file number, location of file within the office, immigration status, case status (if any), processing checklist;

B. Application and petition control: Name and address of applicant or petitioner and/or beneficiary and authorized representative (if any), date and country of birth, file number, form number of application of petition, date filed or received, control number, status, case assignment, scheduling data;

C. Automated file summary: Name, file number, abstracts of documents on file in permanent manual file;

D. Closed file docket: Name, file number, Federal Records Center accession number and location, date closed;

E. Deportation and detention docket control: Name, file number, charge, amount of bond, hearing date, case assignment, scheduling data;

F. Investigations control: Name, file number, reason for investigation, case assignment, scheduling data;

G. Naturalization and citizenship docket control: Name, file number, petition number, date of receipt of petition, date and place of filing, number of court where petition was filed, code of authorized representative (if any), scheduling data;

H. Student registration control: Name, file number, date of admission, length of approved stay, school attended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information regarding the status and progress of cases is disseminated to the individuals or their authorized representatives, concerned employees of INS and other components of the Department of Justice, officials of other Federal law enforcement agencies, Members of Congress, and to the President.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on

behalf on and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A records from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic disks, tapes, and other computer-readable media.

RETRIEVABILITY:

Records are retrieved by the name of file number of the individual, control number of the case, date of filing or last action, pending status, case assignment, or scheduling data.

SAFEGUARDS:

The data is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Access to terminals is restricted to INS employees, and access to records is further protected by the use of passwords and controlled data base search arguments.

RETENTION AND DISPOSAL:

Case control records (those identified under "Categories of records in the system" as "B," "C," "E," "F," "G," and "H") are delted from the automated data base ninety (90) days after final action. File index records (those identified under "Categories of records in the systems" as "A" and "D") are deleted six months after disposal of the manual files.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner *Information Systems*, Central Office; District Director or Officer in Charge in each office where as a part of this system is located.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director or Officer in Charge of the INS office where the file is located. If the file location is not known, inquiries may be addressed to the Associate Commissioner *Information Systems*, 425 I Street NW, Washington, DC 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; description of subject matter; and, if known, the related file number.

RECORD ACCESS PROCEDURE:

A person desiring access to a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that procedure. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any record to him.

CONTESTING RECORD PROCEDURES:

A person desiring to contest a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that caption and clearly stating which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to access or contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request", and a return address must be provided for transmitting any information to him.

RECORD SOURCE CATEGORIES:

Data is obtained from official INS records pertaining to the individuals, together with reference and locator data from the *Central Index System (CIS)* INS case files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-006

SYSTEM NAME:

Alien Address Reports.

SYSTEM LOCATION:

Immigration and Naturalization Service (INS), Central Office, 425 I Street, NW, Washington, DC 20536.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Aliens required to report addresses each January: nonimmigrants; aliens lawfully admitted for permanent residence; aliens granted political asylum; refugees and other conditional entrants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index and copies of Form I-53, Alien Address Report Card, required to be filed by aliens in the United States.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 103, 265, and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1305, and 1380).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used by officers and employees of INS and other components of the Department of Justice in the administration and enforcement of the immigration and nationality laws, including the processing of applications for benefits under those laws, detecting violations of the laws, and referrals for prosecution; and for compilation of reports of statistical and demographic information.

Relevant records in this system of records may be referred to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting a violation or potential violation of law or charged with enforcing or implementing the statute or rule, regulation, or order issued pursuant thereto, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statue, or by regulation, rule, or order issued pursuant thereto.

A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

Information contained in this system of records may be disclosed to other Federal agencies in connection with refugee assistance programs.

Records may be disclosed to one or more private firms for the purpose of entering data, sorting, analyzing, coding, microfilming, or otherwise refining records in the system. Such firms will be required to maintain Privacy Act safeguards with respect to such records.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of the individual who is the subject of the record.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be

made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original input Forms I–53, Alien Address Report Card, are stored in boxes in INS-controlled areas that are locked when not supervised by INS employees. when entered into the system, the cards are serially numbered and microfilmed. Information for preparation of the microfiche index and reports is coded and stored on computer-readable magnetic tape.

RETRIEVABILITY:

Records in the system are indexed and retrievable by name of the individual.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in building, under security guard, and access to premises is by official identification. Access to automated systems is controlled by restricted passwords for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Original input forms are destroyed in accordance with procedures approved by NARA after microfilming and computer data entry is completed, verified, and accepted, or three years after the year of receipt, whichever is earlier. Copies of the index and reports for each year are kept for three years by INS.

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, *Information Systems,* INS, Central Office, 425 I Street, NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, and place of birth; and, if known, the alien registration number.

RECORD ACCESS PROCEDURE:

A person desiring access to a record shall submit his request in writing to the agency official designated under "Notification procedure" above. He must also identify the record by furnishing the information listed under that procedure. If a request to access a record is made by mail, the envelope and letter shall be clearly-marked "Privacy Act Request," and a return address must be provided for transmitting any information to him.

CONTESTING RECORD PROCEDURE:

A person desiring to contest a record shall submit a request in writing to the agency official designated under "Notification procedure" above. The requestor must also identify the record by furnishing the information listed under that caption and clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request," and a return address must be provided for transmitting any information.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from requests and petitions filed by the petitioners: public and private adoption agencies and social workers; and Federal, State, local and foreign government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsection (d) of the Privacy Act. This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1). Regulations have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/INS–007

SYSTEM NAME:

Orphan Petitioner Index and Files.

SYSTEM LOCATION:

District offices and suboffices of the Immigration and Naturalization Service (INS) in the United States and foreign countries, as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are prospective petitioners or who have filed a petition to classify an alien orphan as an immediate relative under the Immigration and Nationality Act, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Index. The system contains Forms G–601, Adjudications Control Cards, to aid in the administrative control of the processing of cases within each office where a part of this system is located. B. Files. The system also contains Forms I–600. Petition to Classify Orphan As An Immediate Relative, filed for advance processing of orphan petitions by prospective adoptive parents; documentation of prospective adoptive parents' United States citizenship and marital status: agency responses indicating whether prospective adoptive parents have any arrest records; and home studies which include statements of financial ability and other elements that relate to the ability of the prospective parents to provide proper care to beneficiary orphans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 101, 103, and 204 of the Immigration and Nationality Act, as amended (8 U.S.C 1101, 1103, and 1154).

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information in the system will be used by employees of the Immigration and Naturalization Service to determine the status of pending requests or petitions, to locate related files and other records promptly, and to determine the suitability of prospective petitioners as adoptive parents. Information regarding the status and progress of cases and the suitability of prospective petitioners as adoptive parents may be disseminated to other components of the Department of Justice, Members of Congress, and the President.

Relevant information from this system may be referred to the Department of State in the processing of petitions or issuance of visas for benefits under the Immigration and Nationality Act, as amended.

Information from this system may be referred to officials of other Federal, state, and local government agencies and adoption agencies and social workers to elicit information required for making a final determination of the petitioner's ability to care for a beneficiary orphan.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the records.

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on Forms G–601, Adjudications Control Cards, and as paper records in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the petitioner.

SAFEGUARDS:

This system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. The records are maintained in file cabinets in areas restricted to access by INS employees, and access to the premises is by official identification.

RETENTION AND DISPOSAL:

When an orphan petition is filed, records from the advance processing file folders are merged into the case file relating to the beneficiary orphan. See JUSTICE/INS–001, the Immigration and Naturalization Service Index System. Subsystem E, centralized index and records (Master Index).

If no petition is filed within one year of completion of all advance processing, the records are returned to the petitioner or the responsible state or licensed agency. Materials not returned to the petitioner or responsible state or licensed agency will be destroyed.

The Forms G—601, Adjudications Control Cards, may be retained for three years following the year in which they were created.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Examinations, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536; and District Director or Officer in Charge of each INS office where a part of this system is located.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director or Officer in Charge of the INS office where the file is located. If the file location is not known, inquiries may be addressed to the Associate Commissioner, Examinations, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. To enable INS to identify whether the system contains a record relating to an individual, the requester must provide the individual's full name, date of birth, place of birth, and a description of the subject matter.

RECORD ACCESS PROCEDURE:

A person desiring access to a record shall submit a request in writing to the agency official designated under "Notification procedure" above. The requester must also identify the record by furnishing the information listed under that caption. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request," and a return address must be provided for transmitting any information.

CONTESTING RECORD PROCEDURE:

A person desiring to contest a record shall submit a request in writing to the agency official designated under "Notification procedure" above. The requester must also identify the record by furnishing the information listed under that caption and clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request," and a return address must be provided for transmitting any information.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from requests and petitions filed by the petitioners; public and private adoption agencies and social workers; and Federal, State, local and foreign government agencies.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

This system is exempt from subsection (d) of the Privacy Act. This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1). Regulations have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/INS–008

SYSTEM NAME:

Bond Accounting and Control System (BACS).

SYSTEM LOCATION:

Immigration and Naturalization Service regional offices: (1) Burlington, Vermont; (2) Fort Snelling, Twin Cities, Minnesota; (3) Dallas, Texas; and (4) San Pedro, California. Addresses of offices are listed in JUSTICE/INS–999 as published in the **Federal Register,** or in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have posted a bond with INS and the beneficiaries of posted bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information which allows identification of active bonds posted with INS such as: bond number, obligor's name and address, alien beneficiary's name and alien file number, type of bond, location and date bond was posted, and other data related to bonds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 (8 U.S.C. 1103) in implementing the authorities set forth in Section 213 (8 U.S.C. 1183) and Section 293 (8 U.S.C. 1363) of the Immigration and Nationality Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system will be used by employees of INS to control and account for collateral received to support an immigration bond. The system will allow prompt location of related files and other records and will enable INS to make timely responses to inquiries about these records.

The information in the system can be used to generate various documents

(such as voucher disbursements) required for normal accounting procedures and to generate statistical and historical reports pertaining to immigration bonds posted, cancelled or breached.

Release of information may be made to other Federal, state, or local law enforcement agencies for investigative purposes or collection of breached bonds.

Release of information to Members of Congress: Information contained in a system of records maintained by the Department of Justice required to be released pursuant to 5 U.S.C. 552, may be made available to a member of Congress or staff upon the member's behalf when the member or staff acting requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA): A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disks.

RETRIEVABILITY:

Records may be retrieved by any of the following: Alien's name, alien's file number, obligor's name, bond-receipt control number, breach control number, or location and date bond was posted.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Access to this automated system is obtained through remote terminals which are located in secured areas and require the use of restricted passwords.

RETENTION AND DISPOSAL:

Records are deleted from magnetic disks one year (or earlier) after the bond is disbursed and the file closed.

SYSTEM MANAGER(S) AND ADDRESS:

The Associate Regional Commissioner, management, at the regional office having jurisdiction over the area in which the beneficiary alien resides. See the caption "System locations."

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

In all cases, requests for access to a record shall be in writing. Written requests may be submitted by mail or in person at an INS office. If a request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." To identify a record relating to an individual, a requester should provide: The individual's full name, alien file number, and location and date bond was posted. The requester shall provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the regional INS office in which he believes the record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Information contained in this system or records is supplied on INS forms by individuals who have posted a bond with the INS and by the beneficiaries of posted bonds.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS–009

SYSTEM NAME:

Alien Status Verification Index.

SYSTEM LOCATION:

Central, Regional, Distict, and other files control offices of the Immigration and Nationalization Service (INS) in the United States as detailed in JUSTICE/INS–999. Remote access terminals will also be located in state employment security offices (SESA's) and other Federal, State, and local agencies nationwide.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by provisions of the immigration and nationality laws of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an index of aliens and other persons on whom INS has a record as an applicant, petitioner, beneficiary, or possible violator of the Immigration and Nationality Act. Records are limited to index and file locator data including name, alien registration number (or "A-file" number), date and place of birth, social security account number, date and port of entry, coded status transaction data, immigration status classification, and office location of related records files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 290, of the Immigration and Nationality Act, as amended (8 U.S.C. 1360).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to verify an alien's status or to locate the INS file control office for the alien file of a particular individual.

A. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local government agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

B. A record from this system may be disclosed to other Federal, State, or local government agencies for the purpose of verifying information in conjunction with the conduct of a national intelligence and security investigation, or for criminal or civil law enforcement purposes.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available for systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member of

staff request the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA):

A record from this system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic disk and tape.

RETRIEVABILITY:

Records are indexed and retrievable by name and date and place of birth, or by name and social security account number, by name and A-file number.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. Access is controlled by restricted password for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the related record.

SYSTEM MANAGER AND ADDRESS:

The Associate Commissioner, Information Systems, Immigration and Naturalization Service, Central Office, 425 I Street NW., Washington, D.C., is the sole manager of the system.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager listed above.

RECORD ACCESS PROCEDURES:

In all cases, requests for access to a record from this system shall be in writing, if a request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include the name, date and place of birth of the person whose record is sought and, if known, the alien file number. The requester shall also provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the System Manager or to the INS office that maintains the file. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Basic information contained in this system is taken from Department of State and INS applications and reports on the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-010

SYSTEM NAME:

Freedom of Information Act/Privacy Act (FOIA/PA) Case Tracking and Reporting System.

SYSTEM LOCATION:

Central, Regional, District, and other Files Control Offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals making requests, individuals designated to receive responses, and individuals whose records are requested by others under the provisions of the Freedom of Information Act and/or Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information extracted from FOIA/PA requests and the documentation provided by INS personnel of actions taken on the requests. The data base consists of data such as the names of requesters, record subjects, or persons designated to receive responses to requests; mailing addresses to send responses; date of receipt of requests; assigned request control numbers; date responses are due; interim and final action(s) taken on requests and the date(s) of final and/or interim actions; the persons or offices assigned action on requests; the types of requests; fee data; alien file numbers; specific exemptions applied to denial actions; offices where requests are transferred for referral or consultations; and the names/titles of officials responsible for denials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained pursuant to 44 U.S.C. 3101 and 8 U.S.C. 1103 to implement the provisions of 5 U.S.C. 552 and 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to record, control, and determine the status of FOIA/PA requests, and produce statistical reports required by both Acts. Information from the system may be provided to the record subject, the requester or other persons designated by the requester, and to other Federal agencies and Department of Justice components receiving INS referrals or with whom consultations are required in order to complete the processing of requests. All other uses are internal within INS.

Release of information to Members of Congress: Information in this system may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA): A record from this system of records may be dislcosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on magnetic disks and tapes.

RETRIEVABILITY:

Records are indexed and retrieved by control number or by name of requester or subject.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice Security regulations governing Privacy Act systems of records. Access to the automated system is controlled by restricted password from remote terminals in secured areas.

RETENTION AND DISPOSAL:

Records are maintained for five years after date of last action and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Associated Commissioner, Information Systems, Immigration and Naturalization Service, Central Office, 425 I Street, NW., Washington, D.C. is the sole manager of the system.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager listed above.

RECORDS ACCESS PROCEDURE:

In all cases, requests for access to a record from this system shall be in writing. If a request for access is made by mail, the envelope and letter shall be clearly marked "FOIA/PA Request." Requests should be submitted to the INS office where the request which is the subject of the inquiry was sent, or to the Immigration and Naturalization Service, Attention: FOIA/PA Section, 425 I Street, NW., Washington, D.C. 20536. The requester shall include the control number or name of the requester and/or name of the record subject, and the date and place of submission of the request. The requester shall also provide a return address for response to the inquiry.

CONTESTING RECORD PROCEDURE:

Any individual desiring to contest or amend information maintained in the system should direct his request to the system manager or to the INS office where the request which is the subject of the inquiry was submitted. The request should state clearly what information is being contested, the reason(s) for contesting it, and the proposed amendment to the information.

RECORDS SOURCE CATEGORIES:

Indivdiuals requesting information under FOIA/PA and INS officials and employees engaged in processing or making determinations on FOIA/PA requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INTERPOL-001

SYSTEM NAME:

The INTERPOL-United States National Central Bureau (INTERPOL–USNCB) (Department of Justice) INTERPOL–USNCB Records System.

SYSTEM LOCATION:

INTERPOL-U.S. National Central Bureau, Department of Justice, Room 800, Shoreham Bldg., Washington, DC 20530

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific deceased persons in connection with death notices; individuals who may be associated with certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in a crime; victims of criminal violations in the United States or abroad; and INTERPOL–USNCB personnel involved in litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The program records of the INTERPOL–USNCB consists of criminal and non-criminal case files. The files contain fingerprint records, photographs, criminal investigative reports, radio messages (international), teletype messages (internal U.S.), log sheets, computer printouts, letters, memoranda, and statements of witnesses and parties to litigation.

These records relate to fugitives, wanted persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes names, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, and details and circumstances surrounding the actual or suspected violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 263a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event of record(s) in this system or records indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred, as a routine use to the appropriate law enforcement and criminal justice agencies whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulations or order issued pursuant thereto. A record may be disclosed to federal, state or local agencies maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license grant or other benefit; to federal agencies in response to their request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. A record may be disclosed to appropriate parties engaged in litigation or in preparation of possible litigation, e.g., to potential witnesses for the purpose of securing their testimony when necessary before courts, magistrates or administrative tribunals; to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings; to foreign governments in accordance with formal or informal international agreements; to local, state, federal and foreign agents; to the Treasury Enforcement Communications System [TECS] (Treasury/CS 00.244); to the International Criminal Police Organization (INTERPOL) General Secretariat and National Central Bureaus in member countries; to the INTERPOL Supervisory Board, an international board comprised of three judges having oversight responsibilities regarding the purpose and scope of personal information maintained in the international archives of INTERPOL; to employees and officials of financial and commercial business firms and private individuals where such release is considered reasonably necessary to obtain information to further investigative efforts or to apprehend criminal offenders; to other third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; and to translators of foreign languages as necessary. In addition, records are accessed by INTERPOL–USNCB employees and by volunteer students and students working under a college work-study program who have a need for the records in the performance of their duties.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of

Congress or staff acting upon the Member's behalf when the Member or staff requests the information in behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (*NARA*) *and to the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in file folders and on microfilm in the INTERPOL-United States National Central Bureau. Magnetic disks in the INTERPOL Case Tracking System (ICTS) are stored at the Justice Data Center, U.S. Department of Justice, and certain limited data, e.g., that which concerns fugitives and wanted persons, is stored in the Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244, a system published by the U.S. Department of the Treasury.

RETRIEVABILITY:

Information is retrieved primarily by name, file name, system identification number, personal identification number, and by weapon or motor vehicle number or by other identifying data. Prior to 1975, case files were arranged by name *of subject. Between 1975 and 1979 case files were sequentially numbered. Since October 1979, files have been arranged by year, month and sequential number.*

SAFEGUARDS:

Information maintained on magnetic disks is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only those individuals specifically authorized and assigned an identification code by the system manager will have access to the computer. Identification codes will be assigned only to those INTERPOL–USNCB employees who require access to the information to perform their official duties. In addition, access to the information must be accompanied through a terminal which is located in the INTERPOL–USNCB office that is occuped *twenty-four hours a day.* Information in file folders and in microfilm records is stored in file cabinets in the same secured area.

RETENTION AND DISPOSAL:

Case files opened after April 5, 1982 have been stored on microfilm (41 CFR Sec. 101–11.506). In addition, records that were closed prior to April 5, 1982 but are recalled from the Federal Archives and Records Center (FARC) are also microfilmed.

Case files that were closed prior to April 5, 1982 are transferred to the *FARC two years from the date the case is closed and are destroyed twenty years thereafter,* if there has been no recall from the FARC and no case activity.

Case files closed as of April 5, 1982 and thereafter are disposed of as follows: The hard copy (paper record) of the case file may be destroyed when the microfilm records have been verified for clearness, completeness and accuracy. The microfilm record of the case file is destroyed ten years after closing of the case, if there has been no case activity.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, INTERPOL–United States National Central Bureau, Department of Justice, Room 800, Shoreham Building, Washington, DC 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Chief, INTERPOL–United States National Central Bureau, Department of Justice, Washington, DC 20530. To enable INTERPOL—USNCB personnel to determine whether the system contains a record relating to him or her, the requester must submit a written request identifying the record system, identifying the category and type of records sought, and providing the individual's full name and at least two items of secondary information (data of birth, social security number, employee identification number, or similar identifying information).

RECORD ACCESS PROCEDURES:

Although the Attorney General has exempted the system from the access, contest, and amendment provisions of the Privacy Act, some records may be available under the Freedom of Information Act. Inquiries should be addressed to the official designated under "Notification procedure" above. The letter and envelope should be clearly marked "Freedom of Information Request" and a return address provided for transmitting any information to the requester.

CONTESTING RECORD PROCEDURES:

See "Access procedures" above.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal, state, local, and foreign law enforcement agencies (including investigative reports from a system of records published by Department of Treasury entitled Treasury Enforcement Communications System (TECS) TREASURY/CS 00.244); other non-Department of Justice investigative agencies; client agencies of the Department of Justice; statements of witnesses and parties; and the work product of the staff of the United States National Central Bureau working on particular cases. Although the organization uses the name INTERPOL–USNCB for purposes of public recognition, the INTERPOL–USNCB is not synonymous with the International Criminal Police Organization (ICPO–INTERPOL), which is a private, intergovernmental organization headquartered in St. Cloud, France. The Department of Justice INTERPOL–USNCB serves as the United States liaison with the INTERPOL General Secretariat and works in cooperation with the National Central Bureaus of other member countries, but is not an agent, legal representative, nor organizational subunit of the International Criminal Police Organization. The records maintained by the INTERPOL–USNCB are separate and distinct from records maintained by the international Criminal Police Organization, and INTERPOL–USNCB does not have custody of, access to, nor control over the records of the International Criminal Police Organization.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has *exempted* this system from subsections (c)(3) and (4), (d), (e), (1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), and (g) if the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/JMD–001

SYSTEM NAME:

Background Investigation Check-off Card.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Offices, Boards, and Divisions except attorneys and employees in the Offices of the Attorney General and Deputy Attorney General.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains an index card for each employee of the Offices, Boards, and Divisions, except those excluded in Categories of Individuals above, on whom a name and fingerprint or background investigation has been initiated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in order to fulfill the requirements of Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The index cards are used to annotate and monitor the progress of the name and fingerprint checks and the full field character investigations of the employes. The completed cards are used to develop a variety of workload and timeframe data concerning the initiation and completion of these investigations to ensure that the requirements of Executive Order 10450 and Department of Justice Order 17321 are being effectively and efficiently met.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 502 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress of staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is subject to the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS: *ADMINISTRATION (NARA) AND TO THE GENERAL SERVICES ADMINISTRATION (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is manually stored in the boxes.

RETRIEVABILITY:

Information is retrieved manually by reference to the name of the employee on whom the investigation is being conducted.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Personnel Section policies and procedures.

RETENTION AND DISPOSAL:

When a full-field background investigation or National Agency Check is initiated, the background investigation check-off card is forwarded to the Justice Management Division Security Staff where it is ultimately merged in system Justice/JMD-008, Security Clearance Information System.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Staff, Justice Management Division, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington D.D.20530.

NOTIFICATION PROCEDURES:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are those Personnel Section employees authorized to annotate these cards. Information reported is extracted from personnel documents initiating the various investigations and the resulting reports of completion.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-003

SYSTEM NAME:

Department of Justice Payroll System.

SYSTEM LOCATION:

Categories of records within the Payroll System of Records are kept at the following locations: (1) Justice Employee Data Service; 633 Indiana Ave. NW., Washington, DC 20004; (2) Justice Computer Service; 425 I Street, NW.; Washington, D.C. 20530; (3) at various time and attendance recording and processing stations around the world; (4) at computerized record off-site backup facilities; and (5) at various Federal Records Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Current DOJ employees with the exception of those employed within the FBI and; (2) Many past DOJ employees with the exception of those that served within the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Payroll Master Employee Records: These are machine-readable and microfiche records containing information on current pay and leave status for individuals serviced by the automated payroll accounting system.

B. Bond, Allotment and Check Mailing Records: These are machine-readable and microfiche records containing information on Savings Bond deductions, savings account allotments, and net check mailing requested by the employee.

C. History of Earning Records: These are machine-readable and microfiche records containing information on earnings, leave and other pay related activities.

D. Automated Retirement Records: These are machine-readable records containing information relevant to the Civil Service Retirement System. These records will be used to automatically generate Individual Retirement Records (SF-2806) upon an employee's separation.

E. Revised Social Security Numbers Records: These are machine-readable records containing the new and old social security number for employees whose current social security number is different from that previously entered into the automated system.

F. Employee Pay Records: These are manila folders containing source documents, correspondence and other papers in support of an active employee's pay, leave and allowances.

G. Active Retirement Records: These are manual records maintained on active employees to facilitate timely compliance with the requirements of the Civil Service Retirement System. Upon separation, the original SF-2806 is forwarded to the Civil Service Commission and a copy is filed in the Employee Pay Record (F above). This category of records will eventually be

replaced by the automated retirement records (D above).

H. Former Employee Pay Records: These records are the Employee Pay Records (F above) for employees that have been separated, transferred or retired. In addition to information contained in the Employee Pay Records, these records include information related to the retirement, separation or transfer. These records are destroyed two years after separation of employee.

I. Employee Death Records: These records are the Employee Pay Records (F above) for employees that died while on active duty with Department of Justice. In addition to information contained in the Employee Pay Records, these records include information related to the employee's death and the settlement of pending pay and allowances.

J. Returned Check Records: These records are a manual log for recording and controlling checks issued to employees that were returned to the Justice Employee Data Service because they were undelivered, erroneous or cancelled prior to conversion to cash.

K. Time and Attendance Report: These microfilm records of standard form number DOJ–296 contain information on an employee's attendance and use of leave in a particular pay period. They are also used to indicate leave adjustments and balances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each executive agency is responsible for establishing and maintaining an adequate payroll system, covering pay, leave, and allowances, as a part of the system of accounting and internal control of the Budget and Accounting Procedures Act of 1950, as amended, 31 U.S.C. 66, 66a, and 200(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes(s): The purpose of each use of categories of records within the DOJ Payroll System of Records is to enable the administration of the payroll function and related financial matters in accordance with applicable laws and regulations and to comply with the requirements of the Comptroller General.

SYSTEM USES:

A. Authorize, prepare and document payment to all Department employees coverd by the DOJ Payroll System entitled to be paid, with consideration given to all authorized deductions from gross pay.

B. Specify and document proper disposition of all authorized deductions from gross pay.

C. Prepare adequate and reliable payroll reports needed for (1) management, (2) budget, (3) support of payments, (4) the conduct and accounting of payroll related employee services, (5) control and documentation of payroll system operation, and (6) to meet external reporting requirements.

D. Support effective communications and payroll matters between the Department of Justice and its present and former employees.

E. Support proper coordination of pay, leave and allowance operations with personal functions and other related activities.

F. Support adequate control over all phases and segments of the payroll system including leave accounting.

G. Support appropriate integration of the payroll system with the Departmental accounting systems.

H. Records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement of the State, City, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, City, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520 or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the System Manager listed below. The request must include a copy of the applicable statute authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. However, the social security numbers will only be provided to state or local taxing authorities which meet the criteria of the Privacy Act.

I. Provide permanent record of actions taken pertinent to the administration of pay leave and allowances.

J. Support legal investigations of suspected fraud.

CATEGORIES OF USERS:

Records are accessed by users on a need or right to know basis. A category of users may have potential access under more than one use above.

A. Present or former employees serviced by the DOJ Payroll System.

B. Justice Employees data Service Staff.

C. Department of the Treasury disbursing offices.

D. Department of Justice budget and accounting offices.

E. Department of Justice personnel offices.

F. Employee supervisors.

G. Employee administrative offices.

H. Federal, state and local taxing authorities.

I. Federal Employees Health Benefits carriers.

J. Employee organization offices participating in dues allotment program.

K. Financial organizations participating in savings account allotment program.

L. Financial organizations participating in net pay to checking account program.

M. State human resource offices administering unemployment compensation programs.

N. General Accounting Office and internal audit staffs.

O. Federal, state or local law enforcement agencies (in support of legal investigations of suspected fraud).

P. Other Federal agencies requiring information as specified in applicable laws or regulations, e.g., Civil Service Commission).

Q. Heirs, executors and legal representatives of beneficiaries.

R. State and local courts of competent jurisdiction for the enforcement of child support and/or alimony pursuant to 42 U.S.C. 659.

Release of Information to the News Media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records. Administration (NARA) and the General Services Administration (GSA). A record from a system of records may be disclosed as a routine use to NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Various categories of records are stored on different mediums. Categories A, B, and E are on magnetic discs. Category C is on magnetic tape and microfiche. Category D is on magnetic tape. All other records are maintained in paper form.

RETRIEVABILITY:

Categories of records on magnetic media are retrievable by employee social security number which is maintained to comply with Internal Revenue requirements. Records in paper form and microfiche are retrievable by employee name and social security number.

SAFEGUARDS:

The principal current safeguard for payroll records is guard force screening of individuals entering buildings within which records are kept. More stringent security practices and procedures are under development.

RETENTION AND DISPOSAL:

Payroll records retention and disposal are in accordance with General Records Schedule 2 promulgated by the General Services Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Finance Staff, Justice Management Division; U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

A request for notification of the existence of records upon an individual shall be made in writing by the individual or legal designate, with the envelope and the letter clearly marked 'Privacy Notification Request'. Include in the request the name of the system of records, the individual's full name and social security number while employed with the Department of Justice, the organization within which employed (if available), and whether the individual is a current or former employee. The requestor shall include a return address for the notification response. If the request if submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee. Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

A request for access to records from this system shall be made in writing by the subject individual or legal designee, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the name of the system of records, the legal name and social security number of the data subject, the organization within which the individual is a current or former employee. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individual desiring to contest or amend information maintained in the system of records should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it, and the proposed amendment to the information sought. If the request is submitted by other than the subject individual, indicate the authority under which the information is sought. The request must be signed by the subject individual and, if applicable, by the legal designee.

RECORD SOURCE CATEGORIES:

Information contained within the DOJ Payroll System of Records is obtained from the following sources:

A. Subject Individual: Information collected from the subject individual generally consists of that necessary to administer allotments, deductions or other services requested by the individual.

B. Personnel Office: Information collected from the personnel office generally consists of employment status information which provides the legal basis upon which valid payments are computed.

C. Time and Attendance Clerk: Information collected from this clerk generally consists of an accounting of the individual's presence or absence from the duty station and the usage of leave.

D. Supervisor or Administrative Officer: Information collected from these officers generally consists of leave authorizations and information concerning the individual's duty station.

E. Financial Instutitions or Employee Organizations: Information collected from institutions or organizations generally consists of that necessary to insure the timely and accurate forwarding to the institution or organization of monies allotted to an account at the institution or organization by the subject individual.

F. Previous Federal Employer: Information collected from the previous employer within the Federal government generally consists of leave status information at the time of separation.

G. Other Federal Agencies: Information collected from other Federal agencies generally consists of program information necessary to properly administer pay, leave, and allowances.

H. Other Officials: Information collected from other officials consists of that necessary to administer the payroll function. This may include authorization for special payments, death certificate or other documents as necessary.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Bookstream (Justice/JMD–004).

SYSTEM LOCATION:

Justice Manager Division (JMD), Main Library, Department of Justice, 10th and Constitution Avenue, NW., Washington, DC. 20530.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

All Office, Board, and Division (OBD) Metropolitan Washington Department of Justice employees, and other selected Department employees who request to borrow from the Library system.

CATEGORY OF RECORDS IN THE SYSTEM:

The file contains the full name of Department of Justice employees; their organization building; room number; telephone number and last four digits of their social security number. In addition, a record of all library materials borrowed by or loaned to each employee is maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This file is maintained pursuant to requirements for maintenance of records of Federal agencies. (See 44 U.S.C. 3101 (1976).)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The file is used by Main Library staff personnel to maintain more effective control over library materials, including the ability to recall materials and to clear Department of Justice employees leaving the agency. Records will not be disseminated, and there will be no release of information outside of the Library system other than to notify library patrons of the availability of materials or overdue status of borrowed materials. A list of items outstanding prior to clearance from the agency will be provided to the employee.

There will also be a release of oustanding loans to the Department of Justice Board of Survey when an employee leaving the Department cannot account for items charged out. The Board of Survey, consisting of Department of Justice personnel, was established by OBD Order 1300.4, February 18, 1981.

A record from the system of records may be disclosed to the National Archives and Records *Administration* for records management inspections conducted under the authority of 44 U.S.C. 2404 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records are maintained by JMD Library staff on a Data General M600 minicomputer using DATALIB proprietary software.

RETRIEVABILITY:

Information is retrieved by a variety of datafields including, but not limited to the name of the employee, call number, title key or patron indentification code.

SAFEGUARDS:

Information maintained in the system is safeguarded and protected in accordance with Department rules and procedures governing the handling of computerized information. Only those individuals specifically authorized and assigned an access code will have use of the circulation system. Access codes will be assigned only to those library employees who have the requisite need for the information to perform their official duties. In addition, access to the information must be accomplished through a single terminal which is only operational from 9:00 a.m. to 5:30 p.m., and access to such terminal will be limited.

RETENTION AND DISPOSAL:

Records classified by the employee's name are retained for two weeks after the employee leaves the employment of the Justice Department. The records are then deleted from the system.

SYSTEM MANAGER AND ADDRESS:

Circulation Librarian, Room 5400, Main Library, United States Department of Justice, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Circulation Librarian, Room 5400, Main Library, United States Department of Justice, Washington, D.C. 20530. Before identifying whether the system contains a record relating to an individual employee, Department of Justice employment is first verified by checking information provided by the employee against an employee personnel listing extracted from the Justice Uniform Personnel System (Juniper). (See "Record source categories" below.) Bookstream is then searched for records relating to that employee. Therefore, to assist the Library in verifying employment and in identifying any record relating to an employee, the employee must provide his full name, social security number, date of employment and duty assignment station.

RECORD ACCESS PROCEDURE:

Persons desiring to access a record shall submit their request in writing, by mail, or in person to the agency official designated under "Notification procedure" above. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request." In addition, the requester must furnish the information set forth under "Notification procedure" above.

CONTESTING RECORD PROCEDURE:

See "Record access procedure" above.

RECORD SOURCE CATEGORIES:

Sources are the Juniper system and bibliographic records either keyed at the time an item is borrowed or taken from the master record of Library holdings. The Juniper system is a system of records which is included under the umbrella of a government-wide system of records reported by the Office of Personnel Management. The system is entitled "General Personnel Records, OPM/GOVT-1."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-005

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Records relating to grievances originating in an office, board or division (defined in 28 CFR 0.1) are located in the office of the Associate Director for Operations, Personnel and Training Staff (PTS). Records relating to grievances originating in a particular bureau (defined in 28 CFR 0.1) are located in the central personnel office of the bureau where the grievance originated, except for the Federal Bureau of Investigation (FBI) which is excluded from coverage of the Agency Administrative Grievance System by 5 CFR 771.206(a). (See caption "System managers and addresses.")

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Department of Justice employees, except for employees of the FBI, who have submitted grievances in accordance with 5 CFR Part 771 (Office of Personnel Management (OPM) regulations) and the Department's grievance procedures, or in accordance with a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by the agency employees under 5 CFR Part 771 and the Department's grievance procedures, or under a negotiated grievance procedure. These case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, and a copy of any original and final decision and related correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that PTS and the bureaus may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a(f); 5 CFR Part 771; 5 U.S.C. 1032, 3301, 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to another appropriate Federal, State, or local agency, responsible for investigating, prosecuting, enforcing, or implementing a statute rule, regulation, or order, where the Department becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to another Federal agency (in response to its request) for its use in the hiring or retention of an employee, the issuance of a security clearance, the conducting

of a security and/or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to its decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records *Administration and the* General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2908.

g. By the Department or OPM in the production of summary descriptive statistics, if available, and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of data elements included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; the Equal Employment Opportunity Commission; or, the OPM when requested to perform their authorized duties.

i. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to labor organization officials recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of three years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

a. *Offices, Boards and Divisions. Director,* Personnel Staff, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

b. *Bureau of Prisons.* Personnel Office, Bureau of Prisons, HOLC Building, 320 First Street, NW., Washington, D.C. 20534.

c. *Drug Enforcement Administration.* Personnel Officer, Drug Enforcement Administration, 1405 Eye Street, NW, Washington, D.C. 20537.

d. *Immigration and Naturalization Service.* Assistant Commissioner for Personnel, Immigration and Naturalization Servive, CAB Building, 425 I Street, NW., Washington, D.C. 20530.

e. *Office of Justice Assistance, Research and Statistics.* Personnel Officer, Office of Justice Assistance Research and Statistics, 633 Indiana Avenue NW.,, Washington, D.C. 20531.

f. *United States Marshals Service.* Personnel Officer, U.S. Marahals Service, 1 Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the appropriate personnel office (named under the caption "System managers" and addresses" above) where the action was processed regarding the existence of such records on them. They must furnish the following information for the records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURES:

It is required that the individuals submitting grievances be provided a copy of the record under the grievances process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the appropriate personnel office (named under the caption "System managers and addresses" above) where the action was processed. Individuals must provide the information listed under the caption "Notification procedures" for their records to be located and identified. Individuals requesting access must also follow the Department's Privacy Act regulations (28 CFR 16.41) regarding access to records and verification of identity.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to the records to correct factual errors should contact the personnel office (named under the caption "System managers and addresses" above) where the grievance was processed. Individuals must furnish the information listed under the caption "Notification procedures" for their records to be located and identified.

Individuals requesting amendment must also follow the office's Privacy Act regulations (28 CFR 16.41) regarding amendment to records and verifications of identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By Department officials.

d. From related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-007

SYSTEM NAME:

Accounting System for the Offices, Boards and Divisions and the United States Marshals Service.

SYSTEM LOCATION:

United States Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals on whom vouchers are submitted requesting payment for goods or services rendered (except payroll

vouchers for Department of Justice employees,) including vendors, contractors, experts, witnesses, court reporters, travelers, and employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All vouchers processed, i.e., all documents required to reserve, obligate, process and effect collection or payment of funds. (Excluded from the system are payroll vouchers.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 31 U.S.C. 3512.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

After processing the vouchers, the records are used to maintain individual financial accountability; to furnish statistical data (not identified by personal identifiers) to meet both internal and external audit and reporting requirements; and to provide Administrative Officers from the Officers, Boards and Divisions and the United States Marshals Service with information on vouchers by name and social security number.

Release of information to the news media. Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from system of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and to the General Services Administration (GSA)*: A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Release of taxpayer mailing address information. Information contained in the system or records may be disclosed to the Internal Revenue Service (IRS) to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect or compromise a Federal claim against the taxpayer.

Release of information to consumer reporting agencies. Information directly related to the identity of debtors and the history of claims contained in the system or records may be disclosed to consumer reporting agencies for the purpose of encouraging repayment of overdue debts. Such disclosures will be made only when a claim is overdue and only after due process steps have been taken to notify the debtor and give him or her a chance to meet the terms of the debt. Addresses of taxpayers obtained from the Department of the Treasury will be disclosed to consumer reporting agencies only for the purpose of allowing such agencies to prepare a commercial credit report on the taxpayer for use by the Department.

Release of information about debtors. Information contained in the system of records may be disclosed in order to effect salary or administrative offsets to satisfy a debt owed the United States by that person. Such disclosures will be made only when all procedural steps established by the Debt Collection act have been taken.

Release of information to debt collection agencies. Information contained in the system of records may be disclosed to a person or organization with whom the head of the agency has contracted for collection services to recover indebtedness owed to the United States. Addresses of taxpayers obtained from the Department of the Treasury will also be disclosed, but only where necessary to locate such taxpayer to collect or compromise a Federal claim.

Release of information to United States Attorneys. Information contained in the system of records may be disclosed to United States Attorneys' offices for litigation and enforced collection.

Release of information in a proceeding before a court or adjudicative body. Records within this system or any facts derived therefrom, may be disseminated before a court or adjudicative body before which the Justice Management Division is authorized to appear when i. the Justice Management Division, or any subdivision thereof, or ii. any employee of the Justice Management Division in his or her official capacity, or iii. any employee of the Justice Management Division in his or her individual capacity where the Department of Justice has agreed to represent the employee, or iv. the United States, where the Justice Management Division determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the Justice Management Division to be arguably relevant to the ligitation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disks, magnetic tapes, microfilm, and file folders.

RETRIEVABILITY:

Records on magnetic tapes and disks are primarily retrieved by social security number or digital identifiers. Records covering all fiscal years prior to Fiscal Year 1983 are maintained in paper form; as of Fiscal Year 1983 paper records have been converted to microfilm. Records in paper form and on microfilm are retrieved by batch and controlled by schedule on which paid.

SAFEGUARDS:

Information contained in the system is unclassified. Operational access to information maintained on magnetic disks is controlled by the convention of the operating system utilized. This is normally by password key. These passwords are issued only to employees who have a need to know in order to perform job functions relating to financial management and accountability. Records are also safeguarded in accordance with organizational rules and procedures. Access is limited to personnel of the Department of Justice who have a need for the records in the performance of their official duties.

RETENTION AND DISPOSAL:

Magnetic disks, magnetic tapes, microfilm, and paper documents are retained for a period of six years and three months and subsequently destroyed in accordance with regulations prescribed by the General Accounting Office and promulgated by the General Services Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Directors, Finance Staff; Office of the Comptroller, Justice Management Division, U.S. Department of Justice, 10th & Constitution Avenue, NW, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURE:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

Submitted by operating accounting personnel or individual of record.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-010

SYSTEM NAME:

Document Information System. (DIS)

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Justice who have been designated by the Attorney General as authorized to classify documents. Employees of the Department of Justice who have been delegated classifying authority by designation of the Attorney General. Individuals (mostly aliens) about whom documents exist which have been classified in the interest of national security.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records of all documents classified by Department of Justice employees. The system also contains a record on all Department of Justice employees (from January 1, 1973 to present) who have or have had the authority to classify documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system was established and is maintained pursuant to Executive Order 11652.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is routinely used by the Interagency Classification Review Committee, the Department of Justice Security Staff, and the Department of Justice Review Committee.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records *Administration (NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in machine readable form on magnetic tape. A copy of the data capture form is maintained in the originating office for two weeks, then destroyed. The original data capture form is maintained at the Department until data contained therein has been successfully processed, then the form is destroyed.

RETRIEVABILITY:

Information is retrieved in any form for all routine uses. Information may be retrieved for non-routine uses with the approval of the Director, Central Management Services Staff, and in accordance with the provisions of the Privacy Act.

SAFEGUARDS:

Access to information contained in the system is controlled by the Director, Systems Operations Staff, Justice Management Division. Access is normally limited to routine users and members of the Systems Operations Staff, on a "need-to-know" basis.

RETENTION AND DISPOSAL:

Records contained in the system are retained indefinitely. The system of records is never purged and no disposal schedule is required.

SYSTEM MANAGER(S) AND ADDRESS:

Director, *Security Staff* Justice Management Division; U.S. Department of Justice; 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

Same as the System Manager.

CONTESTING RECORD PROCEDURES:

Same as the System Manager.

RECORD SOURCE CATEGORIES:

Employees of the Department who have been designated by the Attorney General as classifying officials and emplyees who have been delegated classifying authority.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-013

SYSTEM NAME:

Employee Locator File.

SYSTEM LOCATION:

U.S. Department of Justice; 10th and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the U.S. Department of Justice, with the exception of individuals employed by the Federal Bureau of Investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information relating to each employee's home and business address, home and business telephone number, information as to next of kin, and personal physician preferred in case of medical emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to 5 U.S.C. 301, 5 U.S.C. 7901, 26 U.S.C. 6011, 26 U.S.C. 6109, 5 U.S.C. 5516, 5 U.S.C. 5517 and 5 U.S.C. 5520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

The locator system is used to provide address data to federal, state and local tax authorities in accordance with the reporting requirements of their income tax withholding programs. The locator system is also used to contact employees of the Department at their official place of business or their residence regarding matters of an official nature relating to their employment with the Department of Justice. It is also used in medical emergencies to contact an employee's personal physician if he or she has an indicated preference, and to notify next of kin. Use of the file for these purposes is limited to supervisors of the employees concerned or individuals having the permission of a supervisor of the employee concerned.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape and magnetic disc.

RETRIEVABILITY:

Records are retrieved by name or any other date item by means of cathode-ray tubes.

SAFEGUARDS:

Access to terminals is limited to persons with terminal identification numbers. These numbers are issued only to employees who have a need to know in order to perform job functions relating to income tax reporting or personnel matters.

RETENTION AND DISPOSAL:

Records are retained for the duration of an individual's employment with the Department. They are destroyed upon his or her separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, *Finance Staff, Office of the Comptroller, Justice* Management Division; U.S. Department of Justice; 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification.

CONTESTING RECORD PROCEDURES:

Same as Notification.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual to whom the record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-014

SYSTEM NAME:

Department of Justice Relocation Management Services Information System.

SYSTEM LOCATION:

Office of Personnel and Administration, Justice Management Division (JMD), 10th and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice (DOJ) employees who have been authorized by their employing organizations to transfer to an alternate location for the benefit of the Government and who have chosen to utilize the relocation services offered by a firm under contract to DOJ.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual and automated records will contain abbreviated data, e.g., relocation number, name, social security number, employing organization, address, telephone number, descriptive housing data, and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509 and 510; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.75.

PURPOSE(S):

The purpose of this system is to maintain information on home sale transactions for those individuals employed by DOJ who are authorized to use home sale services when being transferred for the benefit of the Government. To enable DOJ to administer its relocation management program and provide home sale services for transferring employees, it is necessary for a system of records to be maintained. This system will be maintained for DOJ by a contractor offering relocation services designed specifically for DOJ. The system will allow tracking of employee home sale transactions from initial employee notification of eligibility, through appraisal, offer, acquisition, and final contractor billing and payment. Such information is essential to the conduct and monitoring of relocation services. In accordance with subsection (m) of the Privacy Act, DOJ shall cause the requirements of the Privacy Act to apply to this system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Primary users of this system will be DOJ and contractor employees working directly for DOJ. The system will be used to manage relocation services within DOJ and to monitor the status of home sale transactions for employees using the relocation management program.

Release of Information to a Court or Adjudicative Body:

Records or information may be disclosed as a routine in use a proceeding before a court or adjudicative body before which DOJ is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by DOJ to be arguably relevant to the litigation: the DOJ or any of its subdivisions; and DOJ employee in his or her official capacity or in his or her individual capacity were DOJ agrees to represent the employee; or the United States where the DOJ determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from the system of records maintained by DOJ unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in the system of records maintained by DOJ may be disclosed as is necessary to respond appropriately to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA):

A record from a system of record may be disclosed as a routine use to NARA and to GSA in records management inspections conducted under the authority of Title 44 of the United States Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored on magnetic discs and in file folders.

RETRIEVABILITY:

Records will be indexed and retrieved by name, relocation number and type of transaction.

SAFEGUARDS:

Access to computerized records will be restricted to DOJ and contractor relocation management personnel through the use of assigned codes. Paper records will be secured in locked file cabinets.

RETENTION AND DISPOSAL:

A detailed records retention plan and disposal schedule is being developed by NARA and DOJ.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Finance Staff, Office of the Comptroller, Justice Management Division, U.S. Department of Justice, Room 1111, 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Direct all inquiries to the system manager identified above. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requestor, nature of the record sought, approximate date of the record, and provide the required verification of identity (28 CFR 16.41 (d)). Direct all requests to the system manager identified above, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelop "Freedom of Information/Privacy Act Request."

RECORD SOURCE CATEGORIES:

The relocating employee will be either the primary source of records in this system or will be actively and directly involved with any information provided by other sources i.e., personnel files, office records, contractor files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-017

SYSTEM NAME:

Department of Justice Controlled Parking Records.

SYSTEM LOCATION:

U.S. Department of Justice: 10th Street and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Justice employees who have applied for vehicle parking space which is assigned and controlled by the Department of Justice, per Department of Justice Order 2540.2D, Dec. 20, 1977.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of Form DOJ-362, Department of Justice Parking Space Application (DOJ Space), and *DOJ OT-90,* Department of Justice Parking Space Application (DOJ Carpool Space), which have been completed and submitted by Department of Justice employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained in accordance with 5 U.S.C. 301 and Federal Property Management Regulation 41 CFR 101-20.1. Operating procedures contained in Department of Justice Order 2540.2D, Dec. 20, 1977.

PURPOSE OF THE SYSTEM:

Justice Management Division personnel use these records to assign, identify, and control the use of vehicle parking space for which the Department of Justice is responsible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to Members of Congress: Information contained in system of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration: *(NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a locked file cabinet, *on hard disk, and on floppy disk.*

RETRIEVABILITY:

These records are indexed alphabetically by the last name of the applicant, within the organizational element.

SAFEGUARDS:

Records are in a room protected by a cipher lock during non-duty hours. In addition, paper records are kept in a locked filing cabinet; and the computer is key-locked and has password protection. Information is disseminated on a need-to-know basis.

RETENTION AND DISPOSAL:

Although these records are currently retained as long as applicants remain as employees of the Department of Justice, inactive records are disposed of in accordance with the General Records Schedule, 41 CFR Part 101-11.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Mail, Fleet and Records Management Services, General Services Staff, Office of Personnel and Administration, Justice Management Division, U.S. Department of Justice, 10th Street and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

Same as System Manager.

CONTESTING RECORD PROCEDURES:

Same as System Manager.

RECORD SOURCE CATEGORIES:

Applications from employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD-019

SYSTEM NAME:

Freedom of Information Act-Privacy Act (FOLA-PA) Records *System*

SYSTEM LOCATION:

U.S. Department of Justice, Justice Management Division, 10th and Constitution Avenue NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made a request to access any Justice Management Division (JMD) record relating to JMD functional responsibilities and activities; individuals who have made a request to access or correct records pertaining to themselves which they believed to be in JMD systems of records; and persons who, on behalf of another individual, have made a request to access or correct that individual's records which they believed to be in JMD systems of records. Such requests were made pursuant to the Freedom of Information Act, the Privacy Act, or both.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual records contain Freedom of Information Act and Privacy Act requests for JMD records, responses thereto, and where applicable, a copy of the records requested and any other correspondance or internal memoranda related to the processing of these requests. Automated records (stored on disks) contain summary data such as the date of request, name of requester, addressee, subject of request, date request was received, JMD staff to which request were assigned, date request was assigned, date response was due, control number, and date of response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 44 U.S.C. 3101 and is maintained to implement the provision of 5 U.S.C. 552 and 552a and the provision of 28 CFR 16.1 et. seq, and 28 CFR 16.40 et seq.

PURPOSE OF THE SYSTEM:

To assist the Justice Management Division in carrying out its responsibilities under the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in the system may be disseminated as a a routine use of such record as follows: (1) A record may be disseminated to a Federal agency which furnished the record for the purpose of permitting a decision as to access or correction to be made by that agency, or for the purpose of consulting with that agency as to the propriety of access or correction; (2) a record may be disseminated to any appropriate federal, state, local, or foreign agency for the purpose of verifying the accuracy of information submitted by an individual who has requested amendment or correction of records, contained in a system of records maintained by the Justice Management Division.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems or records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Deparetment of Justice, nor otherwise required to be released pursuant to 5 U.S.C. 552, may be made availalbe to a Member of Congress or staff acting upon the Members' behalf when the Member or staff requests the information on behalf of and at the request of the indivdual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and the General Service Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual requests records are stored in locked safes. Automated requests records are stored on disks.

RETRIEVABILITY:

Requests records are filed and retrieved under the names of those persons and individuals identified under the caption "Categories of individuals covered by the system. These records are retrieved by Department personnel to perform their duties, e.g., when subsequent requests are made by the public for copies of their previous requests and responses thereto, or when the requester submits a supplemental request to information clarifying a previous request.

SAFEGUARDS:

Access to requests records is limited to Department of Justice personnel who have need for the records to perform their duties. Request files (manual records) are stored in locked safes. All records are stored in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with items 16 through 18 and 25 through 28 of General Records Schedule 14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Attorney General for Administration, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, DC. 20530.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURES:

A request to access a record in this system shall be made in writing to the system manager named above with the envelope and letter clearly marked "Freedom of Information Act request" or "Privacy Act request." The requester shall include the full name of the person who made a request, date of that request, name of official to whom the request was addressed, and subject of the request. Where applicable (Title 28 of the Code of Federal Regulations § 16.41(b) (2) and (3)), the requester shall also include the current address, date and place of birth, and notarized signature of the individual requesting a copy of his/her previous request and response thereto. Where applicable (Title 5 of the United States Code, section 552a(b)), the requester shall also include a written statement authorizing the Department to release these records to a third party. In addition, the requester shall provide his return address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are the individuals and persons making requests, the systems of records searched in the process of responding to requests, and other agencies referring requests for access to or correction of records originating in the Justice Management Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain categories of records in this system from subsections (c)(3) and (d) of

the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). That is, the exemptions apply only to the extent that other correspondence or internal memoranda retained with the request file contain investigatory material for law enforcement purposes. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/JMD-020

SYSTEM NAME:

Freedom of Information Act/Privacy Act (FOIA/PA) Request letters.

SYSTEM LOCATION:

FOIA/PA referral unit, *Mail, Fleet and Records Management Services, General Services Staff, Justice* Management Division, Department of Justice (DOJ), Washington, D.C. 20530

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making FOIA/PA requests to the Department. (The names of persons making requests directly to the Board of Immigration Appeals (BIA), individual United States Attorneys' Offices, or a Department bureau, i.e., the Bureau of Prisons, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Office of Justice Assistance, Research and Statistics, and the Immigration and Naturalization Service, will not usually be in this system, except in those rare instances where these organizations may forward a request to the Department for appropriate referral.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper documents consist of written FOIA/PA requests for Department records not addressed to a specific DOJ component and therefore forwarded to the unit for assignment and referral; forms indicating the DOJ components to which requests have been referred; acknowledgement/referral advisory letters to requesters; and other related correspondence, e.g., letters to requesters seeking additional information and the responses thereto. (This system contains no replies which grant or deny access to records, nor any other records relating to the individual other than as stated here.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 5 U.S.C. 552 and 552a; 28 CFR 16.1–.10; and 28 CFR 16.40–.57.

PURPOSE OF THE SYSTEM:

To assist the Department in carrying out its responsibilities under the Freedom of Information Act and the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are not disseminated outside the Department except as indicated below. They are accessed only by Department personnel with a need to know, i.e., requests are referred by the FOIA/PA referral unit to the appropriate Department component(s) to respond, or to the Civil Division and/or United States Attorney to prepare the Department's defense in FOIA/PA litigation.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information in this system may be disclosed as is necessary to appropriately respond to Congressional inquiries on behalf of constitutents.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record may be disclosed as a routine use to *NARA and GSA in* records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in paper folders in filing cabinets.

RETRIEVABILITY:

A record is retrieved by name of the individual making the request.

SAFEGUARDS:

Records are stored in file cabinets in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Records are retained in the FOIA/PA mail referral section for approximately one year. Records are then transferred to the Federal Records Center for storage in accordance with the General Services Administration's General Records Schedule 14, item 18(a) which provides for a disposal date of five years from the date of the most recent request being stored.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Mail, Fleet and Records Management Services, General Services Staff, Justice Management Division, Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries as to whether the system contains a record of a request from an individual should be addressed to the Assistant Director, Mail, Fleet and Records Management Services, General Services Staff (GSS), Justice Management Division, Department of Justice, Room 7317, 10th and Constitution Avenue, NW., Washington, D.C. 20530. To enable the GSS to identify whether the system contains a request from the individual, the individual must provide the name of the person who made the request, the date of the request, and, if appropriate, the date of the Assistant Director's letter to the requester acknowledging receipt and referral of the request.

RECORD ACCESS PROCEDURE:

Persons desiring to access a record shall submit a request in writing to the Assistant Director at the address indicated under "Notification Procedure" above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Request from individuals for DOJ records under the Freedom of Information and Privacy Acts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/LDN-003

SYSTEM NAME:

Lands Docket Tracking System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individuals on whom records are maintained in the Lands Docket Tracking System are as follows:

1. Those individuals who have been charged with civil or criminal violations or whose names may appear in the case name or subject name of a matter coming to the attention of the Land and Natural Resources Division for possible

litigation *including those individuals or corporations which have sued the United States;*

2. Those individuals who are currently under investigation for civil or criminal violations; and

3. Those individuals who are a direct party to a case or matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data in the Lands Docket and Tracking System fall into the following major categories:

1. Information about the Department of Justice (DOJ) case. Administrative information dealing with the case or matter including the DOJ file number, client agency, court of origin, opposing party, title, section, and associated data.

2. Information about the calendar. Includes key dates in tracking the docket of the case or matter.

3. Information about events concerning the case or matter. Tracks all activities related to the DOJ number including correspondence and court events.

4. Information about party. Includes the name of the individual, the type of party this individual is in relation to the case or matter, and the state of the party.

5. Information by tract. Only included with cases dealing with Land Acquisition. This record includes tract finances, participants, owners, events, court, estate type, and payees.

6. Information about the court. Includes the criminal/civil action number, court, and the judicial officer.

7. Information on status. Includes actions, dates, and reasons which affect the status of a case or matter.

8. Information on appellate action. Includes items relating to appellate actions taken relative to the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained as an incident of such of the statutory authority of the Attorney General relating to the conduct of litigation as he has delegated to the Land and Natural Resources Division. (5 U.S.C. 301)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used by personnel of the Division as an aid in determining the existence in the Division of a matter relating to the named case or subject, and to facilitate appraisal of the status of the pertinent matter for the purpose of taking timely appropriate action relating thereto.

Reports are continually produced to monitor the progress of the caseload and the utilization of Division resources.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) AND THE GENERAL SERVICES ADMINISTRATION (GSA):

A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored on magnetic tapes and discs at the Justice Management Division Data Center. Printouts from the terminals and from the Data Center which include status and statistical reports are stored in locked files and offices of Division management.

RETRIEVABILITY:

Information is retrieved on data display terminals which are located in various work stations throughout the Division. Identifiers used in retrieval operations include party name, court, date, status, section, case type, and assigned attorney.

SAFEGUARDS:

The magnetic tapes and discs are located in the Justice Data Center which maintains controlled access to the building and additional controlled access to the computer installation. The data display terminals are located within secured DOJ work areas, and operators can only access information through the utilization of passwords and special identification numbers.

RETENTION AND DISPOSAL:

The records are retained within the system during their useful life after which they will be off-loaded onto magnetic tape, stored in a secured vault, leaving a skeletal trail in the on-line data base.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, *Systems Group*; Land and Natural Resources Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request', and the system and record sufficiently described in the letter for identification.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are the correspondence, pleadings, and other indices of developments regarding the pertinent case or subject, from wheresoever received.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/OJP-001

SYSTEM NAME:

Equipment Inventory.

SYSTEM LOCATION:

Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have filed the following forms in the Office of *the Comptroller:* Property Sign-out, *OJARS Administrative Form 1820/1;* Equipment Control Records, *OJARS Administrative Form 1820/2.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Property Sign-out, *OJARS Administrative Form 1820/1;* Equipment Control Records, *OJARS Administrative form 1820/2.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301, 1302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The property data is used for inventory control.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and to the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in system is stored *on* index cards.

RETRIEVABILITY:

Information is retrieved by name of employee *and type of equipment.*

SAFEGUARDS:

Data is maintained in *a locked room.*

RETENTION AND DISPOSAL:

Documents relating to equipment control are closed when employee leaves agency. Records are destroyed three years thereafter. Operating files are destroyed when an individual resigns, transfers, or is separated from Federal service.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller; Office of the Comptroller; Office of Justice Programs; 633 Indiana Avenue NW., Washington, DC 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, employee's supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE-OJP-006

SYSTEM NAME:

Congressional and Public Affairs System

SYSTEM LOCATION:

Office of Justice Programs (OJP); 633 Indiana Avenue, NW., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of Congress, and other public figures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with Congressional Committees, members of Congress, and the general public. The file also contains biographical data, speeches, press releases, and photograph files relating to public figures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system is used or may be used in response to inquiries from the general public or member of Congress.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and to the General Services Adminstration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA AND GSA* the in records management inspections conducted under the authority of 44 U.S.C. *2904 and* 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is indexed on a correspondence control log and stored in file folders.

RETRIEVABILITY:

Information is retrieved by name of the member of Congress who is the correspondent, or by the name of the public figure.

SAFEGUARDS:

Records are maintained in file cabinets. Entrance to the building is controlled by required employee identification or security clearance procedures. Records are used by

employees on a need to know basis only.

RETENTION AND DISPOSAL:

Records are retained for two years, then retired to Federal Records Center. Six years thereafter records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Congressional *and Public Affairs: Office of Justice* Programs, 633 Indiana Avenue NW., Washington, DC 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information are *Congressional* members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OJP-012

SYSTEM NAME:

Public Safety Officers Benefits System.

SYSTEM LOCATION:

Bureau of Justice Assistance, Office of Justice Programs, (OJP), 633 Indiana Avenue, NW., Washington, D.C. 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Public Safety Officers who died while in the line of duty and their surviving beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains an index by claimant and deceased Public Safety Officers: case files of eligibility documentation; and benefit payment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system exists under 42 U.S.C. 3796 and 44 U.S.C. 3103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in this system is used or may be used to determine and record eligibility of Public Safety Officers under the Public Safety Officers Benefits Act. It may be released to:

(1) State and local agencies to verify and certify eligibility for benefits; (2) researchers for the purpose of researching the cause and prevention of public safety officer line of duty deaths; (3) appropriate Federal agencies to coordinate benefits paid under similar programs; and (4) Members of Congress or staff acting upon the member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is a party in interest.

RELEASE OF INFORMATION IN AN ADJUDICATIVE PROCEEDING:

It shall be a routine use of records within this system or any facts derived therefrom, to disseminate them in a proceeding before a court or adjudicative body before which the OJP is authorized to appear, when

i. The OJP, or any subdivision thereof, or

ii. Any employee of the OJP in his or her official capacity, or

iii. Any employee of the OJP in his or her individual capacity, where the Department of Justice has agreed to represent the employee, or

iv. The United States, where the OJP determines that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the OJP to be arguably relevant to the litigation.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION *(NARA) and to the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to the *NARA AND GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Release of information to Members of Congress. Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on a master index, in folders and on computer magnetic tape.

RETRIEVABILITY:

Information is retrievable by name of claimant, name of deceased Public Safety Officer, and case file number.

SAFEGUARDS:

Computerized information is safeguarded and protected by computer password key and limited access. Noncomputerized data is safeguarded in locked cabinets. All files are maintained in a guarded building.

RETENTION AND DISPOSAL:

Files are retained in the Public Safety Officer Benefits (PSOB) Office on hard copy. *Files will be disposed of pursuant to OJP Handbook 1330.2A.*

SYSTEM MANAGER(S) AND ADDRESS:

PSOB Program Officer Bureau of Justice Assistance Office of Justice Programs, 633 Indiana Avenue, NW., Washington, D.C. 20531.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

Request for access to a record from this system should be made in writing with the envelope and the letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above and state clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Public agencies including employing agency, beneficiaries, educational institutions, physicians, hospitals, official state and Federal documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OLA-001

SYSTEM NAME:

Congressional Committee Chairman Correspondence file.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past Chairmen of Congressional Committees who correspond with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by Congressional Committee Chairmen together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

RELEASE OF INFORMATION OF THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the particular Congressional Committee Chairman who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondance generated during the *current and two preceding* Congresses.

SYSTEM MANAGER(S) AND ADDRESS:

Legislative Assistance, Office of Legislative Affairs, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the: Assistant Attorney General, Office of Legislative Affairs; U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a certification of identity and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OLA-G02

SYSTEM NAME:

Congressional Correspondence File.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and past members of Congress who correspond with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by the individual members of Congress together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an

unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the individual member of Congress who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondence generated during the *past and present Congress.*

SYSTEM MANAGER(S) AND ADDRESS:

Legislative Assistant, Office of Legislative Affairs, U.S. Department of Justice; 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquires to the Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice; 10th and Constitution Avenue, NW., Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a certification of identity and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OLA–003

SYSTEM NAME:

Citizen Correspondence File.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons corresponding with the Department on legislative and other related matters.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains letters and attachments transmitted by individuals together with copies of the Departmental responses to these letters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintenance in accordance with 5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Use of the information is entirely within the Department on a need to know basis:

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records *Administration NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in file cabinets.

RETRIEVABILITY:

Information is retrieved by using the name of the individual who initiated the correspondence in a particular matter.

SAFEGUARDS:

Information contained in the system is unclassified. Routine protection is provided.

RETENTION AND DISPOSAL:

Information maintained in this system contains correspondence from individuals during *the past and present Congress.*

SYSTEM MANAGER(S) AND ADDRESS:

Legislative *Assistant,* Office of Legislative Affairs, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address inquiries to the: Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request the nature of the letter or document as well as the general subject matter of the document. The requestor will also provide a certification of identity and a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The source of the information contained in this system comes directly from the individual initiating the correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OPR-001

SYSTEM NAME:

Office of Professional Responsibility Record Index.

SYSTEM LOCATION:

U.S. Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Department of Justice employees who are the subjects of complaints directed to, or *inquiries or* investigations conducted by, the Office of Professional Responsibility; (2) individuals (complainants) who write to the Office of Professional Responsibility; (3) individuals (complainants) who write to the Attorney General or other officials of the Department and whose *correspondence is* referred to the Office of Professional Responsibility; (4) employees of agencies of the Federal Government, other than the Department of Justice, about whom information indicating possible criminal or administrative misconduct has been developed during the course of routine investigation by components of the Department of Justice, when such information is furnished to the Office of Professional Responsibility for referral—if warranted—to an appropriate investigative component of the Department of Justice, or to another government agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of complaints filed against Departmental employees, the results of investigations into those complaints, and actions taken after completion of the investigations. This system also includes all records developed pursuant to special assignments given to the Office of Professional Responsibility by the Attorney General *or the Deputy Attorney General* as well as records containing information indicating possible misconduct by employees of the Federal Government, other than the Department of Justice, which have been furnished to the Office of Professional Responsibility for referral, if warranted, to the appropriate investigative authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 et seq. and 28 CFR 0.39 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) In any case in which there is an indication of a violation or a potential violation of law, whether civil, criminal, or regulatory in nature, and arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto; (2) in the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violations, a record may be disseminated to a Federal, state, local, or foreign agency, or to an individual or organization. If there is reason to believe that such agency, individual, or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant; (3) a record relating to a case or matter may be disseminated in an appropriate Federal, state, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive or procedural law or practice; (4) a record relating to a case or matter may be disseminated to a Federal, state, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing; (5) a record may be disseminated to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of security clearance or the reporting of an investigation of an employee; (6) information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; (7) release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests information on behalf of and at the request of the individual who is the subject of the record; (8) a record from a system of records may be disclosed as a routine use to the National Archives and Records *Administration the General Services Administration* in records management inspections conducted under 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets *and electronically in office automation equipment.*

RETRIEVABILITY:

Information is retrieved in some instances by the name of the complainant and in some instances by the name of the employee who is the subject of the complaint.

SAFEGUARDS:

The information is stored in safes, locked filing cabinets *and office automation equipment* in a limited access area and is maintained according to applicable departmental security regulations.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with the General Records Schedule, Federal Property Management Regulations 101–11.4.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel on Professional Responsibility, Department of Justice, 10th and Constitution Avenue NW., Washington, DC 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the system manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under (5 U.S.C. 552a(j)(2), (k)(1), (k)(2) or (k)(5). To the extent that this system of seconds is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to record contained in this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in this request the name of the individual involved, his birth date and place, or any other identifying number or information which may be of assstance in locating the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to their information sought.

RECORD SOURCE CATEGORIES:

Department officers and employees, and other Federal, state, local and foreign law enforcement and non-law enforcement agencies, private persons, witnesses, and informants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Atttorney General has exempted this system from subsections (c) (3) and (4), (d), (e), (1), (2) and (3), (e)(4)(G) and (H), (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1), (k)(2) and (k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/PRC-001

SYSTEM NAME:

Docket, Scheduling and Control.

SYSTEM LOCATION:

Records are maintained at each of the Regional Offices for inmates incarcerated in and persons under supervision in each region, except for the National Appeals Board docket maintained in Washington. Duplicates of regional materials are maintained in Washington. All requests for records should be made to the appropriate regional office or Headquarters at the following addresses: United States Parole Commission, *2nd and Chestnut Sts. Customs House—7th Floor Philadelphia, PA 19106,* United States Parole Commission, *1718 Peachtree St., NW. Suite 250, Atlanta, GA 30309,* United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase Md. 20815,* ATTN: National Appeals Board, United States Parole Commission, *Air World Center Suite 220, 10920 Ambassador Dr.,* Kansas City, Mo. 64153. United States Parole Commission, *525 Griffin St., Suite* 820 Dallas, Tex. *75202.* United States Parole Commission, *1301 Shoreway Road Fourth Floor, Belmont CA 94002*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General who are to be scheduled for hearings under Commission procedures. Former inmates includes those presently under supervision as parolees or mandatory *releasees* and those against *whom* a revocation *warrant* has been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Docket sheets—Each region and the National Appeals Board in Washington maintains a cumulative series of docket sheets in time sequence showing Commission action. Principal data elements are name and register number of inmate, offense, sentence, and previous and present Action. The appeal docket includes the data and type of appeal in addition to much of the above data. These provide a continual running record of the basic data elements per inmate and former inmate. Docket sheets are used to input this information into a computer program which produces printouts of identical information and certain statistical reports. (b) Hearing schedules—*Shortly after inmates are incarcerated,* their names appear on an eligibility list prepared by the Bureau of Prisons, for initial parole hearings. *Following the hearing, the Commission may order that the inmate be denied parole, granted a presumptive parole date, granted an effective (within six months) parole date or continued to a 15 year reconsideration hearing.* Other types of hearings and reviews are provided for in the Code of Federal Regulations as part of parole, rescission or revocation procedures. All of the different types of hearings and reviews are placed on schedules for examiners to process when they visit the various institutions or hold "local" hearings. The data elements are similar to those on the docket but indicate the number and type of hearing or review to be held instead of the result.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part 0, Subpart V, and 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The dockets provide the basis of answering basic inquiries, mostly from within the Parole Commission, as to when a hearing came up for an individual and what action was taken. The schedules indicate to examiners and prison staff the specific hearings and reviews to be prepared for and held.

(b) In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(c) A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision concerning parole matters.

(d) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

(e) Internal users—Employees of the Department of Justice who have a need to know the information in the performance of their duties.

(f) External users—As noted above, on occasion employees of Federal, State and local enforcement, correctional, prosecutive, or other agencies, and courts may have access to this information.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information stored in the system is on sheets of paper, one item per line, stored in folders or binders. An experimental program to store such data on tape disk, or microfiche using ADP technology, and to prepare certain computer printouts is in effect in all regions. Data also may be stored on paper printouts through file retention.

RETRIEVABILITY:

Name, register number, date, institution Commission action, and statistical data as to such actions.

SAFEGUARDS:

Copies of dockets, printouts and schedules are not disseminated outside of Commission offices and Bureau of Prisons installations. They are available only to Commission and bureau employees on a "need to know" basis. Information therefrom may be given outside the Department as indicated in the "Routine Uses." If so, a letter will be written covering the item disclosed, date and identity of the recipient. If information must be given over the phone due to urgency, the caller will be identified beforehand and details of the call recorded.

RETENTION AND DISPOSAL:

Records in this system are kept for five (5) years after the effective date of the schedule or date of the last item recorded on the docket. They are then shredded and electronically stored records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Research and Program Development, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

NOTIFICATION PROCEDURE:

Address inquiries to Regional Commissioner at appropriate location. For general inquiries, address system manager. The Attorney General has exempted this system from compliance with the provisions of subsection (d), under the provisions of subsection (j).

RECORD SOURCE CATEGORIES:

(1) Bureau of Prisons files; (2) Parole Commission and Bureau of Prison's employees; (3) Court Records; (4) Parole Commission inmate files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/PRC-002

SYSTEM NAME:

Freedom of Information Act Record System.

SYSTEM LOCATION:

Records may be retained at any of the Regional Offices as indicated in the Inmate and Supervision Files System and the Headquarter's Office. All requests for records may be made to the Central Office, United States Parole Commission, 5550 Friendship Blvd., *Chevy Chase, Md. 20815,* ATTN: *FOIA OFFICER* or to the appropriate Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General, including former inmates on supervision.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Administrative requests and responses to requests for information and records under 5 U.S.C. 552, and 552a and appeals from denials of data; (2) Final orders of Commission following all parole, rescission, and revocation hearings, record reviews, and appeals are maintained in the Freedom of Information Act reading room at Commission headquarters with names removed to protect individual privacy of inmates and persons on supervision. Final decisions in labor and pension cases are maintained in said reading room.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used: (a) to maintain records concerning the processing and determination or requests for information made pursuant to the Freedom of Information Act, 5 U.S.C. 552 and Privacy Act, 5 U.S.C. 552a; and make final orders available in a reading room pursuant to 5 U.S.C. 552; (b) to provide documentation of receipt and processing requests for information made pursuant to the Freedom of Information and Privacy Acts if needed for processing contested denials of release of data (c) to furnish information to employees of the Department of Justice who have a need for information from the system in performance of their duties; (d) to maintain a count of requests and method of compliance as required by Freedom of Information and Privacy Acts.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS.

Information not otherwise required to be released pursuant to 5 U.S.C. 552 and 552a may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections

conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information maintained in the system is stored on documents *and microfilm.*

RETRIEVABILITY:

Documents are indexed by name and/or register number. Final orders in the reading room are indexed by *region and date.*

SAFEGUARDS:

Information is stored in file cabinets in rooms supervised by day and locked at night and are made available to Commission personnel and other Department of Justice employees on a "need to know" basis. Each requestor may see his own file. The public may use the reading room.

RETENTION AND DISPOSAL:

Records in this system are in *in accordance with General Records Schedule No. 14,* then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA Officer, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase Md. 20815.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

(1) Inmates and persons on supervision; (2) Department of Justice employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/PRC 003

SYSTEM NAME:

Inmate and Supervision Files.

SYSTEM LOCATION:

Records are maintained at each of the U.S. Parole Commission's (USPC) Regional Offices for inmates incarcerated in and persons under supervision in each region. Records are housed temporarily at the Commission's Headquarters Office located at 5550 Friendship Blvd., Chevy Chase, Md. 20815 when used by the National Appeals Board or other Headquarters personnel. A duplicate record of certain data elements from files is maintained on microfiche for Headquarters use. Prior to the first parole hearing, the inmate's file is maintained at the *institution* at which he is incarcerated. Certain records on parolees and mandatory releasees are maintained at probation offices. All requests for records should be made to the appropriate regional office at the following addresses: U.S. Parole Commission, Customs House Seventh Floor, Second and Chestnut Streets, Philadelphia, Pa. 19106. U.S. Parole Commission, 1718 Peachtree St. NW. Suite 250, Atlanta, GA 30309. U.S. Parole Commission, Air World Center, Suite 220, 10920 Ambassador Drive, Kansas City, Mo. 64153. U.S. Parole Commission *525 Griffin St.,* Suite 820, Dallas, Tex. 75202, U.S. Parole Commission, *1301 Shoreway Road, 4th Floor, Belmont, CA 94002.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates under the custody of the Attorney General. Former inmates include those presently under supervision as parolees or mandatory releasees.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Compulation of sentence and supportive documentation.
2. Correspondence concerning pending charges, and wanted status, including warrants.
3. Requests from other Federal and non-Federal law enforcement agencies for notification prior to release.
4. Records of the allowance forfeiture, withholding and restoration of good time.
5. Information concerning present offense, prior criminal background sentence, and parole from the U.S. Attorneys, the Federal Courts, and Federal prosecuting agencies.
6. Identification data.
7. Order of designation of institution or original commitment.
8. Records and reports of work and housing assignments.
9. Program selection assignments and performance adjustments/progress reports.
10. Conduct records.
11. Social background.
12. Educational data.
13. Physical and mental health data.
14. Parole Commission applications, appeal documentation, orders, actions, examiner's summaries, transcripts or tapes of hearings, guideline evaluation documents, parole or mandatory release certificates, statements or third parties for or against parole, special reports on youthful offenders and adults required by statute and related documents.
15. Correspondence regarding release planning, adjustment and violations.
16. Transfer orders.
17. Mail and visit records.
18. Personal property records.
19. Safety reports and rules.
20. Release processing forms and certificates.
21. Interviews request forms from inmates.
22. General correspondence.
23. Copies of inmate court petitions and other court documents.
24. Report of probation officers, Commission correspondence with former inmates and others, and Commission order and memoranda dealing with supervision and conditions of parole or mandatory release.
25. If an alleged parole violation exists, correspondence requesting a revocation warrant, warrant application, warrant, instructions as to service, detainers and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, and 28 CFR Part 2.

PURPOSE (S):

The system constitutes the agency's records upon which it bases all its decisions with respect to every stage of parole consideration from initial hearing to termination of parole supervision. For example, it is used by USPC hearing examiners to perform a *prehearing* review and to conduct the inmate's initial parole hearing. After that hearing, it is maintained in the appropriate regional office where it provides the principal information source for all decisions leading to parole or denial of parole, and all decisions following release to supervision. It is used at USPC headquarters when appeals come before the National Appeals Board or when needed by legal counsel and others on the headquarters staff. It is used by employees at all levels, including USPC members, to provide information for decisionmaking in every area of USPC responsibility. Files of released inmates are used to make statistical studies of subjects related to parole and revocation. Finally, the file is maintained to provide the rationale of USPC actions when an agency determination is questioned by members of the public or challenged in judicial proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(a) The system may be used as a source for disclosure of information which is solely a matter of public record and which is traditionally released by the agency to further public understanding of its criminal justice system, including but not limited to offense, sentence data, and prospective *release date.*

(b) The system may be used to provide an informational source for responding to inquiries from Federal inmates, their families, representatives, and Congressional offices.

(c) Record from the system of records may be routinely disclosed to U.S. Probation Officers for the performance of their offical duties.

(d) In the event that the USPC is informed of a violation or suspected violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

(e) Records from this system may be disclosed to a Federal, State or local agency or court if that agency or court requests information for an official purpose to which the documents appear to be relevant.

(f) A record from this system may be disclosed to a person or to persons who may be exposed to harm through contact contact with a particular parolee or mandatory releasee (or to persons in a position to prevent or minimize such harm), if it is deemed to be necessary to give notice that such danger exists.

(g) Lists of names of parolees and mandatory releasees entering a jurisdiction and related information may be disclosed to law enforcement agencies upon request as may be required for the protection of the public for the enforcement of parole conditions.

(h) Disclosure of USPC notices of action may be made (1) by the Office of Public Affairs of the U.S. Department of Justice to the public generally, and (2) by USPC to specific crime victims and witnesses (as those terms are used in the Victim and Witness Protection Act of 1982), from the files of prisoners whose applications for parole have been decided by USPC. The purpose of such disclosure is to further understanding of the criminal justice system by the public and by crime victims and witnesses.

(i) Incidental disclosure of file material may be made during the course of a parole or parole revocation hearing to victims and witnesses of crime and other legitimately interested persons authorized by USPC to attend such hearing, so as to further their understanding of the case to permit their intelligent comment with respect to USPC's decision.

(j) Records which are arguably relevant to litigation in which the Parole Commission has an interest, or to the litigation defense of its present or former employees (if the Department of Justice has agreed to provide representation) may be disclosed from a current or former inmates's or parolee's file by disseminating in proceedings before a court or tribunal at any time deemed appropriate by the Government's attorney.

(k) A record from this system of records may be disclosed to a current *or* former criminal justice official who is a defendant in a lawsuit brought by, or which involves, an individual who is the subject of a file maintained in this system of records, provided that such litigation arises from allegations of misconduct on the part of the defendant while a criminal justice official, and that the records are arguably relevant to the matter in litigation. Such records may be disclosed to the defendant to facilitate the preparation of his or her defense.

(l) Records from this system may be disclosed to any person performing any service for the USPC pursuant to authority exercised by the Chairman under 18 U.S.C. 4204(b) (1) through (8), and for the purposes contemplated by that statute.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBER OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, nor otherwise required to be released pursuant to 5 U.S.C. 532, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (*NARA*) *and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Manual requests records are stored in locked safes. Automated requests records are stored on disks.

RETRIEVABILITY:

Requests reports are filed and retrieved under the names of those persons and individuals identified under the caption "Categories of individuals covered by the system." These records are retrieved by Department personnel to perform their duties, e.g., when subsequent requests are made by the public for copies of their previous requests and responses thereto, or when the requester submits a supplemental request to information clarifying a previous request.

SAFEGUARDS:

Access to requests records is limited to Department of Justice personnel who have need for the records to perform their duties. Request files (manual records) are stored in locked safes. All records are stored in an office which is occupied during the day and locked at night.

RETENTION AND DISPOSAL:

Records are *held at the regional office until termination of sentence then transferred to the Washington National Records Center. Records are destroyed ten years after the case becomes inactive.*

SYSTEM MANAGER(S) AND ADDRESS:

FOIA Officer, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

NOTIFICATION PROCEDURE:

Address inquiries to Regional Commissioner at appropriate location. For general inquiries, address system Manager. The Attorney General has exempted this system from compliance with the provisions of Subsection (d) under the provisions of Subsection (j).

RECORD SOURCE CATEGORIES:

1. Individual inmate: 2. Federal law enforcement agencies and personnel; 3. State and Federal probation services; 4. Non-Federal law enforcement agencies; 5. Educational institutions; 6. Hospital or medical sources; 7. Relatives, friends and other interested individuals or groups in the community; 8. Former or future employers; 9. Evaluations, observations, reports and findings of institution supervisors, counselors, boards and committees, Parole Commission examiners, Parole Commission Members; 10. Federal court records; 11. U.S. Bureau of Prisons personnel and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d)(e) (2) and (3), (e)(4) (G) and (H), (e)(8) (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/PRC-004

SYSTEM NAME:

Labor and Pension Case, Legal File and General Correspondence System.

SYSTEM LOCATION:

All Labor and Pension cases, most legal files and some general correspondence material is located at: Commission Headquarters, 5550 Friendship Blvd., Chevy Chase, Md. 20815. The balance of the general correspondence material is located at the Commission's Regional Offices, the addresses of which are specified in the Inmate and Supervisions System. Some legal files are maintained at the Northeast Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111, all persons litigating with the U.S. Parole Commission, all persons corresponding with the Commission on subjects not amenable to being filed in an inmate or supervision file identified by an individual, and all Congressmen inquiring about constituents.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Commission processes applications of persons convicted of certain crimes for exemptions to allow their employment in the Labor field under 29 U.S.C. 504 of by Employee Benefit Plan under 29 U.S.C. 1111. The files contain memoranda, correspondence, and legal documents with information of a personal nature, i.e., family history, employment history, income and wealth, etc., and of a criminal history nature, i.e., record of arrests and convictions, and details as to the crime which barred employment. The final decision of the Commission in each case is a public document under the Freedom of Information Act. The Counsel's Office of the Parole Commission maintains work files for each inmate or person on supervision who is litigating with the Commission. These files contain *personal and* criminal history type data regarding inmates, and internal communications among attorneys, Commissioners and others developing the Commission's legal position in these cases. Files of the Commission's correspondence with Congressmen who inquire about groups of constituents who have paroles or revocations pending or other subjects are maintained in the Chairman's Office and in the regions. Files of correspondence, notes, and memoranda concerning parole revocation rescission and related problems are also maintained in those locations. Some of this material duplicates material in the inmate files and contains personnel-criminal history type information about individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are maintained pursuant to 18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Parts 2 and 4, 29 U.S.C. 504, 1111, and all statutory sections and procedural rules allowing inmates, persons under supervision, or others to litigate with the Parole Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Within the Parole Commission material in this system is used respectively by Counsel's Office staff and Commission Members in processing exemption applications. The legal file material is used by Counsel's Office staff in asserting the litigative position of the Commission. The general correspondence is used by the Commission personnel in responding to Congressmen, and by Commission Members and others in transacting the day-to-day business of the Commission. Final pension and labor case decisions are used by the Commission, the Justice, and Labor Departments, and the public to establish precedents in this field of litigation.

In the event that material in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed to a Federal, State or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an agency decision relating to pension or labor matters. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA & GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All data is on documents or other papers on bound files. Labor and pension case material is in Counsel's Office or the Chairman's Office at Headquarters, except for final decisions which are in the Freedom of Information Act reading room. Legal files are in Counsel's Office at Headquarters, or in the Northeast Regional Attorney's office, general correspondence is in the Chairman's Office, the office of his staff at Headquarters, and the offices of each regional Commissioner. Files are in file cabinets.

RETRIEVABILITY:

Labor, pension, and legal file material is indexed or filed by name of applicant or litigant, respectively. General correspondence is indexed or filed by subject, time sequence or individuals to whom the items refer.

SAFEGUARDS:

Material is available only to Commission employees on a "need to know" basis. Storage locations are supervised by day and locked at night. Only disclosure made therefrom is to other agencies of the Department of Justice, the U.S. Probation Office, Federal enforcement agencies or the Congress. Disclosure to Congressmen in response to inquiries concerning constituents is subject to the exemptions of the Freedom of Information Act. The Commission Decisions in labor and pension cases are public information under the Freedom of Information Act.

RETENTION AND DISPOSAL:

Records are maintained for 10 years *after the final decision of the court,* and are shredded or destroyed electronically thereafter.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815.

RECORD SOURCE CATEGORIES:

a. Applicants for exemptions under 29 U.S.C. 504 and 29 U.S.C. 1111; b. U.S. Department of Labor; c. Administrative Law Judges and others connected with labor or pension cases; d. Litigants proceeding against Parole Commission; e. The Commission's legal staff and other Commission personnel; f. Congressmen and others making inquiries of Commission; g. Commission Members and employees responding to inquiries, corresponding with others, preparing speeches, policy statements and other means of contact with other branches of the Federal Government, State, and local governments, and the public.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/PRC-005

SYSTEM NAME:

Office Operation and Personnel System.

SYSTEM LOCATION:

At each regional office as indicated in the "Inmate and Supervision File System Report" and at the U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Commission Members and employees of the U.S. Parole Commisison.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel records, leave records, property schedules, budgets and actual expense figures, obligation schedules, expense and travel vouchers, and the balance of the usual paperwork to run a Government office efficiently.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

All statutory sections, CFR setions, and OPM, MSPB, GSA, and OMB directives establishing procedures for government personnel, financial, and operational functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Day-to-day activity involving personnel, financial, procurement, maintenance, recordkeeping, mail delivery, and management functions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are in paper files or on computer printouts. They are stored in operations areas of offices.

RETRIEVABILITY:

Data of a personal nature is in employee personnel files, used by Commission personnel files, used by Commission personnel on a "need to know" basis. Each employee has a right to see his own file on request. Other files are used by Commission personnel on a "need to know" basis.

SAFEGUARDS:

Files are supervised by appropriate personnel during the working day and are in locked rooms at night.

RETENTION AND DISPOSAL:

Cutoff files at the end of the calendar year, held at the agency for one year then transfer to the Washington National Records Center. Destroy seven years after cutoff.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Administration and Personnel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD 20815.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

Same as the above.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

The U.S. Parole Commission, the Justice Management Division and all other contributing government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/PRC-006

SYSTEM NAME:

Statistical, Education and Developmental System.

SYSTEM LOCATION:

Parole Commission Headquarters, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate or former inmate under custody of the Attorney General including former inmates supervised as parolees or mandatory releases.

CATEGORIES FOR RECORDS IN THE SYSTEM:

All records as described in the Workload Record, Decision Result, and Annual Report System Plus data on additional input forms and certain follow-up forms and the Salient Factor Worksheet Form. These forms include criminal history-type data elements regarding specific individuals selected from the above category of individuals. This data is either organized and processed by hand or is input into a computer and has been used to provide the following one-time reports in pamphlet-text form: (a) Administrative Review of Parole Selection and Revocation decisions; (b) Parole Decisionmaking, a Salient Factor Score; (c) Effect of Representation at Parole Hearings: (d) Parole Decisionmaking—Structuring *Discretion* (e) Time Served and Release Performance—A Federal Sample and certain additional reports, all available in the public reading room. The data base collected as described in this and in JUSTICE/PRC 007 system will be used to prepare studies on similar or related subjects in the future. It has been used to develop revocation guidelines similar to parole guidelines, rescission guidelines and other operational improvements. Items collected for this data base may change depending on the subject matter of new studies to be undertaken by the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4218, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Internal—Develop methodology for a more scientific determination of parolability and revocability, methodology to comply with changing concepts of due process, and methodolgy to select persons to be released from prison who will be less likely to recidivate.

b. External—Add to the general body of knowledge in the parole area of criminology, and provide educational material for other parole boards, and members of the criminal justice and academic communities interested in this subject. Published pamphlets in text form are prepared on subjects of interest in this area of criminology and are circulated freely. They contain no references to individuals, either by name, address, register number or other means of identification. They do not contain recognizable fact situations, descriptions, or other writings through which identification of any individual within the present or former jurisdiction of the Parole Commission can be made.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 502 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole Commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is in input forms on printouts or other computer produced storage media. It is stored as described in the JUSTICE/PRC–007 system description. Pamphlet text reports are public documents stored in offices, libraries, and in bookshelves, and in the public reading room.

RETRIEVABILITY:

Information by name, register number or FBI identification number may be retrieved from the input forms, card decks, or storage media. This material is used only by authorized Parole Commission personnel on a "need to know" basis and is data processed only by authorized Bureau of Prisons or Justice Department personnel. Material is not retrieved in identifiable form except that computer produced "hard copy" may be used to prepare a report or internal work papers. The final pamphlet text reports and material resulting from studies are used by Commission personnel for internal purposes and the public externally. None of this material contains any references to an individual. Documents which contains information concerning one individual are made available to that individual if requested under the Privacy Act.

SAFEGUARDS:

See "Safeguards" section of JUSTICE/PRC–007 regarding input forms, printouts, discs, or tape. Reports in pamphlet form are not safeguarded.

RETENTION AND DISPOSAL:

See "Retention and Disposal" of preceding system. The studies in phamphlet form are not disposed of on schedule. Some will be maintained perpetually in archives.

SYSTEM MANAGER(S) AND ADDRESS:

Research Director, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

RECORD SOURCE CATEGORIES:

a. Commission inmate files; b. Docket Sheets; c. Commission Notices of Action, orders and documentation following hearings; d. Commission warrant applications and warrants; e. General Commission records and data; f. Enforcement agency records regarding former inmates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and

(4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register.

JUSTICE-PRC-007

SYSTEM NAME:

Workload Record, Decision Result, and Annual Report System.

SYSTEM LOCATION:

U.S. Parole Commission Headquarters, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any inmate and parolee or mandatory releasee who has been the subject of a decision for the period covered in the report for which the data is used (prior month, prior quarter, prior year or other period).

CATEGORIES OF RECORDS IN THE SYSTEM:

Certain original input forms indicate the inmate or person under supervision by name and register number and give the date and specific statistical detail as to the decision made. They include criminal history type of information regarding the persons in questions. The principle types of decisions covered are after initial or review hearings, after record review, after Regional Appeal, after National Appeal, and after a decision reopening and modifying. The data is input into a computer and is used to provide the following: (a) A monthly report of workload containing number and type of hearings per region further broken out by institutions within regions and type of sentence; (b) Bimonthly report on decision results indicating, among other statistics, number and type of decisions within above, and below guidelines broken out by examiners making the decisions; (c) Other or substitute reports as needed; and (d) Together with land posted data on other items of statistical value, this data is being used to create the Annual Report of the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 4201–4216, 5005–5041, 28 CFR Part O, Subpart V, 28 CFR Part 2

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) These records are used internally to analyze work product, the performance of evaluators, and various types of procedures and hearings and to evaluate the guidelines and other Commission procedures.

(b) These records are used to prepare an annual report to the Attorney General, and Congress and the public indicating in quantitative and qualitative terms Commission activity and accomplishment.

(c) In the event that material in this system indicates a violation or potential violation of law, whether a civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, State, local, or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule; regulation or order issued pursuant thereto.

(d) A record from this system of records may be disclosed to a Federal State, or local agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to Parole Commission matters.

(e) A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision on the matter.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information pemitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the U.S. Parole Commission unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the U.S. Parole commission not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and in response to a communication from the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and to the General Services Administration (GSA):*

A record may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Paper input forms are stored in folders only until information from them is entered into machine readable media. Monthly and other reports in the form of computer printouts are filed in folders. Annual report is in book form and stored in library shelves.

RETRIEVABILITY:

Data in this system can be retrieved by inmate's name and register number from the original input forms, and computer-produced storage media. It is usually only retrieved by region, by examiner, by type of decision made or hearing held, by relation to the guidelines and other similar means except for individual case retrievability when infrequently required.

SAFEGUARDS:

Data on forms, tape or other computer produced storage media retrievable by individual is stored in the Commission's Office in cabinets. Commission employees supervise this data by day and use it on a "need to know" basis. The rooms where it is stored are locked outside of office hours and the entire Headquarters building is locked at certain times with card key access. Monthly and other reports are for use of the Chairman, *the Director, Administration and Personnel Management* and Commission Members and professional personnel. No information thereon is retrievable as pertaining to any individual except certain breakouts by Parole Commission employee examiners and by inmate in the guideline section of reports. These printouts are stored in the Commission Headquarters offices, all of which are supervised by day, and locked at night. The Annual Report contains no information identifiable by individual and is a public document.

RETENTION AND DISPOSAL:

The master file and documentation are to be retained permanently. All other related records, including reports & software, are to be destroyed when no longer needed for administrative use.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Research and Program Development, 5550 Friendship Blvd., Chevy Chase, Md. 20815.

RECORD SOURCE CATEGORIES:

(a) Commission inmates files; (b) Docket sheets; (c) Commission notices of action, orders, and documentation following hearings; (d) Commission warrant applications and warrants; (e) General Commission records and data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/USM-001

SYSTEM NAME:

U.S. Marshals Service Badge & Credentials File.

SYSTEM LOCATION:

U.S. Marshals Service; One Tyson Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Marshals Service (USMS) Personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel data system established to control issuance of badges and credentials to USMS personnel which contains photographs of all employees and hand receipts showing the employee's name, title, duty location, badge and credential numbers, and date of issuance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This file serves as a record of issuance *of credentials. Information from this file* is requested by various law enforcement agencies, e.g., FBI, Secret Service, states, county and Municipal police.

Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwaranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upn the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in standard file folders.

RETRIEVABILITY:

Indexed by name of individual and numerical order of badges and credentials.

SAFEGUARDS:

Access restricted to personnel of the Procurement and Property Management Division. Records are maintained in metal filing cabinets which are locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are kept for duration of employee's tenure in the Service.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Procurement and Property Management Division; United States Marshals Service, U.S. Department of Justice: One Tyson Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." It should clearly indicate name of requester, the nature of the record sought and approximate dates covered by the record. The requester shall also *Provide the required verification of identity (28 CFR 16.41(d)) and* provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above, *Attention: FOI/PA Officer.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Record of Notification of Employment by U.S. Marshals Service Personnel Division.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USM-002

SYSTEM NAME:

Internal Inspections System.

SYSTEM LOCATION:

United States Marshals Service: Department of Justice: One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Marshals Service (USMS) employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Internal Inspections System contains reports prepared by the Office of Internal Inspections. United States Marshals Service on findings of alleged misconduct of U.S. Marshals, Service employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509, 510 and 569; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.111(n)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information gathered is used by U.S. Marshals Service in disciplinary proceedings against employees. To the extent that investigations reveal actual or potential violations of criminal or civil laws, the information is used by other Federal law enforcement agencies for further investigations.

Records or information may be disclosed as a routine use in a proceeding before a Court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation. The USMS or any of its subdivisions; any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Originals stored in standard file folders.

RETRIEVABILITY:

Information is retrieved by name of employee.

SAFEGUARDS:

Records are stored in locked safe.

RETENTION AND DISPOSAL:

Records are retained for 24 months and then referred to Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Internal Inspections U.S. Marshals Service; U.S. Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Same as the System Manager.

RECORD ACCESS PROCEDURE:

To the extent that this system is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." It should clearly indicate name of the requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide *the required verification of identity (28 CFR 16.41(d)) and provide* a return address for transmitting the information. Access requests will be directed to the System Manager listed above, *Attention: FOI/PA Officer.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information derived from investigation of alleged malfeasance, by U.S. Marshals Service Office of Internal Inspections.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4) (G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). To the extent that investigations reveal actual or potential criminal or civil violations, this system is additionally exempt from subsection (e)(8) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USM-003

SYSTEM NAME:

U.S Marshals Service Prisoner Transportation System.

SYSTEM LOCATION:

U.S. Marshals Service (USMS), Department of Justice: 324 East 11th Street, Kansas City, Missouri 64108.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prisoners taken into U.S. Marshal custody.

CATEGORIES OF RECORDS IN THE SYSTEM:

D.J. 100's Compilation of identifying information for each prisoner taken into U.S. Marshal custody, when and where the prisoner is taken into custody, what he is charged with and where he is moved to. These files provide a ready reference source on the prisoner for purposes of arranging prisoner transportation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509, 510 and 569: 5 U.S.C. 301: 44 U.S.C. 3101: and 28 CFR 0.111(k).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as working files in the transporting of prisoners, by USMS, Bureau of Prisons and other federal, state and local law enforcement officials.

Records or information may be disclosed as a routine use in a proceeding before a Court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions: any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in the systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in standard file cabinents.

RETRIEVABILITY:

Information is retrieved by name of prisoner and number.

SAFEGUARDS:

Access restricted to Operations Personnel. File cabinets are locked during non-duty hours.

RETENTION AND DISPOSAL:

Records are disposed of after 24 months.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Prisoner Transportation Division. United States Marshals Service U.S. Department of Justice, 324 East 11th Street, Kansas City, Missouri 64106.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of requester, the nature of the record sought and approximate dates covered by the record. The requestor shall also *provide the required verification of identity (28 CFR 16.41(d)) and* provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above, *Attention: FOI/PA Officer.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Identifying material of each prisoner taken into custody by the U.S. Marshal.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USM-004

SYSTEM NAME:

Special Deputy File.

SYSTEM LOCATION:

United States Marshals Service (USMS), Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Deputies, who are selected law enforcement officers or employees of the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Deputization file contains oath of office of persons utilized as deputy marshals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 CFR Subpart T, Section 0.112, 28 U.S.C. 562.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Federal agencies for whom the Marshals Service has deputized employees would have access to this system.

Records or information may be disclosed as a routine use in a proceeding before a Court or adjudicated body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA)*: A record from a system of records may be disclosed as a routine use to the *NARA and GSA* in records management inspections conducted under the authrority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are filed in standard file cabinets.

RETRIEVABILITY:

Files are indexed by name and by government department.

SAFEGUARDS:

Records are kept in a locked file.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, U.S. Marshals Service, U.S. Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURES:

Address inquiries to: System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request." The requestor shall also *provide the required verification of identity (28 CFR 16.41(d)) and* provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above, *Attention: FOI/PA Officer.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reason for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Federal agencies requesting special deputations provide all necessary information required by the Marshals Service in making the special deputations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USM-007

SYSTEM NAME:

Warrant-Information System.

SYSTEM LOCATION:

Each district office of the U.S. Marshals Service (USMS) maintains their own files. See Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Individuals for whom Federal warrants have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

The warrant and other court records and internal correspondence related to the warrant; biographical data including physical description, photograph and criminal history; wanted flyers/posters and investigative reports reflecting patterns of activity, leads developed, statements of witnesses and other persons cooperating with USMS fugitive investigations. Investigative reports and criminal record information from other Federal, State, local and foreign law enforcement agencies participating in or cooperating with USMS fugitive investigations and apprehension efforts are also included in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 USC 509, 510 and 569; 28 CFR 0.111(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records of information may be disclosed to public and private organizations, individuals, and Federal, State, local, and foreign agencies to the extent necessary to obtain information or cooperation in USMS fugitive investigations and apprehension efforts. Records or information may be disclosed upon request to the appropriate Federal, State, local, or foreign law enforcement agency responsible for investigating, prosecuting, enforcing, defending, or implementing a statute, rule, regulation, or order, to the extent that the information is relevant to the recipient's function. Records may be disclosed without a request to an appropriate Federal, State or local law enforcement agency where there is an indication of an actual or potential violation of civil or criminal laws, statutes, rules, or regulations within the jurisdiction of the recipient agency. Records or information may be disclosed in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION(*NARA and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on Roladex Cards and in standard file folders.

RETRIEVABILITY:

Records are retrieved by individual names.

SAFEGUARDS:

Access is restricted to personnel in each district's U.S. Marsrhals office. Records are maintained in metal file cabinets within supervised areas of the U.S. Marshal's Offices. District Offices are locked during working and non-duty hours and entry is restricted to employees with official identification.

RETENTION AND DISPOSAL:

Records are kept in operating file until warrant is executed and then transferred to closed files, where they are indefinitely kept.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Enforcement Operations Division; U.S. Marshals Service; U.S. Department of Justice; One Tysons Corner Center, McLean, Virginia 22102.

RECORD SOURCE CATEGORIES:

Information is obtained from the courts. Federal, State, local and foreign law enforcement agencies, public and private organizations, witnesses, informants and other persons interviewed during the course of the fugitive investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j). (2) Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USMS-008

SYSTEM NAME:

Witness Security Files Information System.

SYSTEM LOCATION:

United States Marshals Service (USMS), Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Government witnesses who are participants in the Federal Witness Security Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Request to enter program; (2) background information (education, experience, medical history, names, relatives, etc.); (3) funding information; (4) moving information; (5) documentation of all the above.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for the Witness Security Program is 28 U.S.C. 509, 510 and 569; 5 U.S.C. 301; 44 U.S.C. 3101; 28 CFR 0.111(c); 28 U.S.C. 524; 18 U.S.C. *3521.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Background for planning working files; (2) Used to accomplish major funcitions of witness security e.g. protection of government witnesses and their families; and (3) records or information may be disclosed as a routine use in a proceeding before a Court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

RELEASE OF INFORMATION TO THE NEWS MEDIA:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would consititute an unwarranted invasion of personal privacy.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):* A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Filed according to ID special number.

SAFEGUARDS:

Locked files limited access—(Witness Security Personnel).

RETENTION AND DISPOSAL:

All records at this time are being idenfinitely maintained.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Witness Security Division; U.S. Marshals Service, U.S. Department of Justice, One Tysons Corner Center, McLean, Virginia 2102.

RECORD SOURCE CATEGORIES:

All identifying background criteria of individual; (1) education; (2) job history; (3) medical history; (4) history of residence; (5) relatives, etc.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f)(2) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules Have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USM-009

SYSTEM NAME:

U.S. Marshals Service Threat Analysis Information System.

SYSTEM LOCATION:

Threat Analysis, *Division,* U.S. Marshals Service (USMS), One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have directly threatened or pose a violent threat to Government witnesses, U.S. Attorneys and their assistants, Federal jurists and other court officials, U.S. Marshals, deputies and other law enforcement officers; to courtroom security; and to Federal property and buildings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual and automated indices contain abbreviated data, e.g., case number, name, social security number, known aliases, address, telephone number, descriptive physical data, an indication of the means by which the threat was issued, and the date of the threat. In addition to the abbreviated data named above, the complete file may contain criminal record information—in particular, known history of violence and skills related to the nature of the threat, associations with dangerous/outlaw gangs or violent extremist groups; and threat-related, investigative information furnished by other Federal, State and local law enforcement agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509, 510, and 569; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.111(c) through (f).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

USMS officials responsible for conducting threat analysis and for planning and carrying out security operations access this information. Records or information may be disclosed to other appropriate Federal, State and local law enforcement agencies in connection with actual or potential violation of criminal or civil laws, statutes, or regulations, or in conjunction with investigative or litigative responsibilities of the recipient agency, or to the extent that disclosure is necessary to obtain additional threat-related information or to develop protective measures. Records or information may be disclosed to other law enforcement agencies to develop protective measures where a specific threat is posed to their members; and to an individual or organization where the recipient is or could become the target of a specific threat. Records or information may be disclosed as a

routine use in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation; the USMS or any of its subdivisions; any USMS employee in his or her official capacity or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific informationn in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

An index record is stored on index cards and magnetic disks. Original paper records are kept in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name.

SAFEGUARDS:

Access to computerized records is restricted to Threat Analysis *Division* personnel by assigned code. In addition, records are stored in locked metal filing cabinets during off-duty hours. The records are located in a restricted area and USMS Headquarters is under 24-hour guard protection with entry controlled by official and electronic identification.

RETENTION AND DISPOSAL:

Records are maintained indefinitely until a detailed records retention plan and disposal schedule is developed by NAR*a* and the USMS.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Threat Analysis *Division*, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102

NOTIFICATION PROCEDURE:

Direct all inquiries to the system manager identified above. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate date of the record, and provide the required verification of identity (28 CFR 16.4(d)). Direct all requests to the system manager identified above. Attention: FOI/PA Officer, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD SOURCE CATEGORIES:

Information is obtained from public and confidential sources and from Federal, State and local law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USMS-010

SYSTEM NAME:

Judicial Facility Security Index System.

SYSTEM LOCATION:

Court Security Division, U.S. Marshals Service, (USMS) One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals employed, or offered employment as contract court security officers (CSO's) by companies contracting with the USMS to provide judicial area security in Federal courthouses.

CATEGORIES OF RECORDS IN THE SYSTEM:

An alphabetical index contains the name, date of birth and social security number of the court security officer, name of the contracting security firm (employer), completion dates and cost data for limited background investigation and orientation, district of employment, dates contract performance started and ended, posts and hours of duty and the status of employment, i.e., active or inactive. For inactive CSO's, the index contains the reason for inaction, e.g. CSO resigned; applicant rejected based on the preliminary records check; CSO removed based on Office of Personnel Management (OPM) background investigation; etc. In addition to providing abbreviated data, the index assists in locating records on the court security officer related to the initial screening process for eligibility, e.g., application and preliminary checks for arrest records, which are filed under the contract number and name of the contracting security firm (employer). The index also assists in locating files containing OPM reports on the limited background investigation and internal suitability memoranda which are segregated by the categories "active" and "inactive."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509, 510 and 569; 5 U.S.C. 301; 44 U.S.C. 3101 and 28 CFR 0.111 (c) through (f).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Contracting personnel and court security program officers within the USMS use this system to make security/suitability determinations in the hiring of contract court security officers, to monitor orientation completed, to track costs related to background investigations and attendance at Government-sponsored orientation, to monitor orientation completed, and to monitor contractor performance. Records may be disclosed as follows:

Individual cost data may be disclosed to the contractor (employer) in connection with billing and recovering reimbursable costs. Records or information may be disclosed to an appropriate Federal, State or local law enforcement agency to the extent necessary to obtain information on arrests, or to the extent relevant to an actual or potential, criminal or civil investigation, litigation or enforcement proceedings of that agency. Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

An index record is stored on magnetic disks and original paper records are kept in file folders.

RETRIEVABILITY:

Records are retrieved by name of the contract court security officer.

SAFEGUARDS:

Records are stored in locked metal filing cabinets during off-duty hours. Access to computerized records is controlled by restricted code to personnel on a need-to-know basis. Entry to USMS Headquarters is restricted by 24-hour guard service to employees with official and electronic identification.

RETENTION AND DISPOSAL:

Records are maintained indefinitely until a detailed records retention plan and disposal schedule is developed by NARA and the USMS.

SYSTEM MANAGER AND ADDRESS:

Chief, Court Security Division, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURES:

Direct all inquiries to the system manager identified above. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD ACCESS PROCEDURES:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate dates of the record, and provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above, Attention: FOI/PA Officer, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager listed above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD SOURCE CATEGORIES:

Information contained in this system is collected from the individual, USMS orientation records, other law enforcement agencies, OPM, and from the contractor (employer).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3) and (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

JUSTICE/USM-011

SYSTEM NAME:

Judicial Protection Information System

SYSTEM LOCATION:

Court Security Division, U.S. Marshals Service, (USMS), One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been directly threatened or are subject to violent threat by vitue of their responsibilities within the judicial system, e.g., U.S. Attorneys and their assistants, Federal jurists and other court officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual and automated indices contain abbreviated data, e.g., case number, name of protectee, name of control district and district number, an indication of the type and source of threat, and the means by which the threat was made. In addition to the abbreviated data named above, the complete file may contain descriptive physical data of the protectee, and other information to identify security risks and plan protective measures in advance of or during periods of active protection, e.g., individual practices and rountines, including associational memberships. Information regarding the expenditure of funds and allocation of resources assigned to the protectee may also be included in the file to enable officials to develop operating plans to counteract threat situations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 509, 510 and 569; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.111(c) through (f).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

USMS officials responsible for planning and carrying out security operations access this information. Other Federal, State and local law enforcement agencies have access to the extent that disclosure is necessary to develop and/or implement protective measures. Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following in a party to litigation

and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration: *(NARA) and the General Services Admininstration (GSA)*:

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

An index record is stored on index cards and magnetic tape. Original paper records are kept in file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name of protectee.

SAFEGUARDS:

Access to computerized records is restricted to Court Security Division personnel by assigned user code and password. In addition, records are stored in locked metal cabinets during off-duty hours. The records are located in a restricted area, and USMS Headquarters is under 24-hour guard protection with entry controlled by official and electronic identification.

RETENTION AND DISPOSAL:

Records are maintained indefinitely until a detailed records retention plan and disposal schedule is developed by NARA and the USMS.

SYSTEM MANAGER AND ADDRESS:

Chief, Court Security Division, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Direct all inquiries to the system manager identified above, Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD ACCESS PROCEDURES:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate dates of the record, and provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above, Attention: FOI/PA Officer, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information/Privacy Act Request."

RECORD SOURCE CATEGORIES:

Information is obtained from individual protectees. Where information is maintained in this system on identified threat sources to a particular protectee, such information is obtained from public and confidential sources and from Federal, State and local law enforcement agencies, and is not retrievable by name or other identifying particular assigned to the threat source.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/USM-012

SYSTEM NAME:

U.S. Marshals Service Freedom of Information Act/Privacy Act (FOIA/PA) Files.

SYSTEM LOCATION:

Office of Legal Counsel, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who request disclosure of U.S. Marshals Service (USMS) records pursuant to the Freedom of Informations Act (FOIA); individuals who request access to or correction of records maintained in USMS systems of records pursuant to the Privacy Act (PA); and individuals whose FOIA or PA requests have been referred to the USMS by another Department of Justice component or another agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical and chronological indices are maintained to aid in the orderly processing of requests and to compile statistical data for annual reports. Indices include such data items as the name and address of the requester; the type or request; dates on which the request was received, acknowledged and answered; type or final responses; and exemptions used to deny access to records, when applicable. Identifying data, i.e., date and place of birth and social security number, is maintained on PA requesters to verify their identity and ensure proper disclosure. Files contain a record of the FOIA/PA request, along with the response, copies of documents which have been requested, and internal memoranda or other records related to the initial processing of such request, subsequent appeals and/or litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101 to implement the provisons of 5 U.S.C. 552 and 5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system may be disseminated as a routine use to any Department of Justice component for consideration in connection with an FOIA or PA request, appeal, or civil suit pursuant to the Acts. A record may be disseminated to a Federal, State or local agency which furnished the record to permit that agency to make a decision as to access or correction, or to consult with that agency to enable the USMS to determine the propriety of access or correction.

Records or information which are relevant to the subject matter involved in a pending judicial or administrative proceeding may be disclosed in response to a request for discovery or for appearance of a witness. Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which

the USMS is authorized to appear when any of the following is a party to ligitation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her official capacity or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions.

Release of Information to the News Media

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of record maintained by the Department of Justice may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards are stored in standard card file boxes. Requests files are stored in standard file cabinets.

RETRIEVABILITY:

Records are retrieved by name of requester.

SAFEGUARDS:

Request files are stored in locked metal filing cabinets within the Office of Legal Counsel, USMS headquarters, during off-duty hours. Access to USMS headquarters is controlled by 24-hour guard service.

RETENTION AND DISPOSAL:

Records are destroyed 6 years after final response or appeal determination by the Department of Justice, Office of Information and Privacy; or 3 years after final adjudication by the courts.

SYSTEM MANAGER AND ADDRESS:

General Counsel, Office of Legal Counsels, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above. Attention: FOIA/PA Officer. Clearly mark the letter and envelope "Freedom of Information Act/Privacy Act Request."

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate dates of the record, and provide the required vertification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above. Attention FOI/PA Officer, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager listed above. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information Act/Privacy Act Request."

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are the individuals making requests, the systems of records searched in the process of responding to requests and other agencies who have referred to the USMS those requests for access to or correction of USMS records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain categories of records in this system from subsections (c)(3) and (4); (d); (e)(1), (2) and (3); (e)(4) (G) and (H); (e)(5); (e)(8); (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(2) and (k)(5). The system is exempted pursuant to subsections (j)(2) and (k)(2) only to the extent that the records there reflect criminal and civil law enforcement and investigative information. The system is exempted pursuant to subsection (k)(5) only to the extent necessary to protect confidential sources. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register.**

JUSTICE/USM-013

SYSTEM NAME:

U.S. Marshals Service Administrative Proceedings, Claims and Civil Litigation Files

SYSTEM LOCATION:

Office of Legal Counsel, U.S. Marshals Service (USMS), One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual who have filed tort and employee claims against the USMS; individuals who have initiated administrative proceedings against the USMS; individuals who have filed civil suits naming the USMS and/or personnel as defendants, including those suits arising from authorized criminal law enforcement activities; and individuals named as defendants in Federal Court actions initiated by the USMS.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to the names of individuals covered by the system and the titles of cases, index cards contain certain summary data, e.g.; a summary of correspondence and pleadings received in a case, names of parties involved; name of attorney handling the case or matter, court in which action is brought, civil action number, and an indication of whether the case is open or closed, thereby facilitating location of the complete file. Cases or matters include adverse actions, grievances, unfair labor practice charges, tort claims, Equal Employment Opportunity and other employee claims, and suits against USMS employees in their official capacities, etc. Files contain correspondence/claim forms submitted by claimants and internal reports and related documents concerning the merits of the claim, attorney or staff recommendations and findings related to claim; records on actions taken by USMS giving rise to appeals, attorney notes, recommendations and strategy for defending appeals; copies of civil actions filed and criminal investigative records related to the action e.g., criminal investigative reports relating the underlying criminal matter which relates to or constitutes the basis of the claim or suit (including those from non-Federal law enforcement participants in USMS criminal or civil law enforcement activities), witness statements, reports of interviews, exhibits, attorney notes,

pleadings, and recommendations and strategy for defending civil actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records maintained in this system of records may be disseminated as follows:

(a) To any component of the Department of Justice for consideration in connection with the case or matter to which the record relates; (b) To the appropriate Federal, State or local agency responsible for investigating, prosecuting or defending an action where there is an indication of actual or potential violation of criminal or civil laws or regulations or civil liability of any government action; (c) To any Federal, State or local agency, organization or individual to the extent necessary to elicit information or witness cooperation if there is reason to believe the recipient possesses information related to the case or matter, (d) Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the USMS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS to be arguably relevant to the litigation: The USMS or any of its subdivisions; any USMS employee in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the USMS determines that the litigation is likely to affect it or any of its subdivisions; (e) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a grant, license or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; (f) To respond to a request for discovery or for appearance of a witness when the information is relevant to the subject matter involved in a pending judicial or administrative proceeding.

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):*

A record from a system of records may be disclosed as a routine use to *NARA and GSA* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards are stored in standard card file boxes. Administrative claim, appeal and litigation files are stored in standard file cabinets.

RETRIEVABILITY:

Records are retrieved by name of claimant or litigant, or by caption of civil action or administrative proceeding.

SAFEGUARDS:

Files are stored in locked metal filing cabinets within the Office of Legal Counsel, USMS headquarters, during off-duty hours. Access to USMS headquarters is controlled by 24-hour guard service.

RETENTION AND DISPOSAL:

Index cards are retained indefinitely. Claim files are destroyed after 7 years. Litigation files are destroyed after 10 years. Cases designated by the General Counsel as significant or precedential are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Office of Legal Counsel, U.S. Marshals Service, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, Attention: FOI/PA Officer. Clearly mark the letter and envelope "Freedom of Information/ Privacy Act Request."

RECORD ACCESS PROCEDURE:

Make all requests for access in writing and clearly mark letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate name of the requester, nature of the record sought, approximate dates of the records, and provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above. Attention: FOI/PA Officer, and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the system manager listed above. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information Act/Privacy Act Request."

RECORD SOURCE CATEGORIES:

The sources of information contained in this system are the individual claimant/litigant, USMS officials, law enforcement agencies, statements of witnesses and parties, transcripts of depositions and court proceedings, administrative hearings and arbitrations, and work product of staff attorneys and legal assistants working on a particular case or matter.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain categories of records in this system from subsections (c)(3) and (4); (d); (e)(2) and (3); (e)(4)(G) and (H); (e)(8); (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(5). The system is exempted pursuant to subsection (j)(2) only to the extent that information in a record pertaining to a particular individual relates to a criminal investigation which relates to or constitutes the basis of a particular suit or claim. The system is exempted pursuant to subsection (k)(5) only to the extent necessary to protect a confidential source. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/UST-001

SYSTEM NAME:

Bankruptcy Case Files and Associated Records.

SYSTEM LOCATION:

The Executive Office for United States Trustees and various offices of

the United States Trustees depending upon the judicial district where a case is pending or was administered. (See appendix of addresses identified as JUSTICE/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in bankruptcy proceedings (under Chapters 7, 11 and 13 of 11 U.S.C.) subsequent to September 30, 1979, including but not limited to debtors, creditors, bankruptcy trustees, agents representing debtors, creditors, and trustees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Petitions/orders for relief, (b) schedules of assets and liabilities of bankrupts, (c) lists of creditors, (d) statements of debtors' financial affairs, (e) docket cards (UST–001, 002, 003, and any alterations thereof), (f) alphabetical cross-reference index cards, (g) general correspondence regarding cases, (h) miscellaneous investigative records, (i) copies of certain petitions, pleadings or other papers filed with the court, including UST recommendations to court for appointment of trustee or examiner in Chapter 11, recommendations for dismissal or conversion, recommendations as to dischargeability, (j) appraisal reports, (k) names of approved despositories and amounts of funds deposited therein, (l) names of sureties and amounts of trustees' bonds, (m) tape or other recordings of creditors meetings called pursuant to Section 341 of Title 11, U.S.C., for the purpose of examination of debtors by creditors, trustee and others, (n) plans filed under Chapter 11 or 13, (o) lists of persons serving as counsel, trustee, or other functionaries in bankruptcy cases, including compensation earned or sought by each, (P) lists of attorneys representing creditors in bankruptcy cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These systems are established and maintained pursuant to 26 U.S.C. 586 and 11 U.S.C., especially Chapter 15 thereof.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by personnel of the Executive Office and the United States Trustee field offices to determine the existence of a case, to ascertain the status of actions with respect to a case, and to ensure that timely action is taken as appropriate, and to determine the involvement by agents or other representatives of parties in such cases.

As provided in 11 U.S.C. 107, a paper filed in a case and the dockets of the bankruptcy court are public records and open to examination except when the court acts to protect an entity with respect to a trade secret or confidential research, development, or commercial information; or to protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under title 11. If the court enters such a protective order, that portion of the record is only available upon the consent of the entity, so protected.

In addition, except when the court has moved to protect an entity, the records will be disseminated as a routine use of such records as follows: (1) A record, or any facts derived therefrom, may be disseminated in a proceeding before a court, an adjudicative body or any proceeding relevant to the administration of a case or any proceeding relevant to the administration of a case filed under title 11 of the United States Code in which the United States Trustees are authorized to appear, when (i) the United States Trustees, or (ii) any employee of the United States Trustees in his or her official capacity, or (iii) any employee of the United States Trustees in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (IV) the United States, where the United States Trustees determine that the litigation is likely to affect it or any of its subdivisions, is a party to litigation or has an interest in litigation and such records are determined by the United States Trustees to be arguably relevant to the litigation; (2) a record, or any facts derived therefrom, may be disseminated in a proceeding before a court, an adjudicative body or any proceeding relevant to the administration of a case filed under title 11 of the United States Code in which the United States Trustee is authorized to appear, when the United States, or any agency or subdivision thereof, is a party to litigation or has an interest in litigation and such records are determined by the United States Trustees to be arguably relevant to the litigation.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552 et seq., may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records Administration *(NARA) and the General Services Administration (GSA):* A record from the system of records may be disclosed to the *NARA and GAS* for records management inspections conducted under the authority of 44 U.S.C. Secs. 2904 and 2906.

Release of information to law enforcement or regulatory agencies: Information obtained by the U.S. Trustees will be transmitted to appropriate state, local, Federal or other law enforcement or regulatory agencies whenever a U.S. Trustee or the Director, Executive Office for U.S. Trustees or his designee believes that such transmittal in public interest except to the extent that such transmittal would conflict with any immunity granted by a court of competent jurisdiction in accordance with the provisions of Title 11, U.S.C.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information, except that specified below in this paragraph is recorded on basic paper/cardboard material and maintained within metal file boxes, file cabinets, electric file/card retrievers or safes. Certain information from the documents, forms, lists and reports described under "categories of records in the system" will be entered into an automated information system and stored on magnetic disks for reproduction in report form at various times. This includes the case number, debtor's names, case status, type of case, assets of estate, dates of reports filed, trustee bonds, debtor's attorney's name and fees, calendar of meetings and hearings, creditor's committee status, plan and schedule due dates, and trustee/examiner names and dates appointed.

RETRIEVABILITY:

Banks, is maintained alphabetically. (Case files maintained in the Executive Office are assigned sequential file numbers and are cross referenced alphabetically by name of the debtor.) Automated information is retrieved by case number or report number.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of office records and computerized information. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and diposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system except those documents which are duplicates of records for which the bankruptcy courts maintain the official record copies.

SYSTEM MANAGER(S) AND ADDRESS:

System manager for the sytem in each office is the U.S. Trustee and in the Executive Office, the Chief, Management and Budget Section. (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager for the Judicial district in which the case is pending, or was administered. (See appendix of addresses identified as JUSTICE/UST–999.)

RECORD ACCESS PROCEDURE:

A request for access to record from this system shall ordinarily be made in person at the U.S. Trustee office in which the case is filed.

CONTESTING RECORD PROCEDURES:

Individual desiring to contest or amend information maintained in the system should direct their request to the System Manager (see appendix of addresses identified as JUSTICE-UST–999), stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this record are generally limited to debtors, creditors, trustees, examiners, attorneys, and other agents participating in the administration of a case, judges of the bankruptcy courts and employees of the U.S. Trustee offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/UST–002

SYSTEM NAME:

Panel Trustee Application File.

SYSTEM LOCATION:

The Executive Office for United States Trustees and various offices of the United States Trustees depending upon the judicial district where the trustee has made application to the panel. (See appendix of addresses identified as JUSTICE/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants for membership on the private panels of trustees eligible to serve as trustees in Chapter 7 bankruptcy cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Panel Trustee Application File (UST–002), may also include resumes, letters of recommendation, notes reflecting oral checking of references, school transcripts, and other supporting information provided by applicants or developed by the U.S. Trustee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The systems are established and maintained pursuant to 28 U.S.C. 588(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USER AND THE PURPOSES OF SUCH USES:

These records are used by the individual U.S. Trustee office in which they are maintained. Their sole purpose is for determining the qualifications and eligibility of persons applying to serve as trustees in Chapter 7 bankruptcy cases. The records are reviewed by the Executive Office for U.S. Trustees.

RELEASE OF INFORMATION TO MEMBERS OF CONGRESS

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on bahalf of and at the request of the individual who is the subject of the record.

RELEASE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS *Administration (NARA) and the General Services Administration (GSA):*

A record from the system of records may be disclosed to the *NARA and GSA* for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are filed in paper folders in metal filing cabinets.

RETRIEVABILITY:

Folders are filed alphabetically by the applicant's name.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any information within this system.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the System in each office, is the U.S. Trustee and in the Executive Office, the Deputy Director, (See appendix of addresses identified as JUSTICE-UST–999.)

NOTIFICATION PROCEDURE:

Address inquires to the System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request"..

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Information contained in the system is provided by the applicant the applicant's references, and interested third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/UST–003

SYSTEM NAME:

U.S. Trustee Timekeeping System.

SYSTEM LOCATION:

The Executive Office for United States Trustees and various offices of the United States Trustees depending upon where an employee has been assigned for duty. (See appendix of addresses identified as JUSTICE/UST–999.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nonclerical employees of the U.S. Trustees' offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes employees' names and a record of their work time by program activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained pursuant to 11 U.S.C., and 28 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system consists of a record of the work time, by program activity, of nonclerical employees of the U.S. Trustee pilot program. The system is used by the EOUST to analyze workload as a basis for requesting and allocating personnel and other resources. This information is compiled in each of the *13* field offices and forwarded to EOUST for analysis.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of Information to the National Archives and Records *Administration (NARA) and the General Services Administration (GSA):* A record from the system of records may be disclosed to the *NARA and GSA* for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept on forms UST–4a, UST–4b, UST–4c and UST–4d, which are filed in metal cabinets.

RETRIEVABILITY:

Information is maintained alphabetically by the name of the employee. In EOUST, duplicate records are maintained and organized by district.

SAFEGUARDS:

Information contained in the system is unclassified. It is safeguarded and protected in accordance with Departmental rules and procedures governing the handling of official records. During duty hours access to this system is monitored and controlled by U.S. Trustee office personnel. During nonduty hours offices are locked.

RETENTION AND DISPOSAL:

Maintenance and disposition schedules are being developed within the Executive Office for U.S. Trustees. There is presently no authority to destroy any document within this system.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager for the system in each office, is the U.S. Trustee and in the Executive Office, the Deputy Director. (See appendix of addresses identified as JUSTICE/UST–999.)

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing with the envelope and letter clearly marked "Privacy Access Request".

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment(s) to the information.

RECORD SOURCE CATEGORIES:

Nonclerical employees of the U.S. Trustee's offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/UST–999

SYSTEM NAME:

U.S. Trustee Appendix 1—List of Record Retention Addresses:

Executive Office for U.S. Trustees, 320 First Street, N.W., HOLC Building, Room 812, Washington, D.C. 20530

California, Central District: 300 North Los Angeles, Room 3101, Federal Building, Los Angeles, California 90012 and Civic Center Plaza Towers, 600 West Santa Ana Boulevard, Suite 501, Santa Ana, California 92701

Colorado: 1845 Sherman Street, Room 202, Columbine Building, Denver, Colorado 80203

Connecticut: James English Building, 105 Court Street, Room 402, New Haven, Connecticut 06510

Florida, Southern District: Federal Building, 51 Southwest First Avenue, Room 904, Miami, Florida 33130

Florida, Middle and Northern Districts: One Memorial Center, 4921 Memorial Highway, Suite 340, Tampa, Florida 33634

Georgia, Northern and Middle Districts: Russell Federal Building, 75 Spring Street, S.W., Suite 1418, Atlanta, Georgia 30303

Geogia, Southern District: 12 West State Street, P.O. Box 10487, Savannah, Georgia 31412

Illinois, Northern District: 175 West Jackson Bouelvard, Room A–1335, Chicago, Illinois 60604

Iowa, Northern District: The Transportation Center, 426 Second Street, S.E., Room 675, Cedar Rapids, Iowa 52401

Iowa, Southern District: 210 Walnut Street, Suite 517, Des Moines, Iowa 50309

Kansas: 401 North Market Street, United States Courthouse, Room 501, Wichita, Kansas 67202

Maine: 66 Pearl Stret, Room 322, Portland, Maine 04101

Maryland: Flllon Federal Building, 31 Hopkins Plaza, Room G–13, Baltimore, Maryland 21201

Massachusetts, New Hampshire and Rhode Island: Boston Federal Office Building, 10 Causeway Street, Room 472, Boston, Massachusetts 04101 and 595 Main Street, Worcester, Massachusetts 01601

Minnesota, North Dakota, and South Dakota: 110 South Fourth Street, Room 550, United States Courthouse, Minneapolis, Minnesota 55401

New Jersey and Delaware: 60 Park Place, Second Floor, Newark, New Jersey 07102

New Mexico: 320 Central Avenue, S.W, Third Floor, Albuquerque, New Mexico 87103

New York, Southern District: 26 Federal Plaza, Room 306, Federal Building, New York, New York 10007
New York, Northern District and Vermont: P.O. Box 465, United States Post Office and Courthouse, Albany, New York 12201
New York, Western District: 42 Delaware Avenue, Suite 100, Buffalo, New York 14222 and United States Courthouse, 100 State Street, Room 617, Rochester, New York 14614
New York, Eastern District: 825 East Gate Boulevard, Suite 304, Garden City, New York 11530
Oklahoma, Western District: United States Courthouse, 201 Dean A. McGee Avenue, Room 516, Oklahoma City, Oklahoma 73102
Oklahoma, Nortrhern and Eastern Districts: Federal Building, 333 West Forurth Street, Room 3471, Tulsa, Oklahoma 74101
Pennsylvania, Eastern District: United States Customs House, 200 Chestnut Street, Suite 600, Philadelphia, Pennsylvania 10106
Pennsylvania, Western District: Federal Building, 1000 Liberty Avenue, Room 319, Pittsburgh, Pennsylvania 15222
Pennsylvania, Middle District: Federal Building, 228 Walnut Street, Room 1160, Post Office Box 1248, Harisburg, Pennsylvania 17108
Puerto Rico and the Virgin Islands: 105D Chardon Street, Room CH–162, Hato Rey, Puerto Rico 00918
South Carolina: Strom Thurmond Federal Building, 1835 Assembly Street, Room 1272, Columbia, South Carolina.29201
Texas, Northern District: 1100 Commerce Street, United States Courthouse, Room 9C60, Dallas, Texas 75242
Texas, Eastern District: Federal Building, 211 West Ferguson, Suite 208, Tyler, Texas 75701
Utah: Federal Office Building, 125 South State Street, Suite 4425, Salt Lake City, Utah 84138
Virginia, Eastern District: 421 King Street, Room 410, Alexandria, Virginia 22314 and Federal Building, 200 Granby Mall and City Hall Avenue, Suite 744, Norfolk, Virginia 23510
Virginia, Western District: Poff Federal Building, 210 Franklin Road, S.W., Roanoke, Virginia 24011
West Virginia: 22 Capitol Street, First Floor, Charleston, West Virginia 25301
Wisconsin, Western District: 14 West Mifflin Street, Capitol Square, Suite 310, Madison, Wisconsin 53703
Wisconsin, Eastern District: Federal Building, 517 East Wisconsin Avenue, Room 533, Milwaukee, Wisconsin 53202
Wyoming: Federal Office Building, 2121 Capital Avenue, Suite 8010, Chayenne, Wyoming 82003

[FR Doc. 87–28114 Filed 12–10–87; 8:45 am]
BILLING CODE 4410–01–M

federal register

Friday
December 11, 1987

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Alteration of the March AFB, CA, Airport Radar Service Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-1]

Alteration of the March AFB, CA, Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Airport Radar Service Area (ARSA) at March Air Force Base (AFB), CA. This ARSA modification adjusts the lateral limits to exclude that airspace in the immediate vicinity of Lake Mathews from regulatory status. Additionally, this rule creates a subarea to the southeast which facilitates containment of jet arrivals within ARSA airspace.

EFFECTIVE DATE: 0901 UTC, February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On August 2, 1985, the FAA proposed to designate Airport Radar Service Areas (ARSA) at 11 airports, including the March AFB, CA (50 FR 31472). The FAA, after carefully considering all comments received and making alterations where appropriate, adopted the proposal and published the final rule in the December 9, 1985, issue of the **Federal Register** (50 FR 50254) with an effective date of January 16, 1986.

On July 24, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the March AFB, CA, ARSA (52 FR 27972). This rule modifies the ARSA at the March AFB airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Additionally, the FAA held an informal airspace meeting for this proposal on September 30, 1987. Section 71.501 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

Three comments were received, two by mail and one at the airspace meeting, objecting to the proposal. It was agreed, after conversations with the affected parties, to resolve two of the objections and adopt the Orange County Soaring Association recommendation of altering the lateral boundaries of the new subarea to the southeast which resolved two of the objections.

In addition, the Soaring Society of America (SSA) was very concerned about the Letter of Agreement concerning the Perris Window. The SSA wanted to ensure that the Letter of Agreement was not abolished and in addition that the letter should stipulate automatic activation during specific days and times. The Orange County Soaring Society, RAPCON Chief and military renegotiated the letter to the satisfaction of the local users. The existing functioning and call up is operating to the satisfaction of the signatories. Therefore, we see no need for automatic activation. We have been assured that the subject area has been available when it was requested.

The other objection raised at the airspace meeting was that by lowering the ARSA, jets would be able to fly lower, and Ontario TRACON would not be able to handle the increased activity from the lowered floor. The FAA does not agree. The ARSA floor does not establish the altitude to which jets may descend. That is established by Instrument Approach Procedures and Minimum Vectoring Altitudes. The FAA also finds that the lowered floor will not increase the workload at Ontario TRACON. The reduction in size to the northwest will more than offset any increase due to the new floor to the southeast.

Regulatory Evaluation

This amendment to the March AFB ARSA is intended to improve both the safety and utility of the affected airspace. The action lowering the floor of the ARSA from approximately 2,500 feet AGL to approximately 1,500 feet AGL, along a corridor of airspace between five and ten miles southeast of the airport is intended to enclose and protect the primary arrival path of March AFB. The benefits of this improvement in safety can be achieved without imposing any appreciable costs on other users of the adjacent airspace, primarily the operations out of Perris Valley Airport, located just outside the western boundary of the corridor. Following implementation of the original ARSA, a local agreement was established to accommodate the soaring, hang gliding, and parachuting operations based at Perris Valley. The provisions of this agreement will need to be modified slightly as a result of this amendment, but it will continue to accommodate the needs of these operators. Further, the 1,500 foot AGL floor of the ARSA would provide sufficient access to the Perris Valley traffic pattern to ensure that the operations of powered aircraft to and from this airport would not be adversely impacted.

The action eliminating from the ARSA a small amount of airspace located between five and ten miles from March AFB in the vicinity of Lake Mathews is not expected to result in any costs associated with a reduction in the affected airspace because the affected airspace is clear of the traffic patterns of March AFB and other local airports. Further, various users will benefit from the restoration of this airspace.

International Trade Impact Analysis

This amendment will only affect terminal airspace operating procedures at one location within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by these modifications to the ARSA are the soaring, hang gliding, parachuting, and flight training operations that use the airspace in the vicinity of March AFB. Throughout the ARSA program the FAA has attempted to eliminate potentially adverse impacts on flight training, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. Such an agreement was made with the small entities at Perris Valley Airport following initial establishment of the March AFB ARSA, and this agreement will be continued, with some minor modifications, following adoption of this amendment. Further, these users will have an additional amount of airspace over Lake Mathews made available to them by this amendment.

For these reasons, the FAA certifies that this amendment will not result in a significant economic impact on a

substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

The Rule

This action modifies the Airport Radar Service Area (ARSA) at March AFB, CA. The lateral limits of the ARSA will be slightly reduced to exclude airspace in the vicinity of Lake Mathews. Additionally, this creates a subarea to the southeast with a lower floor to facilitate jet arrival containment within ARSA airspace.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

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—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

§ 71.50 [Amended]

2. Section 71.501 is amended as follows:

March AFB, CA [Revised]

That airspace extending upward from the surface to and including 5,500 feet MSL within a 5-mile radius of March AFB (lat. 33°53'01"N., long. 117°15'38"W.); and that airspace extending upward from 3,900 feet MSL to and including 5,500 feet MSL within the 10-mile radius of March AFB from the centerline of V–16/V–370 east of the airport clockwise to the 216° bearing from the airport, except that airspace 2 miles east and 1.5 miles west of the 150° bearing from the airport which extends upward from 2,900 feet MSL to and including 5,500 feet MSL.

Issued in Washington, DC, December 4, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87–28463 Filed 12–10–87; 8:45 am]

BILLING CODE 4910–13–M

federal register

Friday
December 11, 1987

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Alteration of the Burbank-Glendale-Pasadena Airport, CA, Airport Radar Service Area; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-21]

Alteration of the Burbank-Glendale-Pasadena Airport, CA, Airport Radar Service Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Airport Radar Service Area (ARSA) at the Burbank-Glendale-Pasadena Airport, CA. This ARSA modification will adjust the lateral limits to exclude several areas of the present ARSA which do not receive adequate radar and/or communications coverage. Additionally, this rule will exclude additional surface area in the vicinity of Whiteman Airport to accommodate airport traffic patterns.

EFFECTIVE DATE: 0901 UTC, February 11, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On August 2, 1985, the FAA proposed to designate Airport Radar Service Areas (ARSA) at 11 airports, including the Burbank-Glendale-Pasadena Airport, CA, (50 FR 31472). The FAA, after carefully considering all comments received amd making alterations where appropriate, adopted the proposal and published the final rule in the December 9, 1985, issue of the **Federal Register** (50 FR 50254) with an effective date of January 16, 1986.

On August 7, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the Burbank-Glendale-Pasadena Airport, CA, ARSA (52 FR 29470). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

Four comments were received, all in favor of the changes proposed for the Burbank ARSA. The Soaring Society of America objected to the ARSA program in general but supported the proposed alterations.

Regulatory Evaluation

The modifications to the Burbank-Glendale-Pasadena Airport ARSA are intended to improve the utility of the affected airspace. The amendment eliminates a small amount of airspace from the ARSA and is not expected to result in any costs associated with a reduction in the controlled airspace. The affected airspace currently is not within sufficient radar and/or communications coverage necessary to provide ARSA services because of terrain features. Adjusting the ARSA boundaries will not alter this situation. Reconfiguring the ARSA to more accurately reflect the terrain characteristics will improve the efficiency of its operations, and benefit the various users, especially the users of Whiteman Airport, due to the restoration of this airspace.

The FAA has determined that the economic impact of this amendment is so minimal as not to require further regulatory evaluation. A copy of the regulatory evaluation for the original Burbank-Glendale-Pasadena ARSA is available for review in FAA Airspace Docket No. 85-AWA-2.

International Trade Impact Analysis

This amendment will only affect terminal airspace operating procedures at one location within the United States. As such, it will have no effect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

Throughout the ARSA program the FAA has attempted to eliminate potentially adverse impacts on satellite airports within five-nautical miles of ARSA centers and the small businesses based at these airports, as well as flight training, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations, or in some cases, providing exclusions for these airports. This modification of the Burbank-Glendale-Pasadena Airport ARSA will slightly expand the exclusion in the vicinity of Whiteman Airport and ease local operations for this airport

For these reasons, the FAA certifies that this amendment will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

The Rule

This action modifies the Airport Radar Service Area (ARSA) at the Burbank-Glendale-Pasadena Airport, CA. The lateral limits of the ARSA will be slightly reduced to exclude airspace in several areas of the present ARSA which do not receive adequate radar and/or communications coverage commensurate with the ARSA program and associated services, and to accommodate the airport traffic patterns at Whiteman Airport.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

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—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE,AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Burbank-Glendale-Pasadena Airport, CA [Revised]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Burbank-Glendale-Pasadena Airport (lat. 34°12'02"N., long. 118°21'27"W. excluding that airspace below 3,500 feet MSL within a 1.75-mile radius of the Whiteman Airport (lat. 34°15'35" N., long. 118°24'45"W.) and excluding that airspace below 3,500 feet MSL east of a direct line from a point 5 miles on the 004° bearing

from the airport to a point 5 miles on the 090° bearing from the airport; and that airspace extending upward from 3,500 feet MSL to and including 4,800 feet MSL within a 10-mile radius of the Burbank-Glendale-Pasadena Airport from the 104° bearing clockwise to the 004° bearing from the airport excluding that airspace south of the north boundary of the Los Angeles, CA, Terminal Control Area, and excluding that airspace beyond an 8-mile radius north and east of the 294° bearing, and excluding that airspace beyond 5 miles north and east of a line from a point 8 miles on the 343° bearing from the airport to a point 5 miles on the 004° bearing from the airport.

Issued in Washington, DC, December 3, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-28462 Filed 12-10-87; 8:45 am]

BILLING CODE 4910-13-M

federal register

Friday
December 11, 1987

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 333 and 369

Topical Antimicrobial Drug Products for Over-the-counter Human Use; Final Monograph for OTC First Aid Antibiotic Drug Products; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 333 and 369

[Docket No. 76N-0482]

Topical Antimicrobial Drug Products for Over-the-counter Human Use; Final Monograph for OTC First Aid Antibiotic Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule in the form of a final monograph establishing conditions under which over-the-counter (OTC) topical first aid antibiotic drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on topical first aid antibiotic drug products that have come to the agency's attention. This final monograph is part of the ongoing review of OTC drug products conducted by FDA.

DATE: December 12, 1988.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 1, 1977 (42 FR 17642), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC topical antibiotic drug products (21 CFR Part 342), together with the recommendations of the Advisory Review Panel on OTC Topical Antimicrobial II Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by June 30, 1977. Reply comments in response to comments filed in the initial comment period could be submitted by August 1, 1977.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed rule, in the form of a tentative final monograph, for OTC first aid antibiotic drug products was published in the **Federal Register** of July 9, 1982 (47 FR 29986). FDA proposed to add a new Subpart B to Part 333 rather than continue the rulemaking under Part 342 as designated in the advance notice of proposed rulemaking for OTC topical antibiotic drug products. The redesignation of parts is discussed further in the tentative final monograph at 47 FR 29986. Interested persons were invited to file by September 7, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by November 8, 1982. New data could have been submitted until July 11, 1983, and comments on the new data until September 9, 1983. Final agency action occurs with the publication of this final monograph, which is a final rule establishing a monograph for OTC first aid antibiotic drug products.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

As discussed in the proposed regulation for OTC topical first aid antibiotic drug products (47 FR 29986), the agency advises that the conditions under which the drug products that are subject to this monograph will be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication in the **Federal Register**. Therefore, on or after December 12, 1988, no OTC drug products that are subject to the monogrpah and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date and, as soon as they comply, a Form 6 (Form FD 356H, formerly Form FD 1675) will no longer be required. (See comment 2 below.)

In response to the proposed rule on OTC topical first aid antibiotic drug products, a bi-state drug information center, a drug manufacturers' association, and three drug manufacturers submitted comments. Copies of the comments and data received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

In proceeding with this final monograph, the agency has considered all objections and the changes in the procedural regulations.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of September 7, 1973 (38 FR 24391) or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

A. General Comments on OTC First Aid Antibiotic Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464); in paragraph 3 of

the preamble to the tentative final monograph for OTC antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260); and in paragraph 1 of the preamble to the tentative final monograph in the present proceeding (47 FR 29987). FDA reaffirms the conclusions stated in those documents. Court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F.2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers v. FDA*, 487 F. Supp. 412 (S.D.N.Y 1980), *aff'd* 637 F.2d 887 (2d Cir. 1981).

2. One comment stated that antibiotic dosage forms that would appear in 21 CFR Part 333 would be, by definition, generally recognized as safe and effective, and that agency approval of a Form 6 should not be required before marketing. The comment pointed out that this approach would be consistent with the requirements for all other OTC drug products that are subjects of OTC drug monographs and that were previously considered new drugs. Therefore, the comment requested that the requirement for a Form 6 be deleted for any antibiotic drug product that is subject to the final monograph on OTC first aid antibiotic drug products. The comment added that if Form 6 requirements are to be retained, then the effective date of the final monograph should be 24 months, rather than 12 months, after publication of the final rule. The comment pointed out that, although 12 months would be reasonable for most other drug products included in the OTC drug review, the Form 6 requirement for antibiotic drug products makes them a special case because FDA preapproval of the Form 6 submissions for manufacturing, control, and labeling changes is a time-consuming process.

The agency agrees that approval of an abbreviated antibiotic application (formerly a Form 6) is not a prerequisite to marketing an antibiotic drug product that meets the requirements of this final monograph. OTC drug products that meet the conditions established in Part 330 and the applicable monograph are generally recognized as safe and effective and not misbranded and may be marketed without an approved application or abbreviated application.

The agency recently revised 21 CFR 433.1 to make clear that an antibiotic drug that meets the general requirements established in 21 CFR 330.1 and the requirements of a final OTC drug monograph is exempt from the batch certification requirements of section 507 of the Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357) even without having an approved antibiotic application (formerly a Form 5) or an abbreviated antibiotic application. This clarification was proposed in the **Federal Register** of July 22, 1985 (50 FR 29702) and made final in the **Federal Register** of July 15, 1986 (51 FR 25523).

Because the final monograph does not become effective until 12 months after its publication, technically an abbreviated application would continue to be required for one year after publication of the final rule. The agency does not believe that this requirement is necessary for first aid antibiotic drug products that comply with the conditions of the final monograph. Therefore, manufacturers may market products that comply with the final monograph without an approved abbreviated application during this period, i.e., between December 11, 1987, and December 12, 1988. Manufacturers currently marketing these products under an approved abbreviated application should notify FDA when the product is being marketed under the final monograph, so that the applicability of the abbreviated application can cease. Eventually, FDA will revoke all applications and abbreviated applications that are in effect for products covered by the final monograph.

The request that FDA give a later effective date to the monograph to allow time for Form 6 approvals is moot because an abbreviated application (Form 6) is not required if the first aid antibiotic product meets the conditions of the final monograph.

3. One comment requested that conflicts between the tentative final monograph for OTC topical antibiotic drug products and the existing antibiotic regulations be resolved by incorporating appropriate sections of the existing antibiotic regulations in Subparts F of Parts 444, 446, and 448 into the OTC first aid antibiotic monograph and by deleting those portions that are so incorporated from the antibiotic regulations. The comment contended that this action would eliminate the confusion caused by conflicting requirements for a single product as well as distinguish clearly between antibiotic products that are generally recognized as safe and effective for OTC use and those that are still subject to prescription dispensing and premarketing approval. The comment stated that if necessary, to ensure a safe and effective product, the detailed standards and testing requirements found in the antibiotic regulations may be retained in the OTC drug monograph.

The agency agrees that appropriate portions of the regulations on dermatologic dosage forms in Parts 444, 446, and 448 should be incorporated into the final monograph for OTC first aid antibiotic drug products. The agency consequently is revising the format proposed in the tentative final monograph. The agency is not grouping and combining antibiotic ingredients on the basis of antibacterial activity, and including a cross-reference to Subpart F of Parts 444, 446, and 448. In this final monograph, FDA is including a complete listing of the antibiotic active ingredients (§ 333.110) and the combinations of those ingredients (§ 333.120) that are generally recognized as safe and effective, as well as the concentrations permitted for each of those ingredients and the appropriate dosage forms for the products. The dosage forms included in the monograph reflect those dosage forms currently identified in Subpart F of the specific antibiotic regulations (Parts 444, 446, and 448) that apply to OTC first aid antibiotics. There is an established testing methodology, derived from approved antibiotic applications, for these first aid antibiotic ingredients and combinations in the antibiotic regulations. The final monograph also includes references to the appropriate tests and methods of assay that are set forth in the existing antibiotic regulations and that are applicable to particular antibiotic ingredients and combinations.

All drug products included in the final monograph for OTC first aid antibiotic drug products are generally recognized as safe and effective and not misbranded. Therefore, they do not need premarket approval and are exempt from batch certification requirements. For both marketing control and agency regulatory purposes, it is necessary that appropriate standards and methodology i.e., tests and methods of assay, be established before a first aid antibiotic drug product can be considered generally recognized as safe and effective for OTC use. Any firm interested in marketing a single monograph ingredient in a dosage form not included in the monograph, or a combination of monograph ingredients not currently included in the monograph, may submit an antibiotic application to FDA for review and evaluation or file a petition (with appropriate supporting data, including proposed standards and methodology) to amend the monograph.

4. One comment disagreed with the agency's tentative decision to transfer products and claims for skin wound protectants that do not contain antimicrobial active ingredients to the rulemaking for OTC skin protectant drug products. The comment argued that, although a skin wound protectant may not contain an antimicrobial ingredient, the indications for use of the product (protect wounds against microbial contamination) place it more appropriately in the rulemaking for OTC topical antimicrobial drug products than in the rulemaking for OTC skin protectant drug products. The comment contended that skin protectants are generally used on intact skin and do not serve the same function as skin *wound* protectants, which are indicated for prevention of wound contamination by providing a physical barrier to the entry of dirt and bacteria. The comment added that if the absence of active [antimicrobial] ingredients prohibits the inclusion of skin wound protectants in the monograph for OTC antimicrobial drug products, then there is justification for classifying skin wound protectants that act only as a physical barrier to contamination as medical devices because skin wound protectants "act simply as a physical barrier to contamination and do not affect the structure or function of the body or exert a microbiocidal effect."

The agency believes that the concerns raised by the comment are rendered moot by FDA's decision not to adopt the Panel's recommendation for separate categories of "skin wound protectants" and "skin wound antibiotics." This rulemaking is intended to address only OTC topical drug products that contain antibiotics. Therefore, as FDA explained in the tentative final rule, only one category is necessary for this rulemaking—"first aid antibiotics."

FDA is placing all products that are considered as "skin wound protectants" and that do not contain an antibiotic in the skin protectant rulemaking for consideration of the skin wound protectant claims. The tentative final monograph for OTC skin protectant drug products, published in the Federal Register of February 15, 1983 (48 FR 6820), includes in proposed § 347.50(b) (1) the indication "For the temporary protection of minor cuts, scrapes, burns, and sunburn." This skin protectant category, which is similar to the skin wound protectant indication recommended by the Antimicrobial II Panel (42 FR 17680), covers the type of product described in the comment.

Because this final monograph applies only to products containing an antibiotic, the agency is not considering in this document the issue of whether skin wound protectants that do not contain antimicrobials should be subject to the skin protectant rulemaking or be considered a medical device. That issue will be discussed in the rulemaking for OTC skin protectant drug products.

B. Comments on Labeling of OTC First Aid Antibiotic Drug Products

5. One comment contended that FDA does not have the statutory authority to prescribe exclusive list of terms from which indications for use of OTC drug products must be drawn and to prohibit labeling terminology which is truthful, accurate, not misleading, and intelligible to the consumer. The comment also expressed its intention to make a more detailed statement on the exclusivity policy at the September 29, 1982 hearing on this issue.

In the Federal Register of May 1, 1986 (51 FR 16258), the agency published a final rule changing its labeling policy for stating the indications for use of OTC drug products. Under the final rule, the label and labeling of OTC drug products are required to contain in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph where exact language has been established and identified by quotation marks in an applicable monograph or other regulation, e.g., 21 CFR 201.63 or 330.1(g).

In the tentative final monograph (47 FR 29999), supplemental language relating to indications had been proposed and captioned as *Other Allowable Indications* and *Other Allowable Statements*. Under FDA's revised labeling policy (51 FR 16258), such statements are included at the tentative final stage as examples of other truthful and nonmisleading language that would be allowed elsewhere in the labeling. In accordance with the revised labeling policy, such statements would not be included in a final monograph. However, the agency has decided that, because these additional terms have been reviewed by FDA, they should be incorporated, wherever possible, in final OTC drug monographs under the heading "Indications" as part of the indications developed under that monograph. (See part III. paragraph 3. below—SUMMARY OF SIGNIFICANT CHANGES FROM THE PROPOSED RULE.)

6. One comment disagreed with the agency's proposed substitution of the word "doctor" for "physician" in OTC drug labeling. The comment stated that because "physician" is a term that is recognized by people of all ages and social and economic levels, there is no need for the change, which would be costly and provide no benefit. The comment further contended that "physician" is a more accurate term, whereas "doctor" is a broad term that could confuse and mislead the lay person into taking advice on medication from persons other than medical doctors, such as optometrists, podiatrists, and even chiropractors. Another comment favored the use of common, simple, and easily understood language in labeling. This comment noted that both "doctor" and "physician" are equally accurate and meaningful and argued that neither term should be prohibited, but instead flexibility to use either term should be allowed.

In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs, including the one for OTC first aid antibiotic drug products, to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor." This final monograph provides that option (see § 333.150(e)).

7. Noting that the Panel defined an antibiotic as an agent that either destroys susceptible bacteria or arrests their development, one comment disagreed with the agency's proposed Category II classification of the claim "Helps kill bacteria." The comment contended that this claim is accurate "in that an antibiotic is capable of either killing bacteria or affecting them so that

they can be eliminated more easily by the body's natural defenses." The comment argued that this claim has been used for decades with no known harm to the consumer due to product misuse and that, because first aid antibiotics are not indicated for treatment of infection, the potential for harm due to misuse is also reduced. According to the comment, the agency's concern is theoretical and not substantiated. The comment requested that the agency allow the phrase "helps kill bacteria" as a Category I claim for OTC first aid antibiotics.

In the tentative final monograph, the agency noted that "according to the definition in section 507(a) of the act (21 U.S.C. 357(a)), antibiotics have the capacity to inhibit or destroy microorganisms." (See comment 12, 47 FR 29991.) However, the agency expressed its belief that "the claim 'helps kill bacteria' is misleading to the average consumer because the word 'kill' implies elimination of all bacteria on the skin when, in fact, topical antibiotics only decrease the number of certain bacteria on the skin." The agency still believes that the claim "helps kill bacteria" could be potentially misleading to the average consumer if directly associated with the term "infection" that is included in the indication. However, the agency acknowledges that this information is familiar to the average consumer and may be useful in describing the product's action or intended effect. Therefore, the agency would allow the claim to be included in labeling provided it is not intermixed with monograph labeling.

The OTC drug review program establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded. One aspect of the program is to develop standards for certain parts of the labeling of OTC drug products. FDA has found that it is simply not practical—in terms of time, resources, and other considerations—to set standards for all labeling found on OTC drug products. Accordingly, OTC drug monographs directly address only those labeling items that are related in a significant way to the safe and effective use of covered products by lay persons. These labeling items are the product statement of identity; names of active ingredients; indications for use; directions for use; warnings against unsafe use, side effects, and adverse reactions; and claims concerning mechanism of drug action.

The agency finds that the claim "helps kill bacteria" requested by the comment, while descriptive of the action of first aid antibiotic drug products, does not relate in a significant way to the safe and effective use of these products and, therefore, is outside the scope of the monograph.

However, the OTC drug review is also intended to ensure that OTC drug products are not misbranded. Therefore, the agency evaluates claims made on OTC drug product labels on a product-by-product basis, under section 502 of the act (21 U.S.C. 352), to determine whether those claims are false or misleading. Any claim that is outside the scope of the monograph, even though it is truthful and not misleading, may not appear on any portion of the labeling that is required by the monograph. Such a claim also may not detract from the required information. Therefore, the claim requested by the comment may be included on the labeling of OTC first aid antibiotic drug product provided that it is not intermixed with labeling established by the monograph, and that it is not false or misleading.

C. Comments on Gramicidin

8. One comment objected to the Category III classification of gramicidin for safety, stating that the Antimicrobial II Panel apparently decided that gramicidin should be placed in Category III because it "is a potent hemolytic agent." The comment contended that the data supporting this conclusion appear to be quite sparse and are probably a carry-over from the remote observation by Heilman and Herrell (Ref. 1) in 1941 that tyrothricin, a crude preparation containing tyrocidine and gramicidin, had in vitro hemolytic properties against rabbits' and sheep's erythrocytes. The comment cited the animal study by Robinson and Molitor (Ref. 2) as indicating that relatively large intravenous or intraperitoneal doses of gramicidin suspensions were needed to show toxicity. The comment contended that the doses used in this study should be compared with a daily topical human dosage of 0.0083 milligram per kilogram (mg/kg) (0.25 mg gramicidin per gram (g) of ointment, assuming application of 2 g ointment per day to a 60-kg subject). The comment also cited a report (Ref. 3) in which it was noted that an unpublished study by Leyden reports that gramicidin was not detected in the serum or urine of eight subjects with widespread atopic dermatitis or psoriasis who were treated twice daily for 7 days with 30 g of a cream containing (among other antibiotics) gramicidin 0.25 milligram per gram (mg/g).

The comment further noted that the safety and efficacy of gramicidin have been fully discussed in data submitted to FDA (as part of the drug efficacy study implementation (DESI) program) concerning a certified prescription topical product containing gramicidin, neomycin sulfate, nystatin, and triamcinolone acetonide. The comment concluded that the extensive use of gramicidin for over 20 years in both OTC and prescription topical preparations has not resulted in any reports of adverse effects related to any possibility of gramicidin toxicity.

After reevaluating the information on the safety of gramicidin and considering the data cited by the comment, the agency concludes that gramicidin is not generally recognized as safe for OTC use as a first aid antibiotic. The Panel recommended that the safety of gramicidin be studied to determine both systemic and topical toxicity. The Panel said specifically that the amount of gramicidin absorbed through the skin following topical application and the hemolytic (red blood cell breakdown) potential of gramicidin resulting from absorption through fresh superficial wounds need to be determined (42 FR 17660). This information has not been provided.

The agency disagrees with the comment that evidence of hemolytic activity of gramicidin is sparse and notes that reports of such activity were published after the report cited by the comment (Ref. 1). Although, as the comment stated, Heilman and Herrell (Ref. 1) first reported that crude tyrothricin was hemolytic, they later reported that purified gramicidin was also hemolytic (Ref. 4). Dubos and Hotchkiss (Ref. 5) and Rammelkamp and Weinstein (Refs. 6 and 7) concluded that the hemolytic effect of tyrothricin was primarily the result of the tyrocidine content of tyrothricin, although they noted that gramicidin in high concentrations also exhibited hemolytic and leukocytolytic effects. There have also been some reports in which gramicidin was modified in an attempt to reduce the hemolytic activity (Ref. 8, 9, and 10). Lewis et al. (Ref. 8) found that treatment of gramicidin with formaldehyde lowered the hemolytic activity of gramicidin 80 to 90 percent without decreasing its antibacterial properties. Schales and Mann (Ref. 9), although noting that the hemolytic effect of gramicidin was considerably slower than that of tyrocidine, found that various gramicidin derivatives had hemolytic activity that varied from 2 to 87 percent of that of gramicidin. Rambhav and Ramachandran (Ref. 100) evaluated the hemolytic activity of gramicidin and several modified gramicidins and concluded that the

peptide-bound ethanolamine residue was implicated in the hemolytic activity of gramicidin.

Even though Robinson and Molitor (Ref. 2) reported that gramicidin was not toxic when given orally (at 1,000 mg/kg) or injected subcutaneously or intradermally, gramicidin was highly toxic upon parenteral administration. Acute parenteral dosages of 1.25 mg/kg gramicidin administered intravenously or 10 mg/kg administered intraperitoneally were not lethal in mice. The lethal dose for mice by the intravenous route was 3.75 mg/kg.

In most dogs, daily intravenous dosing of gramicidin at 2 mg/kg was lethal within 2 to 3 days. Robinson and Molitor noted that in the case of tyrothricin, daily blood examinations showed that all dogs receiving 2 to 4 mg/kg tyrothricin developed marked leucocytosis. Dogs tolerating more than 10 consecutive doses of the drug became anemic, the erythrocyte count ranging from 2.06×10^5 to 3.95×10^5 cells per cubic millimeter. One dog with marked leucocytosis and anemia returned to normal after 2 months during which no drug was given. Robinson and Molitor suggested that this finding might indicate that the anemia caused by daily injections of tyrothricin is related to the hemolytic properties, which it can display in vitro. The authors noted that gramicidin had no apparent effect upon the blood picture during the short period that the animal survived. They also suggested that equivalent doses of gramicidin might have a similar effect as tyrothricin if the animal could tolerate a larger number of consecutive doses.

Robinson and Molitor noted that the impossibility of preparing true aqueous solutions of gramicidin made it difficult to interpret the data, particularly the data from the intravenous test groups in which physical factors such as large particle size may influence the results. They suggested that in view of the insolubility of gramicidin, it is possible that the effects observed were not caused by a specific pharmacodynamic action but rather were caused by nonspecific physical or physicochemical properties. Robinson and Molitor concluded that it is doubtful whether the toxicological results they reported of parenteral use in animals would have a direct bearing on the clinical use of gramicidin topically, except that application to deep lacerated wounds might approach the experimental conditions present in intravenous injection. Therefore, they cautioned against use of gramicidin where rapid and direct absorption into the bloodstream is likely to occur. As noted above, the Panel was concerned about the hemolytic potental of gramicidin resulting from absorption through fresh superficial wounds. The agency concurs based on the above discussion.

As the comment noted, Leyden (Ref. 3) reported that no significant blood or urine levels could be detected in human subjects after very extensive topical application of a cream containing 0.25 mg/g gramicidin, neomycin sulfate, and polymyxin B sulfate to atopic dermatitis or psoriasis. However, only eight subjects were studied. A limited report of this type is not adequate to establish general recognition of the safety of this ingredient for OTC first aid use. The report does not indicate whether the drug was applied to intact or broken skin, does not describe the assay method, and does not state how many subjects were treated with the cream that contained gramicidin or how many were treated with an alternate ointment that did not contain gramicidin. The information provided seems, on the whole, rather limited especially when the no-effect toxic dose of gramicidin is unknown.

The comment also referred to a prescription product containing gramicidin in combination with other ingredients that is being evaluated under the agency's DESI program. As discussed in comment 9 below, the agency concluded in a DESI notice published in the **Federal Register** of April 17, 1985 (50 FR 15227) that the combination drug policy is satisfied with respect to nystatin and triamcinolone acetonide, two of the four ingredients in the prescription product, for the treatment of cutaneous candidiasis, and the company has agreed to reformulate the product to delete neomycin and gramicidin, the other two ingredients (Ref. 11).

The agency concludes that sufficient data have not been submitted on the absorption of gramicidin and on the hemolytic potential of gramicidin resulting from absorption through fresh superficial wounds. Accordingly, gramicidin is not being included in this final monograph.

References

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(5) Dubos, R.J., and R.D. Hotchkiss, "The Production of Bactericidal Substances by Aerobic Sporulating Bacilli," *Journal of Experimental Medicine*, 73:629–640, 1941.

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(9) Schales, O., and G.E. Mann "Gramicidin Derivatives. I. Preparation; Hemolytic and Bacteriostatic Properties," *Archives of Biochemistry*, 15:357–371, 1947.

(10) Rambhav, S., and L.K. Ramachandran, "The Chemical Modification of Peptide Antibiotics: Part II—The Relative Roles of Ethanolamine and Indole Groupings in the Biological Activity of Gramicidin," *Indian Journal of Biochemistry and Biophysics*, 9:225–229, 1972.

(11) OR 000003, Docket No. 84N–0067, Dockets Management Branch.

9. One comment disagreed with the Category III classification of gramicidin for effectiveness. The comment submitted three studies that it claimed demonstrated the effectiveness of gramicidin (in combination with neomycin) (Refs. 1, 2, and 3) and pointed out that the Panel considered the combination of gramicidin D and neomycin to be rational because it broadens antibacterial coverage against the gram-positive organisms most likely to be found in superficial skin wounds (42 FR 17678).

As additional support for the effectiveness of gramicidin, the comment cited the agency's acceptance of a study by Dillon, Maddox, and Ware (Ref. 4), along with other data, as "sufficient evidence to support the claim 'first aid to help prevent infection in minor cuts, scrapes, and burns' for all topical antibiotics" (47 FR 29992). The comment concluded that "the Panel itself resolved the efficacy issue vis-a-vis gram-positive organisms and the rationality of the combination with neomycin, and the FDA has now ruled in support of the efficacy of all topical antibiotics while simultaneously revising the indication ('first aid to help prevent infection') in a manner that favors use of a potent, anti-gram-positive, non-systemically used antibiotic." The comment further noted that efficacy and safety had been fully discussed in data submitted to FDA

concerning a certified prescription topical product that contains gramicidin, neomycin sulfate, nystatin, and triamcinolone acetonide.

The comment contended that there is adequate support for a Category I designation for gramicidin for use in combination only, as "first aid to help prevent infection in minor cuts, scrapes, and burns." The comment requested that the agency revise § 333.110(c) to include the following: "Gramicidin 0.25 milligrams per gram for use only in combination as provided in section 333.120."

After reevaluating the information on the effectiveness of gramicidin and considering the data cited by the comment, the agency concludes that gramicidin cannot be included in the final monograph as a first aid antibiotic.

One in vivo study cited by the comment (Ref. 1) shows that a combination of neomycin and gramicidin decreases the number of organisms from experimentally induced *Staphylococcus aureus* infections. In the tentative final monograph, the agency cited this study as one of four references to support the conclusion that "reducing the number of bacteria on the skin may help prevent infection in minor skin injuries. It is well documented in the medical literature that applying topical antibiotics to skin wounds reduces the number of bacteria at the site of application and serves as an adjunct to cleansing wounds." (See 47 FR 29991 to 29992.)

Two of the publications cited by the comment reported the same clinical study (Refs. 2 and 3). In this study, conducted over an 18-month period, 204 children who had sustained major thermal burns received a triple antibiotic cream formulation containing gramicidin, neomycin, and polymyxin B. The results from use of the cream were compared with those from an earlier period without topical chemotherapy against wound infection or with only topical nitrofurazone. The improvement in overall results was significant when the triple antibiotic cream formulation containing gramicidin, neomycin, and polymyxin B was applied topically.

The agency notes that in these studies (Refs. 1, 2, and 3) gramicidin was used in combination with other ingredients, and that there is no evidence to demonstrate the specific contribution that gramicidin made to the combination.

The Panel stated that the gramicidin-neomycin combination "* * * is rational since it broadens antibacterial coverage against the gram-positive organisms most likely to be found in superficial skin wounds, and also decreases the likelihood of encountering a bacterial strain resistant to both antibiotics as well as the chance of developing an infection that might be resistant to both antibiotics" (42 FR 17678). Nevertheless, the Panel concluded that "prudent scientific judgment does not permit the conclusion that merely arguing their efficacy by analogy is sufficient" (42 FR 17678).

The study by Dillon, Maddox, and Ware (Ref. 4), which did not involve gramicidin, was cited by the agency to demonstrate that antibiotics that have been shown to inhibit or to reduce the number of bacteria under non-OTC conditions in induced wounds or in major wounds can also be presumed to be effective in helping to prevent infection under OTC conditions in minor cuts, scrapes, and burns. The agency's statement on this study in the preamble to the tentative final monograph was intended to show that a claim of "first aid to help prevent infection" was appropriate for OTC topical antibiotics that have sufficient effectiveness data. However, it was not intended to justify reclassification of gramicidin (or of any other antibiotics for which there are no in vivo data) into Category I (monograph) status.

In addition, the comment referred to a prescription product that contains neomycin and gramicidin in combination with other ingredients and that is being evaluated under the agency's drug efficacy study implementation (DESI) program). Under DESI, the agency concluded in 1972 that this product was possibly effective for all of its labeled indications relating to use in various dermatoses and as an anti-infective agent (37 FR 12856). Subsequently, the agency concluded that the data on this product did not demonstrate that each component made a significant contribution to the claimed effects of the drug. (See the **Federal Register** of September 25, 1981 (46 FR 47408).) On October 20, 1981, the manufacturer of the product (which also submitted the comment at issue) requested a hearing, and on November 24, 1981, it filed data and other information in support of its hearing request.

After the firm submitted this comment to this OTC drug rulemaking, the agency published a DESI notice to grant the firm a hearing on the proposal to withdraw approval of the new drug applications for the prescription product. (See the **Federal Register** of September 17, 1984; 49 FR 36439.) At a prehearing conference held on January 11, 1985, the agency concluded that the combination drug policy is satisfied with respect to nystatin and triamcinolone acetonide, two of the four ingredients in the prescription product, for the treatment of cutaneous candidiasis, and the company agreed to reformulate the product to delete neomycin and gramicidin (Ref. 5). (See the **Federal Register** of April 17, 1985; 50 FR 15227.)

Therefore, the agency concludes that the evidence submitted to date does not demonstrate that gramicidin (alone or in combination) is effective for use as a first aid antibiotic drug product. The agency recommends that a well-designed, double-blinded study be conducted to show in vivo efficacy of gramicidin by itself or as a contributor to a combination.

Accordingly, gramicidin is not being included in this final monograph.

References

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(5) OR 000003, Docket No. 84N–0067, Dockets Management Branch.

D. Comments on Combination Drug Products

10. One comment requested that FDA expand the proposed allowable concentrations for bacitracin, bacitracin zinc, and neomycin sulfate to include the concentrations of these ingredients in all combinations currently approved for OTC use in the antibiotic regulations. The comment pointed out that § 448.510e permits a bacitracin concentration of 400 units per g for a combination bacitracin-neomycin sulfate-polymyxin B sulfate ointment, and that § 448.513c permits a bacitracin zinc concentration of 400 units per g and a neomycin sulfate concentration equivalent to 3 mg neomycin for a combination bacitracin zinc-neomycin sulfate-polymyxin B sulfate ointment. The comment stated that it is not clear why these concentrations were omitted from the tentative final monograph. The

comment added that to resolve these conflicts between the OTC topical antibiotic tentative final monograph and the antibiotic regulations, the tentative final monograph should be revised so that bacitracin and bacitracin zinc concentration could be 400 or 500 units per g, and the allowable concentration for neomycin sulfate could be the equivalent of 3 or 3.5 mg neomycin.

As discussed in comment 3 above, the agency is revising the format for listing monograph antibiotic ingredients from that used in the tentative final monograph. In this final monograph, the agency is listing each generally recognized as safe and effective ingredient and the dosage forms of that ingredient that have been specified in the antibiotic regulations. The agency is also revising the combinations of first aid antibiotic drug products to specify the particular antibiotic ingredients, the concentrations permitted for each of these ingredients, and the dosage forms currently identified in the specific monographs in the antibiotic regulations that apply to OTC drug monograph first aid antibiotics. These revisions correct the conflicts in FDA's proposed regulations that the comment pointed out.

11. Two comments disagreed with the agency's decision not to include antibiotic-anesthetic combinations in the tentative final monograph until data were submitted to show that the population that would use these combinations on skin wounds would not be at risk and until information is submitted to show that the combinations meet the criteria in 21 CFR 330.10(a)(4)(iv) (47 FR 29996).

One of the comments stated that, except for a possible safety issue, sufficient information to meet all the remaining criteria of 21 CFR 330.10(a)(4)(iv) is presently in the record. Both comments pointed out that combinations of certain antibiotics and anesthetics are allowed under the antibiotic certification regulations (§§ 444.542a [neomycin sulfate ointment with 200 milligrams benzocaine per gram of ointment]; 444.542j [neomycin sulfate-polymyxin B sulfate-gramicidin ointment with 10 milligrams benzocaine per gram of ointment]; 448.510a [bacitracin ointment with a suitable local anesthetic]; and 448.510e [bacitracin-neomycin sulfate-polymyxin B sulfate ointment with a suitable local anesthetic]), and that Form 6's for products containing these combinations have been approved by FDA for OTC use. One comment also noted that the Topical Analgesic Panel's recommended monograph for OTC external analgesic drug products (44 FR 69768, 69864; December 4, 1979) provides for combinations of many Category I analgesics, anesthetics, or antipruritics with single Category I topical antimicrobial active ingredients or combinations of Category I topical antimicrobial active ingredients.

The comments contended that the agency's concern that the presence of an anesthetic will mask symptoms of infection is unfounded because OTC antibiotics are indicated for "first aid" use and not for the treatment of existing infections. One comment argued that the absence of a safety issue with OTC use of such combinations is demonstrated by the lack of a single adverse reaction report for such products in the records of FDA's Division of Drug Experience. The comment added that 21 CFR 310.300 and 310.301 require that the holder of an approved antibiotic application report adverse reactions to FDA. The comment requested that the agency include any reports of adverse reactions that are in its files in the administrative record of this proceeding as new data for use in determining whether there is any risk to the population in approving OTC antibiotic-analgesic combinations. The comment stated that the absence of adverse reaction reports in FDA's files constitutes data supporting both the general safety of such OTC combination products and the conclusion that masking of infection should not be a concern. The other comment added that the action of the anesthetic ingredient does not persist for the entire 8- to 24-hour period between applications of the product. Thus, the comment argued, it is hardly conceivable that inclusion of the anesthetic could mask symptoms of a worsening infection and present a hazard to consumers.

Concerning the requirements of 21 CFR 330.10(a)(4)(iv), one comment pointed out that only Category I ingredients would be allowed in these combinations, and that the label claim for the product would be to help prevent infection and to provide relief of pain associated with minor wounds. The comment added that the contribution of the respective ingredients to these claimed effects is known, that the combination does not decrease safety or effectiveness, and that such combination therapy would be rational because it is common knowledge that pain usually accompanies minor wounds.

One comment concluded that the antibiotic-anesthetic combinations permitted under the existing antibiotic certification regulations should also be permitted in the OTC first aid antibiotic monograph and requested that the agency provide for such combinations in the final monograph. The other comment further requested that all combinations of Category I first aid antibiotics and Category I local anesthetics be approved as Category I combinations.

Based on the points raised by the comments and after further review as discussed below, the agency has reconsidered its decision in the tentative final monograph and now agrees with the comments that certain topical antibiotic-anesthetic combinations are Category I.

The agency acknowledges that in the tentative final monograph it pointed out that no data on such combinations had been reviewed by the Panel or submitted in comments (47 FR 29996). The agency stated, however, that it was conceivable that the combination could provide rational therapy for OTC use.

Upon further review, the agency finds that the combination of a topical antibiotic with a local anesthetic has had a marketing history that predates the OTC drug review. For example, on June 29, 1972 (37 FR 12857), a notice on certain OTC topical antibiotic products under the DESI program deferred action on these products pending the results of the OTC drug review. This DESI notice included products containing topical antibiotics combined with the local anesthetic benzocaine (four products) or with diperodon hydrochloride (one product). These antibiotic-anesthetic drug products currently have first aid labeling claims, such as "to help prevent infection" and "as an aid for the temporary relief of discomfort in minor cuts, burns, and abrasions." Also, as the comments noted, combinations of certain antibiotics and anesthetics for topical use are currently allowed under the antibiotic certification regulations. A review of the FDA adverse drug reaction reports failed to show any adverse reaction reports for these combinations.

Both the advance notice of proposed rulemaking (44 FR 69865) and the tentative final monograph (48 FR 5852, 5868; February 8, 1983) for OTC external analgesic drug products provide for combinations of Category I external analgesic, anesthetic, or antipruritic ingredients with Category I topical antimicrobial active ingredients. The agency notes that no adverse comments about masking infection or other objections have been received from the medical community regarding the combination in that rulemaking.

Although the tentative final monograph for OTC external analgesic drug products provides only for combinations of Category I external

analgesic, anesthetic, or antipruritic ingredients with Category I topical antimicrobial active ingredients identified in Part 333, Subpart A, the agency believes that combinations with first aid antibiotics (Part 333, Subpart B) are also appropriate. The combination of a first aid antibiotic and an external analgesic, anesthetic, or antipruritic is similar in action and intended use to the combination of a topical antimicrobial and an external analgesic, anesthetic, and antipruritic and will be included in this final monograph for first aid antibiotic drug products.

The agency agrees with the comment that OTC first aid antibiotics are not labeled for the treatment of existing infections and are limited to use on minor injuries for not longer than 1 week with warnings to stop use and to consult a doctor if the condition persists or gets worse. Accordingly, the agency concludes that combinations of first aid antibiotic and local anesthetic ingredients provide rational concurrent therapy for a significant proportion of the target population and that the combination is suitable for OTC use under adequate directions for use and warnings against unsafe use, as required under § 330.10(a)(4)(iv).

The agency proposed in § 348.50(b)(2) of the tentative final monograph for OTC external analgesic drug products (48 FR 5868) the following indication for local anesthetics: "For the temporary relief of" (select one of the following: "pain," "itching," or "pain and itching") (which may be followed by: "associated with" (select one or more of the following) "minor burns," "sunburn," "minor cuts," "scrapes," "insect bites," or "minor skin irritation,")). This indication is very similar to the indication for first aid antibiotics in § 333.150(b) of this final monograph, which reads, "First aid to help * * * prevent" (select one of the following: "infection," "bacterial contamination," or "infection or bacterial contamination") "in minor cuts, scrapes, and burns." Therefore, it would be reasonable for an individual with a minor cut, scrape, or burn to apply both a local anesthetic drug product and a first aid antibiotic drug product to the same minor wound.

First aid antibiotics are included in the monograph based on labeling that they be used only on small areas of the body for a minor cut, scrape, or burn, and that they bear a warning that they not be applied over large areas of the body. Accordingly, those proposed Category I claims for external analgesic drug products that refer to conditions other than minor wounds, and particularly conditions likely to involve large areas of the body (e.g., sunburn), would be nonmonograph for the topical antibiotic-anesthetic combination drug product.

The agency acknowledges the Panel's concern that the addition of an anesthetic to a topical antibiotic drug product could pose safety problems by masking signs of infection. However, the agency believes that appropriate labeling can be written to alleviate this concern. In the tentative final monograph, the agency proposed the following warning in § 333.150(c)(2): "Stop use and consult a doctor if the condition persists or gets worse. Do not use longer than 1 week unless directed by a doctor." The rationale for this warning was discussed in comment 9 of the tentative final monograph (47 FR 29990). The agency believes that this warning adequately informs consumers using these products when to consult a doctor, if necessary, even if the product is an antibiotic-anesthetic combination.

A number of topical antibiotic-anesthetic combinations have been marketed OTC for a number of years under current antibiotic monographs in 21 CFR Parts 444 and 448 (see below). FDA is currently including some of these combinations in this final monograph, as discussed below, so that it conforms to the current antibiotic regulations in the Code of Federal Regulations (CFR).

In conclusion, the agency is including in the final monograph only those topical antibiotic-anesthetic combinations that include Category I ingredients from both the external analgesic and first aid antibiotic rulemakings and that are subject to a current CFR antibiotic monograph with labeling containing adequate directions under which the layman can use the drug safely and efficaciously. The following anesthetic-antibiotic combinations currently have CFR monographs:

Section 444.542a(a)(1)(i)(j)—Neomycin sulfate ointment with benzocaine.

Section 444.542c(a)(1)(i)—Neomycin sulfate lotion with diperodon hydrochloride and aluminum dihydroxyallantoinate.

Section 444.542j—Neomycin sulfate-polymyxin B sulfate-gramicidin-benzocaine ointment.

Section 448.510a—Bacitracin ointment (with a suitable local anesthetic).

Section 448.510e—Bacitracin-neomycin sulfate-polymyxin B sulfate ointment (with a suitable local anesthetic).

Neomycin sulfate lotion combined with the local anesthetic diperodon hydrochloride under § 444.542c is not being included in this final monograph. Diperodon has not been included in the rulemaking for OTC external analgesic drug products. Accordingly, a topical antibiotic-anesthetic combination containing diperodon is not being included in the first aid antibiotic final monograph. Because gramicidin is not included in this final monograph, the combination included in § 444.542j is also not being included in the monograph. Both of these combinations still require a drug application to be marketed.

The agency interprets the term "suitable local anesthetic" as currently specified in § 448.510a and § 448.510e of the antibiotic regulations to mean any of the ingredients identified in § 348.10(a) of the tentative final monograph for OTC external analgesic drug products. These are identified as amine or "caine"-type local anesthetics and include:

(1) Benzocaine 5 to 20 percent.

(2) Butamben picrate 1 percent.

(3) Dibucaine 0.25 to 1 percent.

(4) Dibucaine hydrochloride 0.25 to 1 percent.

(5) Dimethisoquin hydrochloride 0.3 to 0.5 percent.

(6) Dyclonine hydrochloride 0.5 to 1 percent.

(7) Lidocaine 0.5 to 4 percent.

(8) Lidocaine hydrochloride 0.5 to 4 percent.

(9) Pramoxine hydrochloride 0.5 to 1 percent.

(10) Tetracaine 1 to 2 percent.

(11) Tetracaine hydrochloride 1 to 2 percent.

Because the above local anesthetics are not yet subject to a final monograph, FDA cannot refer in this first aid antibiotic final monograph to a final regulation that does not currently exist. Nonetheless, consistent with the approach taken by FDA in the final monograph for OTC antacid drug products (21 CFR 331.15), the agency is listing these combinations in general terms as combinations of drug classes rather than combinations of specific ingredients, because the nonantibiotic ingredients are not yet subject to a final rule. FDA is including the following first aid antibiotic-anesthetic combinations in the final monograph: in § 333.120(b)(1) the combination of bacitracin and any single generally recognized as safe and effective amine or "caine"-type local anesthetic active ingredient and in § 333.120(b)(2) two combinations of bacitracin-neomycin sulfate-polymyxin B sulfate and any single generally recognized as safe and effective amine or "caine"-type local anesthetic active ingredient.

Until the agency makes a determination on which local anesthetic ingredients to include in the final external analgesic monograph, it will take no regulatory action against such products based solely on the combination of ingredients, provided that the combinations are marketed in accordance with this final monograph, contain a local anesthetic as proposed in § 348.10(a) of the tentative final monograph for OTC external analgesic drug products, and are consistent with an antibiotic monograph in 21 CFR Part 444 or Part 448. Products meeting these conditions may be marketed without a drug application.

At this time, because benzocaine is specifically identified as the local anesthetic in a combination that would otherwise have been included in this final monograph, i.e., neomycin sulfate ointment with benzocaine, the agency is likewise withholding action until the external analgesic monograph, which presently proposes to include benzocaine among specific ingredients, is finalized. In the interim, such a combination can continue to be marketed only under a drug application.

When the final monograph for OTC external analgesic drug products is issued, the agency will amend § 333.120(b) (1) and (2) to include the appropriate cross-reference to the local anesthetics included in that monograph. If benzocaine is included in that final monograph, the agency will also amend Part 333 to provide for the neomycin-benzocaine combination.

II. Agency-initiated Changes

1. In the **Federal Register** of April 17, 1985 (50 FR 15107) FDA announced that, under the agency's DESI program, several topical antibiotic drug products that previously were available by prescription had been reformulated, switched from prescription to OTC status, and labeled as first aid antibiotic drug products. These products are bacitracin zinc-polymyxin B sulfate topical powder (§ 448.513d), bacitracin zinc-polymyxin B sulfate topical aerosol (§ 448.513e), and neomycin sulfate-polymyxin B sulfate cream (§ 444.5421). In the **Federal Register** of October 2, 1986 (51 FR 35211), the agency amended the antibiotic drug regulations to provide for a new OTC dosage form of bacitracin-polymyxin B sulfate topical aerosol (§ 448.510f). Because these products are marketed OTC and contain only monograph ingredients, and because CFR antibiotic regulations have been established for these combinations, the agency is including them in this final monograph for OTC first aid antibiotic drug products. Labeling information for these combinations appears in § 333.160 of this final monograph.

One product, described in § 444.5421, was a reformulation of a cream product that originally contained neomycin sulfate, polymyxin B sulfate, and gramicidin. Gramicidin was not included in the reformulated product because of a lack of sufficient evidence to support its effectiveness, either alone or in combination (50 FR 15108). (See also comments 8 and 9 above.) Two products, a powder and an aerosol, described under § 448.513d and § 448.513e, originally contained neomycin sulfate, polymyxin B sulfate, and bacitracin zinc. Neomycin was removed from these products because of concerns about the safety of applying neomycin in aerosol solution or powder dosage forms over extensive burns or wounds (50 FR 15108). Because of these concerns, the agency has determined that neomycin-containing drug products for OTC use should be limited to ointment and cream topical dosage forms. Therefore, neomycin-containing powders and aerosols are not included in this final monograph for OTC first aid antibiotic drug products. In addition, FDA revoked the antibiotic regulation that allowed OTC labeling for a neomycin aerosol product, described in § 444.542d, because this drug product is no longer manufactured (49 FR 34350; August 30, 1984).

2. The agency notes that the labeling directions recommended by the Panel for all topical antibiotics in the advance notice of proposed rulemaking in § 342.50(c) was intended to limit the area of application, namely: "* * * apply a small amount (an amount equal to the surface area of the tip of a finger) directly to the affected area and cover with sterile gauze if desired. May be applied 1 to 3 times daily." (See 42 FR 17681.) In the tentative final monograph, the agency proposed simpler directions that did not limit the amount of product to be applied to an amount equal to the surface area of the tip of a finger (proposed § 333.150(d); 47 FR 29999).

Based on concerns about neomycin toxicity, as discussed below, and to better inform the consumer of the maximum size of an injury that would be suitable for self-treatment, the agency has reevaluated the directions and has decided to adopt directions for use of ointment and cream products based on the Panel's recommendations. These directions, which are set forth in § 333.150(d)(1), state "* * * Apply a small amount of this product (an amount equal to the surface area of the tip of a finger) on the area 1 to 3 times daily * * *."

3. Because powder products and aerosol products are applied in a different manner, the agency has added separate directions for using powders and aerosols in § 333.150(d) (2) and (3).

4. Neomycin sulfate was listed in Category III in the Panel's report because of safety concerns about the potential of this ingredient to cause sensitization or antibiotic-resistant staphylococci (42 FR 17666). Neomycin sulfate was reclassified as a Category I first aid antibiotic in the tentative final monograph. After reviewing the Panel's report and the comments, the agency concluded that the short-term use of neomycin in minor cuts and burns would not present a toxicologic risk. The agency concurred with the Panel's conclusion that no further toxicologic testing is needed for neomycin for OTC topical use (47 FR 29995).

The agency has further reviewed neomycin toxicity, including ototoxicity (having a deleterious effect upon the eighth nerve or upon the organs of hearing and balance), that may result from administration by any route when systemic absorption occurs, including application to extensive wounds or burns. In most reports of ototoxicity occurring after topical application of neomycin, "topical" has been interpreted in the broadest sense. For example, it has been interpreted to include irrigation of wounds with solutions of neomycin or intraperitoneal and intrapleural instillations and inhalations (Ref. 1). Moreover, the quantities applied have been comparable to those used in systemic therapy (Ref. 1).

There have been isolated reports of deafness resulting from local application of neomycin-containing preparations to treat extensive skin damage from burns or other causes (Refs. 2 through 7). In most of these reports, the neomycin was applied in aerosol preparations (Refs. 2 through 5). In all cases, treatment was for severe conditions, not for OTC uses commonly encountered (i.e., minor cuts, scrapes, and burns), and the amount of drug used was greater than that being proposed for OTC use.

The agency believes that application of neomycin in an ointment or cream topical dosage form to small areas of the body (minor cuts, scrapes, and burns) would not result in significant systemic absorption. Panzer and Epstein (Ref. 8) reported that single external exposure of normal human skin of the entire body of 6 adult male subjects, and portions of the body of 9 other subjects, to neomycin sulfate ointment for 6 hours

did not result in any percutaneous absorption of neomycin sulfate that could be detected by the usual bioassay methods. Bushby (Ref. 9) reported that Leyden found that no significant blood or urine levels of neomycin could be detected in 8 human subjects with at least 50 percent involvement of their body with psoriasis or atopic dermatitis who were treated twice daily for 7 days with 30 g of either a petrolatum ointment containing neomycin-polymyxin B-bacitracin zinc or a cream containing neomycin-polymyxin B-gramicidin.

Livingood (Ref. 10) found that systemic absorption through burns is more likely to reach measurable blood levels when neomycin sulfate in aqueous solution is applied locally as a compress than when neomycin sulfate ointment is topically applied. Livingood determined blood serum levels or neomycin in 16 patients after neomycin ointment and/or neomycin in aqueous solution had been applied to extensive denuded skin surfaces for at least 1 week. Evidence of systemic absorption of neomycin was found in only 2 of these patients, and in both patients neomycin compresses had been applied on a denuded surface that resulted from second and third degree burns and covered about 20 percent of the body.

The agency concludes that the labeling in this final monograph, i.e., warnings against prolonged use of first aid antibiotic drug products and against use on deep extensive wounds, is adequate for all the antibiotics included in the final monograph, including neomycin. However, the agency believes that it is prudent to specify the dose more fully. Accordingly, as discussed above, the agency has revised the directions in this final monograph to limit the size of the area to be treated by directing consumers to apply only an amount of the product equal to the surface of the tip of a finger. (See also part III. paragraph 7, below—SUMMARY OF SIGNIFICANT CHANGES FROM THE PROPOSED RULE.) The agency believes that the labeling (indications, warnings, and directions) required for OTC first aid antibiotic drug products is sufficient to provide adequate information for the safe OTC topical use of neomycin-containing and other first aid antibiotic drug products.

References

(1) Bushby, S.R.M., "Percutaneous Absorption and Systemic Toxicity," *in* "Over-the-Counter Topical Antibiotic Products: Data on Safety and Efficacy," V. Anderson, Editor, *International Journal of Dermatology*, Supplement, 15:68–78, 1976.

(2) Committee on Safety of Medicines (UK), "Warning on Aerosols containing Neomycin," *Lancet*, 1:1115, May 21, 1977.

(3) Little, P.J., and K.L. Lynn, "Neomycin Toxicity," Letter to Editor, *New Zealand Medical Journal*, 81:445, 1975.

(4) Bamford, M.F.M., and L.F. Jones, "Deafness and Biochemical Imbalance after Burns Treatment with Topical Antibiotics in Young Children," *Archives of Disease in Childhood*, 53:326–329, 1978.

(5) Graham, W.C.S., "Survival of a Severely Burned Child with Bilateral Sensory-neural Deafness from Topical Antibiotics," *Panminerva Medicine* (English edition), 11:44–46, 1969.

(6) Sugarbaker, P.H., L.D. Sabath, and A.P. Morgan, "Neomycin Toxicity from Porcine Skin Xenografts," *Annals of Surgery*, 179:183–185, 1974.

(7) Herd, J.K., et al., "Ototoxicity of Topical Neomycin Augmented by Dimethylsulfoxide," *Pediatrics*, 40:905–907, 1967.

(8) Panzer, J.D., and W.L. Epstein, "Percutaneous Absorption Following Topical Application of Neomycin," *Archives of Dermatology*, 102:536–539, 1970.

(9) Bushby, S.R.M., "Blood Concentrations Following topical Application," *in* "Over-the-Counter Topical Antibiotic Products: Data on Safety and Efficacy," V. Anderson, Editor, *International Journal of Dermatology*, Supplement, 15:79–82, 1976.

(10) Livingood, C.S., et al., "Pyogenic Infections Treated with Neomycin," *Journal of the American Medical Association*, 148:334–339, 1952.

III. Summary of Significant Changes From the Proposed Rule

1. OTC first aid antibiotic drug products that conform to this monograph are exempt from the requirements for approved applications or approved abbreviated applications or for antibiotic batch certification. (See comment 2 above.)

2. The agency is modifying the "scope" that was proposed in § 333.101 of the tentative final monograph. The scope in this final monograph does not include the phrase "the exemptions established in § 433.1, and the applicable sections of Subpart F of Parts 444, 446, and 448." (See comment 3 above.)

3. The agency has reviewed the labeling proposed in the tentative final monograph and has concluded that the indication proposed in § 333.150(b)(1), "First aid to help prevent infection in minor cuts, scrapes, and burns," and the other allowable indications proposed in § 333.150(b)(2) are very similar and should be combined to avoid duplicative words in the labeling. The section entitled "other allowable statements," proposed in § 333.150(b)(3), has not been included in the final monograph in accordance with the current exclusivity policy. (See comment 5 above.) The revised indication is as follows: "First aid to help" [select one of the following: "prevent," ("decrease" ("the risk of" or "the chance of")), ("reduce" ("the risk of" or "the chance of")), "guard against," or "protect against"] [select one of the following: "infection," "bacterial contamination," or "skin infection"] "in minor cuts, scrapes, and burns."

4. The agency has revised the format for listing antibiotic ingredients and combinations of those ingredients in the monograph to specify the particular antibiotic ingredients, the concentrations permitted for each of those ingredients, and the dosage forms currently identified in the specific monographs in the antibiotic regulations that apply to OTC Category I first aid antibiotics. First aid antibiotic drug products in this final monograph include only those products that have established testing methodology in 21 CFR Parts 444, 446, and 448. Consequently, the agency has modified the format of the final monograph from that proposed in the tentative final monograph, in which antibiotics were grouped and combined solely on the basis of antibacterial activity, without consideration of testing methodology. (See comments 3 and 10 above.)

5. The following combinations are being included in this final monograph: Bacitracin-polymyxin B sulfate topical aerosol, bacitracin zinc-polymyxin B sulfate topical aerosol, bacitracin zinc-polymyxin B sulfate topical powder, and neomycin sulfate-polymyxin B sulfate cream. (See part II, paragraph 1 above—AGENCY-INITIATED CHANGES.) Further, directions that are consistent with the labeling of currently marketed products are being provided for aerosol and powder dosage forms. Aerosol products will bear the following statements under the heading "Directions": "Clean the affected area. Spray a small amount of this product on the area one to three times daily. May be covered with a sterile bandage." Powder products will bear the following statements under the heading "Directions": "Clean the affected area. Apply a light dusting of the powder on the area one to three times daily. May be covered with a sterile bandage." Cream products will have the same directions as ointment products.

6. The agency is including in the final monograph several combinations of first aid antibiotics and local anesthetics. These specific combinations are currently provided for in the antibiotic regulations. (See comment 11 above.) These antibiotic-anesthetic drug products currently have first aid labeling claims such as "to help prevent infection and as an aid for the temporary relief of

discomfort in minor cuts, burns, and abrasions." In addition to the required indication contained in § 333.150(b), the agency is providing in this final monograph that products containing first aid antibiotic ingredients combined with a local anesthetic ingredient may contain an additional indication as follows: "First aid for the temporary relief of" (select one of the following: "pain," "discomfort," "pain or discomfort," or "pain and itching") "in minor cuts, scrapes, and burns." (See § 333.160(b)(2).) As discussed in comment 11 above, claims for OTC external analgesic drug products that refer to conditions other than minor wounds, particularly conditions likely to involve large areas of the body (e.g., sunburn), are nonmonograph for the antibiotic-anesthetic combination drug product.

7. The agency has revised the directions for using first aid antibiotic drug products to better inform the consumer of the maximum size of an injury that would be suitable for self-treatment: The directions for ointment and cream products read as follows: " * * * Apply a small amount of this product (an amount equal to the surface area of the tip of a finger) on the area 1 to 3 times daily * * *." (See Part II, paragraph 2, above—AGENCY-INITIATED CHANGES.) Because powder products and aerosol products are applied in a different manner, the directions instruct the consumer to "apply a light dusting of the powder" or to "spray a small amount of this product."

IV. The Agency's Final Conclusions on OTC First Aid Antibiotic Drug Products

Based on the available evidence, the agency is issuing a final monograph establishing conditions under which OTC first aid antibiotic drug products are generally recognized as safe and effective and not misbranded. Specifically, the following ingredients are included in this final rule for OTC first aid antibiotic use: Bacitracin, bacitracin zinc, chlortetracycline hydrochloride, neomycin sulfate, oxytetracycline hydrochloride (for use in combination only), polymyxin B sulfate (for use in combination only), and tetracycline hydrochloride. FDA has determined that the one other ingredient considered in this rulemaking, gramicidin, is a nonmonograph ingredient. Any drug marketed for use as an OTC first aid antibiotic that is not in conformance with the final monograph (21 CFR Part 333, Subpart B) will be considered a new drug within the meaning of section 210(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) and may not be marketed for this use unless it is the subject of an approved antibiotic application or abbreviated antibiotic application. Conversely, any drug marketed for use as an OTC first aid antibiotic that is in conformance with the final monograph does not need prior approval for marketing.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 29986). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC first aid antibiotic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, the requirement for a Regulatory Flexibility Analysis under the Regulatory Flexibility Act does not apply to this final rule for OTC first aid antibiotic drug products because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

As discussed in the **Federal Register** of July 9, 1982 (47 FR 29998), the agency is removing § 369.6 and portions of §§ 369.20 and 369.21 applicable to OTC first aid antibiotic drug products, because these portions of the regulations are superseded by the requirements of this final monograph (Part 333, Subpart B). The items being removed include the entry for "ANTIBIOTICS FOR EXTERNAL USE FOR PREVENTION OF INFECTION" under § 369.20 and the entries for "ANTIBIOTIC-CONTAINING DRUGS FOR EXTERNAL USE FOR PREVENTION OF INFECTION," "BACITRACIN-CONTAINING OINTMENTS," "BACITRACIN (ZINC BACITRACIN)-POLYMYXIN OINTMENT; BACITRACIN-POLYMYXIN-NEOMYCIN OINTMENT," and "OXYTETRACYCLINE AND POLYMYXIN B SULFATE" under § 369.21. Although other regulations concerning an OTC drug product are usually removed when an applicable final monograph is published, the agency is not removing the sections of the antibiotic regulations in Subpart F of Parts 444, 446, and 448 that apply to the tests and methods of assay for those first aid antibiotics that are contained in the final monograph. Instead, the final OTC drug monograph will cross-reference the tests and methods of assay contained in those parts of the regulations, in compliance with section 507(e) of the act (21 U.S.C. 357(e)). (See comment 3 above.)

List of Subjects

21 CFR Part 333

Labeling, Over-the-counter drugs, First aid antibiotic drug products.

21 CFR Part 369

OTC drugs, Warning and caution statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. Part 333 is added to read as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—[Reserved]

Subpart B—First Aid Antibiotic Drug Products

Sec.

333.101 Scope.
333.103 Definitions.
333.110 First aid antibiotic active ingredients.
333.120 Permitted combinations of active ingredients.
333.150 Labeling of first aid antibiotic drug products.
333.160 Labeling of permitted combinations of active ingredients.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

Subpart A—[Reserved]

Subpart B—First Aid Antibiotic Drug Products

§ 333.101 Scope.

(a) An over-the-counter first aid antibiotic drug product in a form

suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart and each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 333.103 Definitions.

As used in this subpart:

(a) *Antibiotic drug.* In accordance with section 507(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357(a)), "any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance)."

(b) *First aid antibiotic.* An antibiotic-containing drug product applied topically to the skin to help prevent infection in minor cuts, scrapes, and burns.

§ 333.110 First aid antibiotic active ingredients.

The product consists of any of the following active ingredients within the specified concentration established for each ingredient and in the specified dosage form:

(a) Bacitracin ointment containing, in each gram, 500 units of bacitracin in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 448.510a(b).

(b) Bacitracin zinc ointment containing, in each gram, 500 units of bacitracin zinc in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 448.513f(b).

(c) Chlortetracycline hydrochloride ointment containing, in each gram, 30 milligrams of chlortetracycline hydrochloride in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 446.510(b).

(d) Neomycin sulfate ointment containing, in each gram, 3.5 milligrams of neomycin in a suitable water soluble or oleaginous ointment base: *Provided,* that it meets the tests and methods of assay in § 444.542a(b).

(e) Tetracycline hydrochloride ointment containing, in each gram, 30 milligrams of tetracycline hydrochloride in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 446.581d(b).

§ 333.120 Permitted combinations of active ingredients.

The following combinations are permitted provided each active ingredient is present within the established concentration and in the specified dosage form, and the product is labeled in accordance with § 333.160.

(a) *Combinations of antibiotic active ingredients.* (1) Bacitracin-neomycin sulfate ointment containing, in each gram, 500 units of bacitracin and 3.5 milligrams of neomycin in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 448.510d(b).

(2) Bacitracin-neomycin sulfate-polymyxin B sulfate ointment containing, in each gram, in a suitable ointment base the following:

(i) 500 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B;

Provided, that it meets the tests and methods of assay in § 448.510e(b).

(3) Bacitracin-polymyxin B sulfate topical aerosol containing, in each gram, 500 units of bacitracin and 5,000 units of polymyxin B in a suitable vehicle, packaged in a pressurized container with suitable inert gases: *Provided,* that it meets the tests and methods of assay in § 448.510f(b).

(4) Bacitracin zinc-neomycin sulfate ointment containing, in each gram, 500 units of bacitracin and 3.5 milligrams of neomycin in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 448.513b(b).

(5) Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ointment containing, in each gram, in a suitable ointment base the following:

(i) 400 units of bacitracin, 3 milligrams of neomycin, and 8,000 units of polymyxin B; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, and 5,000 units of polymyxin B; or

(iii) 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B;

Provided, that it meets the tests and methods of assay in § 448.513c(b).

(6) Bacitracin zinc-polymyxin B sulfate ointment containing, in each gram, 500 units of bacitracin and 10,000 units of polymyxin B in a suitable ointment base: *Provided,* that it meets the tests and methods assay in § 448.513a(b).

(7) Bacitracin zinc-polymyxin B sulfate topical aerosol containing, in each 90-gram container, 10,000 units of bacitracin and 200,000 units of polymyxin B in a suitable vehicle, packaged in a pressurized container with suitable inert gases: *Provided,* that it meets the tests and methods of assay in § 448.513e(b).

(8) Bacitracin zinc-polymyxin B sulfate topical powder containing, in each gram, 500 units of bacitracin and 10,000 units of polymyxin B in a suitable base: *Provided,* that it meets the tests and methods of assay in § 448.513d(b).

(9) Neomycin sulfate-polymyxin B sulfate ointment containing, in each gram, 3.5 milligrams of neomycin and 5,000 units of polymyxin B in a suitable water miscible base: *Provided,* that it meets the tests and methods of assay in § 444.542e(b).

(10) Neomycin sulfate-polymyxin B sulfate cream containing, in each gram, 3.5 milligrams of neomycin and 10,000 units of polymyxin B in a suitable vehicle: *Provided,* that it meets the tests and methods assay in § 444.5421(b).

(11) Oxytetracycline hyrochloride-polymyxin B sulfate ointment containing, in each gram, 30 milligrams of oxytetracycline and 10,000 units of polymyxin B in a suitable ointment base: *Provided,* that it meets the tests and methods assay in § 446.567b(b).

(12) Oxytetracycline hydrochloride-polymyxin B sulfate topical powder containing, in each gram, 30 milligrams of oxytetracycline and 10,000 units of polymyxin B with a suitable filler: *Provided,* that it meets the tests and methods assay in § 446.567c(b).

(b) *Combinations of first aid antibiotic active ingredients and local anesthetic active ingredients.*

(1) Bacitracin ointment containing, in each gram, 500 units of bacitracin and any single generally recognized as safe and effective amine or "caine"-type local anesthetic active ingredient in a suitable ointment base: *Provided,* that it meets the tests and methods of assay in § 448.510a(b).

(2) Bacitracin-neomycin sulfate-polymyxin B sulfate ointment containing, in each gram, in a suitable ointment base the following:

(i) 500 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B, and any single generally recognized as safe and effective amine or "caine"-type local anesthetic active ingredient; or

(ii) 400 units of bacitracin, 3.5 milligrams of neomycin, 5,000 units of polymyxin B, and any single generally recognized as safe and effective amine or "caine"-type local anesthetic active ingredient.

Provided, that it meets the tests and methods of assay in § 448.510e(b).

§ 333.150 Labeling of first aid antibiotic drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "first aid antibiotic."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "First aid to help" [select one of the following: "prevent," ("decrease" ("the risk of" or "the chance of")), ("reduce" ("the risk of" or "the chance of")), "guard against," or "protect against"] [select one of the following: "infection," "bacterial contamination," or "skin infection"] "in minor cuts, scrapes, and burns." Other truthful and nonmisleading statements describing only the indications for use that have been established and listed in this paragraph (b), may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "For external use only. Do not use in the eyes or apply over large areas of the body. In case of deep or puncture wounds, animal bites, or serious burns, consult a doctor."

(2) "Stop use and consult a doctor if the condition persists or gets worse. Do not use longer than 1 week unless directed by doctor."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions": (1) *For ointment and cream products.* "Clean the affected area. Apply a small amount of this product (an amount equal to the surface area of the tip of a finger) on the area 1 to 3 times daily. May be covered with a sterile bandage."

(2) *For powder products.* "Clean the affected area. Apply a light dusting of the powder on the area 1 to 3 times daily. May be covered with a sterile bandage."

(3) *For aerosol products.* "Clean the affected area. Spray a small amount of this product on the area 1 to 3 times daily. May be covered with a sterile bandage."

(e) The word "doctor" may be substituted for the word "physician" in any of the labeling statements in this subpart.

§ 333.160 Labeling of permitted combinations of active ingredients.

Statements of identity, indications, warnings, and directions for use, respectively, applicable to each ingredient in the product may be combined to eliminate duplicative words or phrases so that the resulting information is clear and understandable.

(a) *Statement of identity.* For a combination drug product that has an established name, the labeling of the product states the established name of the combination drug product, followed by the statement of identity for each ingredient in the combination, as established in the statement of identity sections of the applicable OTC drug monographs. For a combination drug product that does not have an established name, the labeling of the product states the statement of identity for each ingredient in the combination, as established in the statement of identity sections of the applicable OTC drug monographs.

(b) *Indications.* The labeling of the product states, under the heading "Indications," the indication(s) for each ingredient in the combination, as established in the "Indications" sections of the applicable OTC drug monographs, unless otherwise stated in this paragraph. Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed in this paragraph (b), may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) *For permitted combinations identified in § 333.120(a).* The indications in § 333.150 should be used.

(2) *For permitted combinations identified in § 333.120(b).* In addition to the required indication identified in § 333.150, the labeling of the product may state, under the heading "Indications," the following additional indication: "First aid for the temporary relief of" (select one of the following: "pain," "discomfort," "pain or discomfort" or "pain and itching") "in minor cuts, scrapes, and burns."

(c) *Warnings.* The labeling of the product states, under the heading "Warnings," the warning(s) for each ingredient in the combination, as established in the warnings sections of the applicable OTC drug monographs.

(d) *Directions.* The labeling of the product states, under the heading "Directions," directions that conform to the directions established for each ingredient in the directions sections of the applicable OTC drug monographs. When the time intervals or age limitations for administrations of the individual ingredients differ, the directions for the combination product may not exceed any maximum dosage limits established for the individual ingredients in the applicable OTC drug monograph.

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

2. The authority citation for 21 CFR Part 369 is revised to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050–1052 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.10 and 5.11.

§ 369.6 [Removed]

3. By removing § 369.6, *Warnings required on certifiable antibiotic exempted from prescription-dispensing requirements.*

§ 369.20 [Amended]

4. In § 369.20 *Drugs; recommended warning and caution statements,* by removing the entry for "ANTIBIOTICS FOR EXTERNAL USE FOR PREVENTION OF INFECTION."

§ 369.21 [Amended]

5. In § 369.21 *Drugs; warning and caution statements required by regulations,* by removing the entries for "ANTIBOTIC-CONTAINING DRUGS FOR EXTERNAL USE FOR PREVENTION OF INFECTION," "BACITRACIN-CONTAINING OINTMENTS," "BACITRACIN (ZINC BACITRACIN)-POLYMYXIN OINTMENT; BACITRACIN-POLYMYXIN-NEOMYCIN OINTMENT," and "OXYTETRACYCLINE AND POLYMYXIN B SULFATE."

Dated: July 31, 1987.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 87–28422 Filed 12–10–87; 8:45 am]

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Friday
December 11, 1987

Part VII

Department of Transportation

Federal Highway Administration

49 CFR Part 383

Commercial Driver Testing and Licensing Standards; Notice of Proposed Rulemaking and Public Forums

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 383

[FHWA Docket No. MC-87-18]

Commercial Driver Testing and Licensing Standards

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking and public forums.

SUMMARY: The FHWA proposes to amend Part 383 of the Federal Motor Carrier Safety Regulations (FMCSRs) to establish minimum standards for State testing and licensing of commercial motor vehicle (CMV) drivers. This document contains alternative proposals for establishing standards which include commercial driver licensing and testing procedures to be used by the States; knowledge, skills, and abilities which drivers of different types of CMVs must possess; and the information to be contained on the commercial driver's license (CDL) issued by the States. The standards also would require that CMV drivers take and pass the appropriate knowledge and skills tests by April 1, 1992, in order to be qualified and licensed to operate a CMV. Under the Commercial Motor Vehicle Safety Act of 1986 (the Act), the standards must be established by July 15, 1988. The FHWA has proposed three alternative approaches for the States to meet the testing and licensing standards. The first alternative requires each State to submit to FHWA a plan for its testing and licensing program that demonstrates that the State is complying with the Act. In the second alternative, the FHWA has proposed specific testing and licensing standards which the State could use as the minimum standards. The first alternative would maximize flexibility to the States to meet the Act by describing State requirements in terms of general performance standards. The second alternative would reduce flexibility in return for a greater degree of national uniformity in commercial driver testing. The third alternative would allow each State a choice between either of the two main alternatives. The FHWA will hold several forums on these proposals to explain the alternatives and obtain comments on them from the public.

DATE: Comments must be received on or before February 9, 1988. Public forums will be held on the dates and places as follows:

Washington, DC—January 19, 1988. The forum will be held in the Federal Aviation Administration Auditorium, 800 Independence Avenue, SW., Washington, DC 20591; Atlanta, Georgia—January 21, 1988; St. Louis, Missouri—January 26, 1988; and Los Angeles, California—January 28, 1988.

All forums will be held 1:00 p.m.—5:00 p.m., local time and will be open to the public. Sites for the forums in Atlanta, St. Louis, and Los Angeles, will be announced locally and in the **Federal Register.**

Individuals who may be interested in participating at any of the forums should express their desire to do so in writing, at least 2 weeks in advance of the forum they will attend, to: Mr. Stanley Hamilton, Office of Motor Carriers, 400 Seventh Street, SW., Washington, DC 20590.

The forums will be chaired by a panel composed of representatives of the FHWA, States, and industry. Speakers are invited to make a short presentation, approximately 5 minutes, which will be followed by an opportunity for questions and comments from the panel. Written information and comments will also be accepted for inclusion in the docket at these forums and may be submitted (preferably in triplicate) to the FHWA representative at the forum.

Additional information on any of these forums is available from Mr. Stanley Hamilton, (202) 366–0665.

ADDRESS: All written comments must be signed and should refer to the docket number that appears at the top of this document and should be submitted (preferably in triplicate) to Room 4205, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Jill L. Hochman, Office of Motor Carrier Standards, (202) 366–4009, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366–1350, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Currently, only 32 States issue some form of a classified driver's license (i.e., a license which makes a distinction between types of vehicles the holder may operate). Of these, only 12 require State-conducted, behind-the-wheel testing of all applicants in a vehicle which represents the type which the driver operates or expects to operate. The other 20 States waive testing if the applicants meet certain conditions, such as certification of training and testing by their employer, and two States recognize training schools. The remaining 18 States and the District of Columbia do not require applicants to demonstrate their driving skills in the types of vehicles they drive or intend to drive. Drivers in these States who may be qualified to drive only a passenger car may also drive an 18-wheeler to a three-axle intercity bus.

The Congress enacted the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. L. 99–570) to address these problems. Section 12005 of the Act directs the issuance of minimum testing standards to ensure the fitness of drivers of CMVs. In general, the standards must include written and driving tests. The written tests must cover the driver's knowledge of Federal regulations related to the safe operation of CMVs contained in Title 49 of the FMCSRs (49 CFR Chapter III) and knowledge of the vehicle's safety systems. The skills tests must be taken in a vehicle representative of the type of vehicle that each person operates or expects to operate. Also, the standards must ensure that persons are qualified to operate a CMV according to regulations published in the FMCSRs, to the extent that these regulations are applicable to such persons. In addition, the standards must ensure that drivers of CMVs which contain hazardous materials are qualified to operate such vehicles and have a working knowledge of the hazardous materials regulations. Finally, minimum scores for passing the tests must be established.

Section 12006 requires establishment of minimum uniform standards for issuance of CDLs by States. At a minimum, each person to whom a CDL is issued must pass written and driving tests that meet the established standards. Also, CDL documents must contain certain information and be tamperproof.

Section 12009 delineates requirements with which States must comply in order to avoid having Federal-aid highway funds withheld. Some of these requirements are related to issuance of a CDL and must be addressed in the proposed driver licensing procedures. Generally, these requirements define the conditions which must be met for a State to issue a CDL, the information a State must provide to the Commercial Driver's License Information System (CDLIS) about its CDL holders, and the checks a State must make of each applicant's driving record before issuing the CDL.

Throughout implementation of the Act, the FHWA has solicited comment from the States, industry, and the general public. These cooperative efforts help to ensure the commercial driver's licensing program is effective and practical. The FHWA used information and recommendations from several sources in developing the alternative approaches in this proposed rule.

In August 1986, the FHWA published an advance notice of proposed rulemaking (ANPRM) at 51 FR 27567 on the feasibility, scope and practical implementation of a single and classified licensing system. The FHWA received 107 comments to Docket MC–125, Notice No. 86–9, by the November 5, 1986, closing date. Additional comments were received after that date and were also considered in developing this document.

The FHWA also received views and comments during two workshops. The first was funded by the FHWA and sponsored by the American Association of Motor Vehicle Administrators (AAMVA) and Highway Users Federation for Safety and Mobility (HUFSAM) on January 22 and 23, 1987, for State, industry, and driver groups. The second was funded and sponsored by the FHWA on July 14 and 15, 1987, for State, industry and driver groups with an interest in the clearinghouse and related licensing issues. In addition, the FHWA considered advice received from the National Motor Carrier Advisory Committee (NMCAC) which conducted two meetings, announced in the **Federal Register** (51 FR 45981 and 52 FR 2814) and open to the public, on January 12–13 and February 4, 1987. The transcripts or recommendations from the workshop and the NMCAC meetings have been included as part of Docket MC–125.

The final rule and request for comments on the Commercial Driver Licensing Standards; Requirements and Penalties published in the **Federal Register** on June 1, 1987, implements provisions of the Act required to be effective July 1, 1987. The FHWA requested comments on several issues in that publication. These comments were considered in developing this proposal. Comments received before and after that final rule are also included in Docket MC–125. Relevant comments and suggestions are addressed as appropriate, in the section discussions which follow.

The final rule issued on June 1, 1987, discussed several question areas, including the definition of a commercial motor vehicle and what types of vehicles should be subject to the requirements of Part 383. For example, this question area considered issues such as the minimum gross vehicle weight rating for which Part 383 would apply, as well as whether and to what degree the requirements should be extended to cover vehicles carrying hazardous materials that are not required to be placarded. Comments have been received on these issues and are being evaluated. The FHWA intends to issue a separate notice of proposed rulemaking to address these concerns.

This document sets forth three alternatives to the standards required by the Act for States to use to test and license CMV operators. Alternative 1 intends to grant maximum latitude and discretion to the States in establishing their CDL program. Alternative 2 is more detailed and specific regarding the design and operation of a State's CDL program. Alternative 3 would provide States a choice of submitting a State plan (Alternative 1) or comply with the detailed and specific regulation (Alternative 2).

The FHWA also seeks comments on the desirability of different levels of CDL program discretion in the final standards than those reflected in the three regulatory alternatives included in this document. Additional suggestions regarding the form and content of the final standards are encouraged. Public comment is also requested on any scientific research or accident data related to driving and testing programs.

Regardless of the regulatory approach finally chosen, it is intended that the issued standards be minimum standards. States would have full discretion to impose additional or more stringent requirements in their CDL program.

Alternative Approaches

The Act was passed because of the public attention and concern for improving safety on the Nation's highways. As a result of these concerns, the Congress reviewed truck safety practices and concluded that standards used by many States to test and license heavy truck and bus drivers are inadequate and nonuniform. To remedy these concerns and assure the public that all CMV operators possess at least the minimum knowledge and skills necessary to safely operate their vehicles, the Act directs the Secretary to develop minimum test and licensing standards which all States must meet.

In response to this mandate, the FHWA considered whether to propose very specific and detailed standards or more general standards that would give the States greater discretion in implementing the testing and licensing programs mandated by the Act. The FHWA has decided to propose two principal alternatives for consideration by the States and other interested parties, and a third alternative that would allow States to use either of the two main alternatives.

The FHWA did not have sufficient information to justify the rejection of either approach to writing minimum standards. Thus, two principal alternatives are included in this proposal for comment and consideration. Under Alternative 1, the States would have maximum flexibility to develop and implement a commercial motor vehicle driver licensing program which meets the requirements of the Act. Each State would be required to submit its plan to the FHWA explaining how its licensing program meets the requirements in the Act. The FHWA would then review each plan to determine whether it is likely to be effective in determining whether a person is qualified to operate a CMV.

Under Alternative 2, the FHWA would issue a relatively detailed level of standards, especially with regard to the content of basic tests, number and type of vehicle classifications, method of testing, and license document information. States would have to meet those specific testing and licensing standards in order to satisfy the requirements of the Act.

The FHWA requests comments on the desirability of each of the two main alternatives. The FHWA also seeks comment on a third alternative—whether the States should have a choice to meet the requirements of the Act using either of the two principal alternatives.

The FHWA believes that all three alternatives meet the requirement in the Act for the establishment of standards for the testing and licensing of CMV operators. The first and third alternatives emphasize the Administration's goal of encouraging the States to develop their own policies to achieve program objectives. They provide States with the maximum administrative discretion possible. To ensure that the mandate of the Act is met, the FHWA will review State plans under Alternative 1 or Alternative 3 if the State chooses to submit a plan. These approaches avoid overly intrusive Federal oversight, and at the same time establish the Federal role to ensure that the State programs meet the intent of the Act. A State program based on the standards presented in Alternative 2 (or if a State chooses to follow the detailed requirements option of Alternative 3) also would meet the requirements of the Act. Even under Alternatives 2 and 3, the States are not restricted to the

standards contained in Alternative 2; States may develop more comprehensive testing and licensing processes which achieve the goals and objectives of the Act. This provision also gives States flexibility in achieving their program objectives.

While maximum latitude and discretion for the States resides with Alternative 1, Alternative 2 would provide the States with some flexibility to improve upon or add to the proposed standards. The FHWA also invites public comment on modifications to Alternative 2 to accomplish the intent of the Act and provide the States with greater flexibility to implement the Act's goals for minimum and uniform testing and licensing procedures. Additional alternatives within the general framework of Alternative 2 could deal with parts of the proposed rule or could propose an entirely different method. For example, a commenter could reflect an alternative for Subpart H—Tests that would give a State complete flexibility on procedures to administer licensing tests. Or, a commenter could propose that standards for Subpart G—Required Driver Knowledge and Skills only contain the broad categories of knowledge and skills, and the details contained in the proposed rule would be provided as a guideline rather than as a mandatory requirement. A commenter could also propose that the testing and licensing standards deal with the initial licensing of a CMV driver and that States have complete flexibility on whether or not, or on what basis to test drivers who apply for license renewals, upgrades, or transfers from another State. These are meant to be examples of suggestions that commenters may wish to make; any other suggestions are also welcome.

Section 12011 of the Act requires that Federal-aid highway funds be withheld from States which do not substantially comply with any requirements of this rule, beginning in FY 1994. Thus, the level of detail contained in the proposed Alternative 2 may influence decisions on the adequacy of State programs. The FHWA requests comments from all States on this issue; those which currently have classified licensing and testing programs, as well as those which do not.

Alternative 3: Narrative Description

The FHWA also requests comment on a third alternative under which each State would decide whether to comply with all of Alternative 1 or all of Alternative 2. The FHWA would stipulate that each State must advise the FHWA on which Alternative it would comply with for testing and licensing persons to drive commercial motor vehicles.

Alternative 3 provides the States flexibility in deciding how to carry out its testing and licensing responsibilities while meeting the minimum Federal standards. Under Alternative 3, each State would have the prerogative to determine which regulatory alternative provides an appropriate framework for managing its activities in a way that best suits the States's own needs.

Commenters should address whether the FHWA should adopt Alternative 3 if the States and other docket commenters are divided in their preference for Alternative 1 or 2. Alternative 3 embodies an implicit trade-off between providing flexibility to the States and achieving uniformity in the licensing and testing of drivers of commercial motor vehicles. In light of these considerations, commenters should address whether they believe Alternative 3 is a desirable or superior alternative and explain why.

Paperwork

While developing the proposed testing and licensing standards, the FHWA recognized that the proposal could impose a major paperwork burden on States and drivers. The FHWA attempted, to the extent practical, to design the three alternatives to make them compatible with testing and licensing procedures now used by the States and to minimize the burden increase. The FHWA, however, believes that an increase in these burdens may be necessary to accomplish the goals and objectives of the Act. The FHWA invites comments on these alternatives, as well as other approaches commenters may suggest, which would reduce the burden without compromising safety. The FHWA is particularly interested in ways to simplify the procedures, minimize the potential expense of licensing CMV drivers, and allow States sufficient latitude to be innovative in the testing of CMV drivers.

The rest of this supplementary section contains a summary of the requirements of the Act addressed by this proposal and a section-by-section analysis of the two alternative approaches.

Section-by-Section Analysis

Two Section-by-Section analyses are included in this proposed notice: Alternative 1 and Alternative 2. Regulatory language for each alternative follows the Section-by-Section analysis.

Alternative 1: Section-by-Section Analysis

Subpart B—License Requirements

This subpart sets forth general requirements that drivers be tested and licensed in accordance with the Act. This proposed subpart is the same in both Alternatives 1 and 2. A full discussion of these general requirements is contained in the Section-by-Section analysis accompanying Alternative 2 below.

Subpart E—State Testing and Licensing Plans

Section 383.71 Formulation of testing and licensing plan.

The FHWA recognizes that the States and their licensing agencies have the capability to develop and implement programs to ensure the fitness of CMV operators consistent with the goals of the Act. Many States are already developing programs which may already comply with the Act and effectively establish that CMV operators have the skills and knowledge necessary to safely operate such vehicles.

Since the Act directs the FHWA to establish minimum standards to ensure the commercial motor vehicles are qualified, the FHWA would require States to develop commercial driver's license plans that meet the Act's objectives.

Each State would be required to submit to the FHWA a plan for its testing and licensing programs. The State's programs would have to meet the driver licensing and testing requirements of sections 12005(a)(1) through 12005(a)(8) of the Act, the licensing requirements of section 12006 of the Act, and the requirements of section 12009.

State plans would show how commercial motor vehicle operators would be required to take and pass written and driving tests and to take their driving tests in a vehicle that is representative of the class or type which they operate. Written tests would need to be designed to test the drivers' knowledge of safe vehicle operations, vehicle safety systems, safe operating procedures for various traffic and weather conditions and relation of cargo to vehicle control at a working level. The written tests must also be designed so that they ensure that drivers of commercial motor vehicles carrying hazardous materials have the appropriate working knowledge of regulations, handling procedures, emergency equipment and response

procedures for hazardous materials transportation.

Section 12005(a)(7) of the Act states that regulations for testing of CMV operators shall ensure that each person taking such test is qualified to operate commercial motor vehicles under regulations issued by the Secretary and contained in Title 49 of the CFR, "to the extent such regulations are applicable to such person." These requirements, found in Part 391 of the FMCSRs, apply to drivers of motor vehicles engaged in interstate commerce. In response to section 12005(a)(7), the proposed rule would require that States demonstrate in their plans the means to ensure that applicants meet the applicable Federal driver qualification requirements if the applicant operates or expects to operate in interstate commerce. States would continue to have the responsibility to establish intrastate driver qualification standards and to determine the applicant's compliance with these standards.

Enforcement of driver compliance with the driver qualifications requirements would continue under current practice of roadside inspections, carrier audits, and other State and Federal enforcement avenues. The driver license agencies would also play a related enforcement role by obtaining required certifications, maintaining commercial driver records, completing required checks of these records, and making appropriate notifications to the CDLIS. States would also have the option to have their driver license agencies assume greater review of driver medical and other qualifications during the licensing process.

Section 383.21 currently requires that persons who operate CMVs shall have only one driver's license. Also, section 12009 of the Act requires that a State not issue a CDL to an individual whose license is suspended, revoked, or canceled or who is disqualified from operating a CMV. To ensure these requirements are met by drivers applying for a CDL, the FHWA proposes that States would include in their plans methods to check and consider information in the CDLIS and the National Drivers Register (NDR) about such drivers before issuing a CDL to determine if the driver is licensed elsewhere and to provide information to the CDLIS as required by the Act.

Section 383.73 Approval of Plan.

States would be required to submit their commercial driver's license program plans to the FHWA no later than July 15, 1989, and within 30 days following any significant change in such plan The FHWA would approve State plans, provided the FHWA determines that these plans are likely to result in an effective program that ensures that only qualified driver applicants are licensed.

The proposed rule also encourages, but does not require, States to periodically review and evaluate their programs. In addition, the FHWA would be able to withdraw its approval in cases where the FHWA determines that the State program is no longer effective, after the State has an opportunity for comment.

Section 383. 75 Third party testing.

Section 12005(c)(3) of the Act allows for third parties to administer driving tests. The FHWA proposes that States may use a third party to administer driving skills tests. According to the Act, a third party may be a person (including a department, agency, or instrumentality of a local government). The FHWA proposal would allow a broad interpretation of this provision to include another State or public or private organizations with which the State has an agreement.

The State would submit to the FHWA its agreements for having a third party administer tests along with its commercial driver's license plans. When the FHWA approves the State's commercial driver's license plan, the third party testing agreements would also be approved.

Section 383.77 Substitute for driving skills test.

This section provides an option to the State to grandfather certain current CMV operators from the driving test. The FHWA proposes the same procedure for Alternatives 1 and 2. A full discussion of the substitute test procedure is contained in § 383.77 of the Alternative 2 Section-by-Section Analysis.

Subpart F—Motor Vehicle Groups and Endorsements

As part of its commercial driver's license program plans, each State would require driver applicants to demonstrate knowledge and driving skills for the category of vehicle for which the applicant requests a license. The FHWA proposes the same vehicle groups and endorsements for Alternatives 1 and 2. A full discussion of the vehicle groups and endorsements is contained in the Alternative 2 Section-By-Section Analysis.

Subpart G—Required Knowledge and Skills

This subpart would require that for a person to be issued a CDL, he/she must be familiar with the FMCSRs and any safety system of the vehicle he/she intends to drive. This subpart also would require all operators of vehicles carrying hazardous materials to have a working knowledge of the hazardous materials regulations issued by the Department. These drivers would also be required to know how to handle hazardous materials, operate emergency equipment, and follow appropriate emergency response procedures. The FHWA requests public comment on whether the hazardous materials knowledge requirements should apply only to drivers of commercial motor vehicles which are placarded.

Subpart H—Tests

This subpart would establish the minimum passing scores for the various tests which States would administer. The minimum passing scores would be the same in both Alternatives 1 or 2. The Subpart H section in the Alternative 2 Section-by-Section Analysis contains a full discussion on minimum scores.

Subpart I—[Reserved]

Subpart J—Commercial Driver's License Document

This subpart includes the standards for CDL documents. The FHWA proposes the same document requirements for Alternatives 1 and 2. Subpart J in the Alternative 2 Section-by-Section includes a full discussion on the document to be issued.

Alternative 2: Section-by-Section Analysis

This section-by-section analysis includes a discussion of each Subpart in Part 383 which is modified by this proposal. Subpart B is modified to require that CMV drivers be tested and licensed in accordance with the Act. Subparts E through J are proposed sections pertaining to testing and licensing procedures, vehicle categories, required knowledge and skills, test giving, and the license document. Subpart I is reserved for the future specifications of the CDLIS. Each of these subparts, beginning with the changes to Subpart B, is discussed below:

Subpart B—License Requirements

Section 383.23 Commercial driver's license.

According to the requirements which became effective on July 1, 1987, drivers of CMVs can have only a single license. This section proposes additional requirements for persons who operate CMVs. After April 1, 1992, all operators of CMVs shall take and pass written

and driving tests that meet the minimum standards promulgated by FHWA. Operators of CMVs with special handling characteristics such as a double trailer combination, or a vehicle required to be placarded for hazardous materials, would also be required to take and pass additional tests to obtain an endorsement to the CDL authorizing him/her to operate such a vehicle. This proposal would also require CMV drivers to posses a CDL while operating a CMV. The CDL would be issued by States only to drivers who pass both the written and driving tests.

To allow novice drivers to obtain the necessary training in a CMV, the FHWA would allow States, if they so choose, to issue limited learner's permits. The issuance of a learner's permit would not be a precondition to issuing a CDL. However, States may choose to make learner's permits available for limited time periods to first-time applicants for use in behind-the-wheel training on public roads or highways and/or taking the required skills tests in traffic. States which issue learner's permits for CMV drivers would do so as a continuation of their existing learner's permit programs and may also require applicants to pass test(s) prior to issuance of the learner's permit for the specific vehicle groups or endorsement desired. Conditions for issuance of a learner's permit and circumstances under which such permits may be used would be determined by the State of issuance.

Subpart E—Testing and Licensing Procedures

This section contains the testing and licensing procedures for CDLs. The proposed tests would be for each vehicle group in which the applicant operates or wishes to operate, and would be at least cover the knowledge and skills described in Subpart G. Knowledge tests could be given in written, oral, and/or automated format. Skills tests would have to be given in a vehicle that is representative of the group of vehicle which the applicant operates or expects to operate.

Verification of Driver Qualifications. Section 12005(a)(7) of the Act states that regulations for testing of CMV operators shall ensure that each person taking such tests is qualified to operate commercial motor vehicles under regulations issued by the Secretary and contained in Title 49 of the CFR, "to the extent such regulations are applicable to such person." These requirements, found in Part 391 to the FMCSRs, apply to drivers of motor vehicles engaged in the interstate commerce. In response to section 12005(a)(7), the proposed rule would require that States include in the commercial driver license application process, a means for applicants to certify that they meet the applicable Federal driver qualification requirements if the applicant operates or expects to operate in interstate commerce. States would continue to have the responsibility to establish intrastate driver qualification standards and to determine the applicant's compliance with these standards.

Enforcement of driver compliance with the driver qualifications requirements would continue under current practice of roadside inspections, carrier audits, and other State and Federal enforcement avenues. The driver license agencies would also play a related enforcement role by obtaining required certifications, maintaining commercial driver records, completing required checks of these records, and making appropriate notifications to the CDLIS. States would also have the option to have their driver license agencies assume greater review of driver medical and other qualifications during the licensing process.

Section 383.71 Driver application procedures.

In general, a CMV operator would obtain his/her license in the State in which he/she is domiciled. The FHWA proposes that every CDL applicant complete the following process to obtain his/her CDL for the first time (other than renewals or transfers):

(a) An applicant subject to 49 CFR Part 391 would certify that he/she meets the driver qualification requirements of Part 391 as a condition to taking the tests;

(b) Pass a knowledge test to demonstrate that he/she is familiar with the regulations designed to ensure the public safety and with the skills needed to safely operate the type of vehicle that he/she operates or expects to operate;

(c) Certify that the vehicle in which he/she will take the driving skills tests is representative of the type of vehicle he/she operates or expects to operate;

(d) Pass the necessary driving skills tests; and

(e) Provide all information required by the standard.

If he/she satisfies all of the requirements described above, surrenders his/her existing noncommercial license and is not disqualified according to Subpart D, then the State may issue the applicant a CDL.

The FHWA proposes that any driver who applies for a renewal of his/her CDL would make the certification of driver qualification, and provide an update of required information. In addition, holders of the hazardous materials endorsement (§ 383.123) would be further tested and must pass the hazardous materials test to retain that endorsement. The hazardous materials endorsement retest would help keep drivers of such vehicles current on changes in the hazardous materials regulations and safety related procedures.

For those commercial drivers who wish to drive a vehicle in a different vehicle group, the FHWA proposes that the driver would make the certification of driver qualification, certify that the vehicle in which he/she takes the driving skills tests is representative of the type of vehicle he/she operates or expects to operate, and pass the tests related to the upgraded vehicle group or endorsement.

Any driver who moves (i.e., changes his/her domicile) from another State or jurisdiction would be required to apply for a new CDL within 30 days of moving and to surrender his/her current CDL as a condition of receiving a new CDL. Such a driver would make the certification of driver qualification and provide any new or updated information. The new State may require that the driver be retested.

Section 383.73 State procedures.

This section outlines the procedures which a State would follow, as a minimum, for the issuance of a CDL which meets the requirements of the Act.

Driver Manual—The FHWA proposes that States would make available to all CDL applicants information on the licensing procedures, qualifications, and tests required by the State and the knowledge and skills each driver applicant must possess. The knowledge and skill requirements are described in Subpart G.

Initial CDL—Prior to the first-time issuance of a CDL to a person, the State would:

(a) Adopt a program for testing and ensuring the fitness of persons to operate CMVs in accordance with the standards;

(b) Ensure that persons choosing to operate in interstate commerce and subject to Part 391 of the FMCSRs make the appropriate certifications regarding their qualifications prior to being issued a CDL;

(c) Issue CDLs only to persons who pass written and driving tests for the operation of a CMV which comply with these standards;

(d) Issue CDLs which contain information and other specifications included in the standard;

(e) For persons moving from another State or jurisdiction, request and consider the applicant's driving record from the prior State of issuance before issuing an initial CDL and require the applicant to surrender his/her noncommercial license;

(f) Not issue a CDL to a person who is disqualified from operating a CMV, or whose driver's license is suspended, revoked, or canceled;

(g) Issue CDLs only to persons domiciled in the State; except persons domiciled in a foreign jurisdiction that does not test and issue licenses meeting the standards may be issued a commercial driver certificate;

(h) Notify the CDLIS of the issuance of a CDL and provide the CDLIS with information on that driver. (The required information will be discussed in a separate rulemaking or other action on the CDLIS.)

The FHWA expects most or all States to develop a licensing program consistent with the Act's requirements. However, if the Administrator determines that a State will not adopt and implement a program to test and license CMV drivers according to standards included in this part by April 1, 1992, FHWA proposes to allow drivers from such States to obtain a commercial driver's certification (CDC) from a State which does conform to the testing standards. The FHWA believes that issuance of a CDC rather than a CDL from another State is the best way to ensure that these drivers do not violate the single license-single record requirement.

Drivers from nonconforming States would be prohibited from obtaining a CDC until October 1, 1991. This period (October 1, 1991, to April 1, 1992) will allow drivers sufficient time to go to another State to apply for a CDC and be tested. The CDCs would be issued according to the standards described in § 383.73 and would be considered a valid CDL only when used in conjunction with the driver's State-issued license.

Multiple License and Driver's Record Check—Section 383.21 currently requires that persons who operate CMVs shall have only one driver's license. Also, section 12009 of the Act requires that a State not issue a CDL to an individual whose license is suspended, revoked, or canceled or who is disqualified from operating a CMV. To ensure these requirements are met by drivers applying for a CDL, the FHWA proposes that States check and consider information in the CDLIS and the National Drivers Register (NDR) about such drivers before issuing a CDL to determine if the driver is licensed elsewhere.

Prior to April 1, 1992, a check of only the CDLIS and the NDR may not yield complete information about the driver because he/she does not yet have a CDL and would not be reflected in the CDLIS. To eliminate this problem, the FHWA proposes that States check with all other States to determine if the driver is licensed elsewhere. By April 1, 1992, all operators of CMVs must be tested and licensed based on the Federal standards. Once licensed, information on all CMV drivers will be contained in the CDLIS and the State can check solely with the CDLIS and the NDR for the license status of the applicant.

Before April 1, 1992, the FHWA proposes that States have the option to perform the check either prior to issuing a CDL or to verify the information for each driver applicant within 60 days after issuing a CDL. This proposal would allow States to complete the necessary checks before the time when the CDLIS is operational. The check may occur by any means, including mail or electronic checks.

During the period before April 1, 1992, a State may determine that a driver to whom it has issued a CDL has a valid license from another State or has a suspended, revoked or canceled license, or has been convicted of or charged with a disqualifying offense from another State. In this case, the State that issued the CDL would suspend or revoke the driver's CDL within 30 days. However, the FHWA believes that after April 1, 1992, and when the CDLIS is fully operational, this provision would no longer be necessary because the States would determine the driver's status before issuing the CDL.

Although the States would not be required by this rule to check the NDR until it is determined to be operational by the National Highway Traffic Safety Administrator, it is recognized that the States are exploring the development of systems which would enable them to access both CDLIS and the NDR prior to that time. Because States are authorized to access the NDR under separate legislation, efforts in this regard are encouraged.

Transfers—The FHWA proposal includes requirements for a person who has a CDL and then changes his/her State of domicile and applies for a CDL from his/her new State. For these cases, the State would have the option to accept the credentials of that driver or to require that the driver be further tested according to its own testing and licensing procedures. At a minimum, the new State of domicile would be required to obtain the certification of driver qualification, information updates and complete the driver record checks that would be required for issuance of an initial CDL. The State would also be required to retest those drivers who wish to retain his/her hazardous materials endorsement. The FHWA believes this proposal would ensure that such drivers continue to be knowledgeable about the safe operations and requirements related to hazardous materials.

Renewals—Under the proposal, State procedures for renewing a CDL would include the certification of driver qualification, updates of information that would be required to be included on the CDL and completion of a check of the driver's record. As mentioned in the earlier section, a driver who desires to retain his/her hazardous materials endorsement would be required to successfully complete the test being given by the State for the hazardous materials endorsement to ensure he/she continues to be knowledgeable about hazardous materials regulations and safety procedures.

Upgrades—The FHWA proposes that the State follow a combination of procedures whenever a driver changes the vehicle group in which he/she is currently licensed to operate. The driver applicant would have to provide the certification of driver qualification and information specified under the renewal section, and would be tested for the different portion(s) of the CDL as if he/she were making an initial application.

License Issuance and Notification—This paragraph in the proposed rule specifies that if the driver applicant has successfully met the requirements for a CDL, he/she can be issued a CDL or CDC. Once the document is issued, the State would inform the CDLIS and provide it with the appropriate information.

Certification of Fitness. Section 12005(a)(8) of the Act allows the Secretary to consider a requirement that States issue certificates of fitness to operate a CWV to each person who passes the required tests. Such a requirement would accommodate drivers whose States do not participate in the commercial driver licensing program and drivers from contiguous foreign countries whose licensing standards do not meet the Federal standards and would ensure that such drivers do not violate the single license requirement. The FHWA proposes that States issue CDCs only to such drivers. Drivers from a State which does not comply would be able to obtain a CDC only after October 1, 1991. Foreign drivers would be able to obtain a CDC

after FHWA determines that their countries or political subdivisions do not test and license consistent with the standard.

A CDC would not be valid as a stand alone document. The CDC would be issued under the same requirements as a CDL and would only be valid in combination with a valid license issued by the drivers' State of domicile or country of residence. The CDC would only be issued after the driver takes and passes tests which meet the Federal standard.

Drivers with these certificates would continue to notify their State of licensure or country of domicile of any violation as described in § 383.31 and of any suspensions, revocations, and cancellations as specified in § 383.33. In addition to notifying the State of licensure, the FHWA proposes that drivers with these certificates would notify the State which issued the CDC of any violation or license suspension, cancellation, or revocations as described in §§ 383.31 and 383.33. This action would ensure that each CMV operator has a driver's record consistent with the goals of the Act in both States. Also, it would ensure that appropriate information about the driver is included in the CDLIS and would ensure that these records can be appropriately monitored by States

CDL Revocation—This paragraph proposes minimum revocation requirements for persons who falsify the information or certification required to be provided by CDL applicants. If a State determines that a person falsified the information, the State would revoke the license within 30 days.

Reciprocity—Section 12009(a)(14) of the Act requires that States allow any person who has a valid CDL and who is not disqualified from operating a CMV, to operate a CMV in the State. The FHWA proposes to include this requirement in § 383.73 as a condition for States to issue a CDL which meets the standards.

Section 383.75 Third party testing.

Section 12005(c)(3) of the Act allows for third parties to administer driving tests. The FHWA proposes that States may use a third party to administer driving skills tests. According to the Act, a third party may be a person (including a department, agency, or instrumentality of a local government). The FHWA proposal would allow a broad interpretation of this provision to include another State or public or private organizations with which the State has an agreement. Because of concerns that third party testers may compromise standards adopted by the States, agreements between States and third parties would need to include the provisions required by the Act as well as additional provisions that would establish mechanisms to ensure that people who pass the tests given by third parties would have passed tests had they taken them from the State. Under the FHWA proposal, third parties may give driving tests if the following conditions are met:

(a) Tests given by the third party are the same as those which the State would give;

(b) The State's agreement with the testing party allows the FHWA or its representative and the State to conduct random examinations, inspections, and audits without prior notice;

(c) The State agrees to conduct on-site inspections at least annually;

(d) All third party examiners meet the same qualification and training standards as State examiners; and

(e) State employees periodically "check-ride" with examiners on actual tests, or States periodically test a sample of drivers who were examined by third parties to compare pass/fail results.

Section 383.77 Substitute for driving skills test.

The FHWA recognizes that CMV drivers are professionals who are, as a group, highly experienced in the skills needed to operate such vehicles. In response to the overwhelming number of comments from the States and the motor carrier industry in this regard, the FHWA proposal provides States an option to allow certain drivers to substitute a good driving record and experience for the driving skills test. States would be able to exercise this option only for the basic skills tests. The provision would not be used for the knowledge tests or the tests related to the proposed endorsements, except for the driving skills test required for the air brake endorsement. The option would apply to drivers of commercial motor vehicles who were licensed before July 15, 1988, and who either (1) have a good driving record and have previously passed an acceptable skills test or (2) have a good driving record in combination with certain driving experience. The FHWA believes that for many current drivers, their experience is an appropriate indication that the individual has the minimum driving skills to operate a commercial motor vehicle. Accordingly, the FHWA believes that this provision would not diminish public safety or overall safe operation of commercial vehicles.

A State which chooses to exercise this option would have to adopt criteria to eliminate certain applicants from consideration under this provision. As a minimum, an applicant must be licensed before July 15, 1988, and must:

(1) Certify that he/she has not committed certain offenses; and

(2) Certify that he/she has previously passed an acceptable skills test or has certain experience driving a commercial motor vehicle.

The FHWA looked at the practices used by several States to determine whether applicants who are transferring their licenses from another State need to take driving tests. Based on these current practices, the FHWA proposes that an applicant would first have to certify that he/she has not violated the single license or disqualification provisions in Part 383. In addition, an applicant could not have a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident or a record of an accident where he/she was at fault, during the 2 years immediately preceding application for a CDL. Second, the applicant would have passed an acceptable skills test—i.e., one which was given by a State with a classified licensing and testing system, and which was taken by the driver behind-the-wheel in a vehicle representative of the type or classification which the applicant operates or expects to operate. In lieu of an acceptable skills test, the applicant may qualify for an exception to the driving skills test that is based on prior experience. In this case, an applicant would be required to have 2 years experience of driving a vehicle that is representative of the type or class of vehicle for which he/she wishes to obtain a CDL. A State would need to ensure that the applicant has this experience through mechanisms such as requiring the employer to provide certification.

Question Area: Licensing Procedures

Comments are specifically requested on:

(1) What proof of domicile, if any, school an applicant be required to provide to the State for initial licensing renewals, upgrades, and transfers? Should applicants be required to provide a specific mailing address rather than a post office box?

(2) The FHWA has proposed that States continue their existing learner's permit programs for CMV drivers. Should there be any Federal standard for learner's permits? What time period, if any, should be included if such a standard were adopted?

(3) When the CDLIS is operational, the statute provides a maximum period of 60 days for States to check the driver's record any up to a 30-day period for States to notify the CDLIS of the issuance of a CDL or CDC. This may be excessive. Should the FHWA shorten these time periods? If so, what would be the appropriate future maximum time periods for the record check and for the notification?

(4) Is it appropriate for the testing and licensing standards to require a CDL holder to retake the complete set of tests, after he/she has had his/her CDL for a certain period of time? For example, should the complete set of tests be required 1 year prior to renewal or 10 years after the applicant first receives a CDL? What timeframes would be appropriate for these cases?

(5) What additional conditions and standards should be contained in the standards for the State agreements for third party testers to limit potential for abuse and conflicts of interest? Would it be appropriate to strengthen or eliminate requirements for such provisions? Should the third party be required to provide evidence to the State when an applicant successfully passes a test?

(6) Should the States be given the option of accepting another State's hazardous materials endorsement instead of retesting the driver when he/she transfer his/her CDL from another State? Also, is it appropriate to require periodic retesting for any driver to retain his/her hazardous materials endorsement as the FHWA has proposed? If so, what timeframe should be required?

(7) The FHWA's proposal requires drivers from States which do not comply with the standard to obtain a CDC. An alternative would be to require such drivers to get a CDL from a State of their choice. In this case, the FHWA's standard could preempt any State residency laws which require individuals who reside in the State to be licensed in that State. What would be the benefits and costs of this alternative as it compares to the FHWA proposal? How could the related legal problems with respect to preemption of State laws be resolved?

(8) In addition to notifying their State of licensure, drivers who obtain a CDC according to the proposal would also need to notify the State which issued the CDC of any violation or license cancellation, revocation, or suspension. These notifications would help ensure that the driver's CDC is invalidated by the State which issued it when and if the driver is disqualified. What methods can be used to ensure that these drivers are notifying both States of the proper information? Are there ways, such as requiring these drivers to get a CDL as suggested in Question 7 above, which can reduce the potential complexity of enforcing these requirements? If so, what are they and how would they be enforced?

Subpart F—Vehicle Groups, Representative Vehicles, and Endorsements.

In accordance with section 12005 of the Act, any applicant for a CDL must demonstrate driving skills in a vehicle which is representative of the type of vehicle such person operates or expects to operate. Four broad vehicle groups are proposed by FHWA to help define the types of vehicles which would be considered acceptable representative vehicles. These groups reflect different vehicle handling characteristics under different traffic conditions and situations. Thus, separate skills and in some cases, knowledge tests are required for each group. These tests are described in Subpart G.

Section 383.91 Vehicle groups.

The four vehicle groups proposed by FHWA are:

"Combination Vehicle"—any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more provided the vehicle or trailer being pulled is at least 10,001 pounds Gross Vehicle Weight Rating (GVWR). Drivers who successfully complete the test requirements for this group may also operate vehicles in the Heavy Straight Truck and Small Vehicle groups without passing additional tests.

"Bus"—any vehicle designed to carry more than 15 passengers, including the driver. Drivers who successfully complete the test requirements for this group may also operate vehicles in the Small Vehicle group without further tests (except for any endorsements required). (An alternative approach to defining the bus vehicle group is discussed at length under the question areas included later in the Preamble for this section of the proposed rule.)

"Heavy Straight Truck"—any vehicle with a Gross Vehicle Weight Rating of 26,001 pounds or more, or any combination of vehicles with a GCWR of 26,001 pounds or more provided the trailer or vehicle being pulled is not greater than 10,000 pounds GVWR. Drivers who successfully complete the test requirements for this group may also operate vehicles in the Small Vehicle group without further tests.

"Small Vehicle"—any vehicle with a GVWR or GCWR of under 26,001 pounds. This group is proposed in order to ensure that operators of vehicles within these weight limits that are required to be placarded for hazardous materials are qualified and have the basic knowledge and skills needed to safely operate such vehicles. (Drivers of vehicles which carry hazardous materials would also be required to obtain a separate endorsement.) Also, individual State licensing requirements for vehicles in these weight limits which would not otherwise be subject to Part 383 could be covered by this proposed group.

Section 383.93 Endorsements.

The FHWA is proposing endorsements to the CDL designed to ensure that the operators of CMVs with specialized handling characteristics possess specialized knowledge and skills related to those vehicles. Drivers of such equipment must demonstrate these knowledge and skills, in addition to the knowledge and skills required for the basic vehicle group. Endorsements are proposed for: (1) Air brakes for any vehicle so equipped which would not be included in the Combination Vehicle Group, (2) double/triple trailers, (3) articulated buses, (4) cargo tanks, and (5) vehicles that carry hazardous materials in quantities sufficient to be placarded. For the air brake and cargo tank endorsements, the driver must pass knowledge and skills tests. For the other endorsements, the driver will be required to pass a knowledge test.

Vehicle Groups—Responses received by FHWA to Docket MC–125 supported classification of vehicles according to weight and number of articulation points. The AAMVA, the American Automobile Association (AAA), the American Trucking Association (ATA), the HUFSAM, and the NMCAC suggested specific vehicle classifications to FHWA. The vehicle groups included in this proposal generally follow the recommendations by AAMVA, ATA, and HUFSAM. The exception is the separate group for buses which follows the NMCAC recommendation. Because of the critical passenger safety-related factors associated with the transportation of passengers, a separate test for buses is proposed. The AAA recommended a separate vehicle class for tandem tractor-trailers; the proposed endorsements recognized the additional operational consideration of these types of vehicles.

Endorsements—Accident analyses indicate that the driver's actions and reactions are the principal causal factors in the majority of accidents involving motor carriers. The operation of certain

heavy trucks and buses also requires specific skills and knowledge unique to their configuration, and loading and handling characteristics. Of particular concern are vehicles that have increased articulation points, vehicles which carry cargoes that change the handling and operating characteristics of the vehicle, or vehicles which require unique knowledge to operator safely. Therefore, FHWA proposes that operators of such vehicles have knowledge about the safe operation of these vehicles in addition to the knowledge related to the vehicle groups.

The FHWA's data on accidents related to equipment failure consistently show brake defects as the most frequently reported cause of accidents related to mechanical defects. Thus, the FHWA would include knowledge and skills related to air brakes as part of the basic requirements for the Combination Vehicle Group since the majority of vehicles in this group are so equipped. Safe operation of other CMVs that may be equipped with air brakes requires such drivers to have additional knowledge and skills and the FHWA's proposed standard would require operators of such other CMVs to have an air brake endorsement.

According to data in the National Highway Traffic Safety Administration's (NHTSA's) Fatal Accident Reporting System,[1] the number of multitrailer combination vehicles involved in fatal accidents as a percent of the number of all fatal accidents involving all combination vehicles increased from 4.1 percent in 1975 to 4.8 percent in 1985. While this increase may not be significant, the relative incidence of accidents involving operation of doubles or triples compared to tractor-semitrailer operation continue to be subject to much debate and study. The results of these debates and research efforts yield no conclusive results; except that it is clear that there are differences in the operation of double or triple trailers compared to the operation of tractor-semitrailers. For example, offtracking of "twins" at low speeds has been shown to be significantly less than that which occurs at low speeds for a tractor semitrailer. On the other hand, a vehicle with shorter wheelbases, such as those typically used with twins, may be more difficult to control when turns are entered at high speed. Therefore, FHWA proposes that drivers who operate or expect to operate doubles or triples be required to have an endorsement to their CDL in order to operate those vehicles.

For reasons similar to those described above, FHWA's proposed standard also includes a requirement that operators of articulated buses possess an endorsement. Research done by the Urban Mass Transportation Administration (UMTA) and reported in its November 1984 "Planning Handbook for Articulated Buses," page 39, found that most metropolitan transportation agencies "have reported somewhat worse accident experience with artics (articulated buses) than with standard buses." The articulated bus endorsement would be separate from the double/triple trailers endorsement because the requirements for carrying passengers are different from other operations, and the safety systems of buses are different from other CMVs.

The FHWA recognizes that cargo tank operations present special concerns. For example, in 1986, there were 818 accidents reported to the FHWA involving cargo tank trucks transporting hazardous materials resulting in 136 fatalities, 761 injuries, and over $17 million in property damage. In the same year there were 1,276 accidents reported by nonhazardous materials cargo tank carriers, resulting in 142 fatalities, 1,177 injuries and over $17 million property damage. The most important operating difference between driving a cargo tank motor vehicle and a standard dry freight truck is liquid product surge which may be the most significant condition that a cargo tank driver must be able to mitigate. Other factors that may threaten vehicle stability, therefore presenting a safety risk, include: Sloshing liquids in various cargo tank designs; various loading conditions; and the impact of liquids on driving maneuvers such as braking, backing, turning, and combined braking/steering maneuvers. It is important that the drivers of these vehicles be given special emphasis during the licensing process, and FHWA's standard includes a requirement that drivers of cargo tanks have an endorsement.

Section 12005(a)(5) of the Act requires that drivers of vehicles that carry hazardous materials demonstrate a knowledge of hazardous materials regulations and emergency procedures. The FHWA proposes to implement this provision of the Act by including a special hazardous materials endorsement in the standard. Also, drivers of cargo tanks transporting hazardous materials would obtain an endorsement both for cargo tanks and hazardous materials.

Representative Vehicles—Section 12005(a)(2) of the Act requires that the skills test be taken in a vehicle representative of the type which the person operates or expects to operate. While there were no specific questions in Docket MC–125 on the types of vehicles in which applicants for a CDL should be required to demonstrate their driving skills, several commenters addressed the concern in their responses to questions about the requirements of an operator test. Generally, the commenters leaned toward testing in the type of vehicle the driver intends to drive. The National Transportation Safety Board (NTSB) recommended that applicants be tested in the largest vehicle allowable in a given class. Such a requirement could place an unreasonable burden on a driver applicant to obtain for test purposes only, a vehicle other than one he/she typically operates or expects to operate. Alternatively, it would place a burden on States to acquire or to have available such vehicles for applicants to use for the tests. Comments are invited on whether this burden on States would be reasonable.

The FHWA proposes, however, that applicants be required to take their skills test in a representative vehicle—one that meets the definition of the vehicle group in which they drive or intend to drive—and to certify such to their State. The FHWA believes that the driving tests will adequately determine the ability of the driver to operate any CMV within that group. The FHWA proposes that the applicant certify to the licensing authority at the time of the test that the vehicle that he/she uses for the skills tests is a representative vehicle. The FHWA believes that the States should have flexibility in allowing drivers to use vehicles other than the exact vehicle or type of vehicle which the driver operates or expects to operate. States would also have the option of providing the representative vehicle for any vehicle group. This flexibility could resolve problems associated with bringing unique vehicles, such as fire trucks and specialized auto transporters, to the skills test location while allowing States to require testing with such vehicles where appropriate. As specified in § 383.75, States would also have the option of allowing other persons or employers to administer the skills tests.

Question Area: Vehicle Groups and Endorsements

The FHWA requests comment on the following specific issues:

[1] Transportation Research Board, National Research Council, "Twin Trailer Trucks, Effects on Highways and Highway Safety," Special Report 211, 1986.

(1) *All Groups*—Except for the bus group, the vehicle groups proposed by FHWA are distinguished by two factors: the weight rating of the vehicle and the weight rating of the trailer being pulled. Public comment is sought on whether the groups of vehicles should be separated only by the combined weight rating regardless of the size of the vehicle being towed.

(2) *Small Vehicle Group*—The principal reason this group is proposed is to provide a category of licenses for operators of vehicles which are under 26,001 pounds CVWR but which carry hazardous materials. The proposed rule also requires the driver to certify that the vehicle used in the skills test represents the type of vehicle used by the driver. Is such certification by the driver sufficient given the various types of vehicles which fall into this category which are placarded for hazardous materials? Public comment is also requested on whether the group should be split to include vehicles up to 10,000 pounds GVWR or GCWR and vehicles between 10,001 and 26,000 pounds GVWR or GCWR. Also, public comment is requested on whether the driving skills within these two potential groups can be differentiated in an on-road test.

(3) *Bus Group*—Because buses vary considerably by length of wheelbase and by height and weight, the knowledge and skills which a driver of a large transit bus would possess may be significantly different from those of a driver of a large van, a small school bus, or a large intercity bus. Canada's national safety code separates buses by the number of passengers carried. For example, a typical Canadian Class 2 provincial license permits operation of any bus of any seating capacity, and the Class 4 provincial license permits operation of buses with seating capacity of not more than 24 passengers. The FHWA, therefore, is considering an alternative which would use a 24 person threshold to separate the bus vehicle group into two groups; Large Bus and Small Bus. Under this scheme the air brake knowledge and skills could be part of the mandated test for the Large Bus Group. What would be the costs and benefits related to this alternative approach? Can the skills between these groups be differentiated in a test? Would requiring drivers of all Large Buses to demonstrate skills with an air brake equipped vehicle pose problems for drivers of large school buses (greater than 24 passengers) which may not be so equipped? What other ways could this group be subdivided?

(4) *Double/Triple Trailers and Articulated Buses*—Operators of both double/triple and articulated buses would be required to obtain endorsements based on separate but similar knowledge tests. Since the required knowledge for these endorsements is similar (see discussion under Subpart G), the FHWA is considering an alternative which would combine the two into one endorsement: Articulated Vehicles. This approach would result in fewer types of endorsements and therefore, fewer different pieces of information to be recorded on a CDL and in the driver's record. What would be the costs and benefits of this approach? Are the knowledge requirements for operators of Double/Triple and Articulated Buses similar enough to be combined into one endorsement?

(5) *Air Brake*—The FHWA has proposed that operators of all CMVs in the Combination Vehicle Group have knowledge and skills related to air brakes as part of the basic test standards. The air brake endorsement is included in the FHWA proposal so that drivers of CMVs which may fall into the other vehicle groups, but which are equipped with air brakes, have the necessary knowledge and skills related to the safe operation of such braking systems. The FHWA has proposed this knowledge and skill test to be included by States within the basic exam for the Combination Vehicle Group. The majority of vehicles included in this group are equipped with air brake systems. In cases where a driver operates a vehicle in the Combination Vehicle Group which is not equipped with air brakes, a State could restrict to non-air brake-equipped vehicles the license of such drivers, rather than requiring such drivers to take tests which cover air brakes. How many restrictions would be likely to result? An alternative approach would be to require a separate air brake endorsement for drivers of any vehicle so equipped (e.g., Combination Vehicles and Large Buses). The FHWA requests comment on this alternative approach.

Subpart G—Required Driver Knowledge and Skills

This section describes the knowledge and skills which CMV operators would be required to have and demonstrate for each vehicle group and endorsement. Information about these skills and knowledge areas would be included in drivers' manuals available to driver applicants. States may also require knowledge of and include questions related to any unique or special traffic laws and regulations within their jurisdictions.

Section 383.111 Required knowledge.

A primary cause of accidents is improper vehicle control in adverse environmental conditions and/or emergency traffic situations. More than 20 percent of the preventable accidents involving CMVs are attributable to this cause. Other primary causes of accidents include: Following too closely; failure to maintain control, improper/erratic lane change; improper turning; starting and braking improperly; and failure to yield right-of-way. To ensure that all CMV drivers are at least aware of these dangers and the correct driving responses, an appropriate number of these areas must be covered in questions on the knowledge examinations.

Safe Operation Regulations. Section 12005(a)(4)(A) of the Act requires that tests ensure that drivers have working knowledge of regulations pertaining to safe operation of commercial vehicles issued under Title 49, CFR. To meet this requirement, the FHWA proposes that applicants be provided with information about the regulations contained in Parts 391 through 397 and that applicants be tested on this information.

Commercial Motor Vehicle Safety Systems. Section 12005(a)(4)(B) requires that drivers have a working knowledge of the proper use of the safety systems of commercial vehicles. The FHWA proposes that tests to ensure drivers have this "working knowledge" cover such items as proper use of lights, horns, side and rear-view mirrors, proper mirror adjustments, fire extinguishers, symptoms of improper operation revealed through instruments, vehicle operation characteristics, diagnosing malfunctions, and proper use of these safety systems during emergencies.

Safe Vehicle Control. Section 12005(a)(1) requires each CMV operator take written knowledge tests. The FHWA proposes that such tests cover the CMV operator's knowledge of the procedures used to safely operate the vehicles under various traffic and road conditions, and under various weather and lighting conditions.

Relationship of Cargo to Vehicle Control. The FHWA is also proposing that drivers have general knowledge about cargo placement, balance, securement and its relationship to safe vehicle operations for the particular vehicle group.

Vehicle Pre-Trip, Post-Trip, and Other Inspections. Pre-trip inspections as well as periodic inspections and repair are important actions which help prevent breakdowns and improve safety. Therefore, the FHWA's proposal

includes a requirement that CMV drivers must know and understand the various inspection procedures.

Combination Vehicle and Bus Knowledge. The FHWA is proposing that an operator of a motor vehicle which falls into the Combination Vehicle or the Bus Group be tested on additional information as part of the basic knowledge requirements. The information is delineated in § 383.111 and for Combination Vehicles addressed knowledge and skills related to air brakes and for Bus Vehicle covers procedures related to passengers.

Section 383.113 Required drivers skills tests.

Section 12005(a) of the Act requires that each driver applicant demonstrate his/her ability to safely operate a vehicle that is representative of the class of type of vehicle he/she operates or expects to operate. The FHWA proposes that each driver applicant be required to demonstrate the basic skills included in this proposal; the State would also test any other skills it deems appropriate and necessary. The skills tests would be conducted entirely in actual road conditions or in a combination of road and off street conditions. The decision as to where the skills test will be conducted would remain at the discretion of the States. However, regardless of where the skills test is conducted, an applicant for a CDL would have to demonstrate that he/she is capable of operating the CMV safely.

Applicants for each vehicle group would be required to successfully demonstrate the basic vehicle control skills as well as safe driving skills. The specific skills which would be required are contained in § 383.113 (a) and (b).

Section 383.115–123 Endorsement tests.

The FHWA proposes that an operator of special types of CMVs obtain an endorsement to his/her CDL because of the knowledge and skills needed, in addition to the knowledge and skills contained in §§ 383.111 and 383.113, to safely operate such vehicles. Endorsements to the CDL would be required to operate vehicles equipped with air brakes, double/triple trailers; articulated buses; cargo tankers; or vehicles involved in transportation in hazardous materials. Each of the endorsements would require additional knowledge tests. The air brake and cargo tank endorsements would also require each driver to take and pass a skills test in a representative vehicle. Information on these knowledge areas and skills would be included in the drivers' manuals. The FHWA's specific proposals for each endorsement standard are contained in Subpart G and are summarized below:

Section 383.115 Air brake endorsement

To obtain an air brake endorsement for vehicles which are not included as part of the Combination Vehicle Group, driver applicants would demonstrate knowledge of the operation of air brakes; pre-trip inspection requirements; proper use of fail-safe devices, monitoring devices and alarms; inspection procedures; and ways to determine that a system's component is in need of repair. Drivers of vehicles equipped with air brakes would also need to pass a driving test on a vehicle equipped with air brakes and on the skills which make up a pre-trip inspection

Section 383.117 Double/triple trailers endorsement.

Increased length, larger freight capacity and greater number of articulation points lead to differences in handling and performance characteristics of double/triple trailers. Each applicant would demonstrate his/her knowledge in a test of unit assembly and hookup, trailer placement, handling and stability characteristics, and potential problems of such vehicles in traffic. Skills test(s) are not proposed for this endorsement because of the lack of evidence as to the specific skills which a driver can be tested on which would be different from the skills required in the basic test(s). Comments are invited on this issue.

Section 383.119 Articulated bus endorsement.

Each applicant for an articulated bus endorsement would demonstrate his/her knowledge in a test on the same types of information specified for the double/triple trailers endorsement test, except for those items related to coupling and uncoupling of the vehicle. These applicants would also demonstrate knowledge of rules pertaining to operation of passenger transport vehicles and proper braking and emergency procedures.

Section 383.121 Cargo tank endorsement.

Each applicant for a cargo tank endorsement would demonstrate his/her knowledge in areas such as vehicle operations under different loadings, product density, cargo tank type and construction. The driver would also have knowledge of and be tested on the causes and prevention of cargo surge, and the likelihood of rollover due to improper control of cargo surge.

Each driver who wishes to obtain a cargo tank endorsement to his/her CDL would also demonstrate his/her skills by taking a skills test in a partially loaded cargo tank (between 30 and 60 percent full in each compartment). As proposed in § 383.121(b), each driver would demonstrate, among other things, the ability to put the vehicle in motion smoothly, to stop the vehicle smoothly, negotiate turns and lane changes, and select and change to proper gear without clashing.

The FHWA fully expects that States would make agreements with employers to allow the employer to administer the cargo tank skills test as a third party. Such agreements would reduce the potential costs and liabilities which may occur because of the requirement that the skills test for a cargo tank endorsement be taken with a partially loaded cargo tank.

Section 383.123 Hazardous materials endorsement.

Section 12005(a)(5) of the Act requires that an individual who will operate vehicles carrying hazardous materials shall be qualified to operate a CMV in accordance with all regulations pertaining to the transportation of hazardous materials issued under the Hazardous Materials Transportation Act.

The FHWA proposes that such operators would demonstrate his/her knowledge of these areas to obtain an endorsement to his/her CDL as follows:

(a) *Hazardous material regulations*—would include the Hazardous Material Table, shipping paper requirements, hazardous material packaging, marking, labeling, and placarding requirements;

(b) *Hazardous material handling*—would include the different procedures to be utilized for different kinds of hazardous materials, loading and unloading of materials, cargo segregation, and regulations regarding the routing of materials (in tunnels, on highways etc.), attendance of vehicles, parking, fueling, and vehicle repair;

(c) *Operation of emergency equipment*—would include knowledge of when and how such equipment is to be used and any other precautions that the vehicle operator must implement to protect the public; and

(d) *Emergency response procedures*—would include general knowledge of appropriate and necessary actions for all types of hazardous materials and specific knowledge for any type of freight that person expects to transport.

Question Area: Required Knowledge and Endorsements

The FHWA requests input from the public on these endorsement tests. Specific areas where public comment is requested are:

(1) Whether or not skills tests should be included as part of the standard for all endorsements? If so, under what conditions would it be appropriate to allow States the option to recognize employer certification of training and testing in lieu of endorsement skills tests and/or knowledge tests?

(2) What would be the impact on safety of the proposals described in Question 1?

(3) If a State accepts employer certification as a substitute for the skills test, what, if any, requirements for such certification should be indicated in the Federal standards?

(4) Knowledge of Parts 398 (Migrant Workers) and 399 (Employee Health and Safety) is excluded from the test standard. Should knowledge of these requirements be included in the standard for the knowledge tests for the CDL?

(5) The FHWA is aware of the possibility of using simulators for skills testing. For what portions of the skills tests would the use of a simulator be appropriate? What are the advantages and disadvantages associated with the use of a simulator? Which, if any, skills can and cannot be evaluated given current technological constraints of simulators?

(6) Is there some basic knowledge of hazardous materials which all CMV operators, even those who do not need a hazardous materials endorsement, should be required to demonstrate prior to receiving a CDL?

Subpart H—Tests

To ensure that all drivers have the knowledge and skills to safely operate a CMV on the public roadways, every CDL applicant must pass tests which demonstrate the person's knowledge or skills described in Subpart G and H. To the extent practicable, the tests should have similar content, similar test administration procedures, and similar scoring procedures to establish uniform testing of CMV operators anywhere in the country. This section contains the test administration methods and standards for minimum passing scores which the FHWA is proposing for the knowledge and skills tests.

Section 383.131 Procedures.

Because licensing examinations within a State are given to different applicants, at different times, in different locations, and by different examiners, it is critical to minimize any impact of these differences. The FHWA proposes that test procedures and methods be standardized and documented by the State and provided to its licensing examiners.

The FHWA proposes that States develop procedural information for the test applicant and for the test examiner. The directions for the test applicant would expalin, as clearly and simply as possible, what he/she must do to take the test. These directions would be given by the license test examiner and/or would be a part of the test (content information would be made available to the applicant through a driver manual). For the knowledge and skills tests, the directions given to the driver applicant would cover the purpose of the test, how to choose a response, how to make a response, any time limits, and any other special procedures determined by the State. Directions for taking knowledge tests would differ depending on the particular testing format used by the States (e.g., paper, oral or automated equipment for knowledge tests). All information provided to the applicant would be at or below the sixth grade reading level. The FHWA understands that this level of reading competency would be sufficient to fully test driver's knowledge without discriminating based on literacy.

Directions for the examiner would include the information the examiner must give to the applicant, information about how to conduct the tests, how to score, and for the skill tests, specific testing information, e.g., what is being tested, how it would be tested, how it would be scored. In addition, directions to the examiner would list the skills to be tested (from Subpart G); identify where and how the skills would be tested; and how the performance of the skills would be scored. As part of the scoring, the correct response and how to determine that it is a correct response would also be provided to the examiner. Standardized scoring sheets for the skill tests would be provided, as well as standardized driving instructions for the applicant.

Section 383.133 Test methods.

The States would be required to establish specific testing and scoring procedures and the associated administrative procedures that meet the standards. Testing procedures would, however, be standardized within the State and meet the testing requirements as stipulated in this rule. In other words, the knowledge and skills tests would uniformly assess the performance of applicants regardless of the location of the test.

To assure that the knowledge and skill tests can accurately determine the proficiency of CDL license applicants, the tests would be required to be reliable. Accordingly, the FHWA proposes that the "knowledge" tests contain a minimum of at least 30 items per test which cover all of the knowledge areas described in Subpart G for that vehicle group and that the tests have a reliability coefficient of at least $r=0.90$. This proposed requirement is based on commonly accepted testing principles to assure reliability and validity of any knowledge test. A State would have flexibility to choose a specific method for giving the knowledge test as long as the tests meet the standards. For example, the knowledge tests could be administered by paper and pencil, orally or given on automated equipment. States may also arrange for tests to be given with an oral interpreter as appropriate. (This would *not* relieve the interstate driver of the language requirements contained in § 393.41.) To assure that the "skill" tests are reliable, it would be required that the reliability coefficient between any two examiners be at least $r=0.80$. This coefficient has been established as a minimum in the TORQUE Tests developed by the National Highway Traffic Safety Administration.

Specific methods for skill testing and scoring would be determined by the State. For example, the States may use a single score for a right hand turn starting with the initiation of the right turn signal and ending following the turn and cancellation of the turn signal, or they may use several scores for the turn comprised of the different performances involved in a right hand turn—initiates the turn signal, uses appropriate lanes, uses the right side mirror(s), blocks inside traffic, stays in roadway, cancels turn signal—or they may use some combination of the two approaches. The latter approach being a "disaggregate" or "elements" test approach which is used in the TORQUE tests.

The FHWA proposes that the CDL examiners would be required to be qualified to administer the tests. A qualified examiner would have to demonstrate the ability to use the standardized procedures as stipulated in this section.

Section 383.135 Minimum passing scores.

For the knowledge tests, the FHWA proposes that the driver applicant would correctly answer at least 80 percent of the questions to pass. For the skills

tests, all skills identified as being required for the standard tests would be performed by all applicants. The passing score depends on how a State administers the tests. For example, if a State tests the applicant on successful completion of general skills, such as completion of a right turn, the passing score must be 100 percent. If the State uses a "disaggregated" or "elements" test approach, the driver would need to demonstrate all the required skills, but the lowest acceptable passing score would be 80 percent. The State would automatically fail any driver applicant who does not obey traffic laws or causes an accident during the test.

The State would determine the appropriate amount of time an applicant must wait in order to retake any test which he/she fails. The State would also determine the maximum number of times a person may take and fail any test before he/she may be prohibited by the State from obtaining a CDL. The FHWA invites comment on the appropriateness of requiring, through regulation, minimum time periods (such as 1 week) between taking tests to give the applicant time to study and become prepared to successfully complete the test.

Subpart I—[Reserved]

Subpart J—Commercial Driver's License Document

This section includes standards for CDLs that are required by section 12006 of the Act. Generally, these State-issued documents would be, to the maximum extent practicable, tamperproof, and would include information as described below. The FHWA has also included in the proposal a sample set of uniform CDL document specifications which may be used by States.

Section 383.153 Information on the document.

The information that would be required to be included on all CDLs issued by the States is that which is delineated in section 12006 of the Act. This section requires the CDL document to include the social security number or other information appropriate to identify the driver. Although the FHWA is aware of "state-of-the-art" technologies that may be available to help identify the driver, such as retinal imaging, digital dental records, and thumbprints, their use is not required as part of the standard because of concerns about their costs and benefits. Therefore, the FHWA proposes to require the driver's social security number, along with a color photograph of the driver and his/her date of birth, sex, weight, height, hair color, and eye color to help identify the CDL holder. The FHWA proposal does not mandate a specific requirement in order to give States flexibility to use current identification methods. As technology evolves and better, more cost-effective identification means become available, States would be free to impose such methods.

The FHWA's proposal would also require the CDL to contain the statement that the license is a "Commercial Driver's License," the driver's signature, and endorsements. The FHWA proposes that uniform codes for vehicle groups and endorsements be used. The proposed codes are intended to provide uniformity for enforcement purposes. Eventually, the codes would make the CMV driver documentation easily recognizable to enforcement officials. For example, a CDL with A–HM would be recognized by enforcement officials across the country to mean the driver is authorized to drive a combination vehicle and has a hazardous materials endorsement.

Section 383.155 Tamperproofing requirements.

Section 12006 of the Act requires that the CDL document be tamperproof to the maximum extent practicable. A tamperproof license is one which is designed, manufactured and/or processed to protect against counterfeiting, forgery, and alteration, i.e., it would be beyond the capabilities of the general public to reproduce or change the document. All State licensing authorities would be required to use license materials and procedures to reasonably assure that their licenses are tamperproof. At a minimum, each State would continue to use the same tamperproof method it currently uses for noncommercial licenses. The FHWA has provided the States flexibility to use current technologies to make the CDL tamperproof. However, as the technology is improved and new methods become cost-effective, the States would be free to improve tamperproof methods.

Section 383.157 Commercial driver's certificate document.

Under FHWA's proposal, a CDC issued by a State would contain the same information, except for the statement that the document is a "Commerical Driver's Certificate," rather than a CDL.

Section 383.159 Document specification.

The FHWA has proposed an optional set of specifications for CDL and CDC documents which can be used by the States which desire to issue and achieve a uniform CDL document. A State that chooses to follow these sample specifications would issue a CDL or CDC card which would not exceed 2⅛ inches high and 3⅜ inches wide—ANSI standards for financial records. The information described in § 383.153 as contained on the card would be placed as shown in Illustrations A and B at the end of Subpart J.

Question Area: CDL Documentation

(1) Can the information proposed to be included on the CDL be readily placed on existing documents? What, if any, additional information is required? What would be the benefits and costs of requiring, in the standard, that the drivers' fingerprints be included?

(2) Should the sample specifications for a CDL be included in the standard; i.e., mandated for all States? If so, what information should be added or deleted? Should the driver's fingerprints be included?

(3) The FHWA recognizes that technologies are emerging, such as "smart cards" or magnetic strips, which would allow States to cost-effectively store/retrieve biometric data in conjunction with issuing a CDL. Should the FHWA require the use of such automated data-encoding technologies and if so, what would be the appropriate phase-in time period?

(4) Although FHWA's proposal uses the social security number as the number to identify CMV operators, FHWA recognizes that there are several new and developing technologies that could be used to uniquely identify each CMV operator. These technologies include retinal imaging, digital dental records, and thumbprints, among others. Should any of these technologies be required as part of the standard? What would be the related costs and benefits of these technologies? The FHWA seeks information and recommendations on timing and methods for development, demonstration, and implementation of these technologies.

(5) The FHWA is also aware of developing technologies to make a document tamperproof, beyond most methods currently used by States for driver license documents. Such new methods include use of holograms, fine line patterns, use of light refracting seals, use of magnetic strips, etc. The FHWA requests comments on the suitability of such technologies for the CDL documentation.

(6) For commercial driver certificates that would be issued to foreign drivers, what would be the appropriate

identification number to use in lieu of the social security number?

Question Area: State Compliance

The Act requires that the Secretary withhold Federal-aid highway funds from those States who do not comply. The FHWA requests guidance from the States on the criteria and procedures to be used by the Administrator to determine whether the States have implemented CDL tests and testing procedures that meet the requirements of this Section. Is it appropriate for the Governor to certify that the State is in compliance? Should the FHWA monitor the licensing procedures and, if so, on what basis? What is the most practical and cost effective method that can be used to certify that the States are in compliance? Should the FHWA approve each of the States' programs? If so, how often should the FHWA review these determinations?

Regulatory Impact

The FHWA has determined that this action does not constitute a major rule under Executive Order 12291. The proposed rule is not expected to result in an annual effect on the economy of $100 million or more, or lead to a major increase in costs or prices, or have significant adverse effects on the United States economy. However, because of the public interest in the issue of commercial motor vehicle safety and the expected benefit in transportation, this proposed rule is considered significant under the regulatory policies and procedures of the DOT. For this reason and pursuant to Executive Order 12498, this rulemaking action has been included on the Regulatory Program for significant rulemaking actions.

The economic impacts of this rulemaking that will occur are primarily mandated by the statutory provisions themselves. Since an analysis of impacts, including economic factors, is necessarily involved in the preparation of related motor vehicle safety regulations, an overall regulatory evaluation has been prepared for the various rulemaking actions that will be issued to implement the Act. This evaluation, which addresses some of the provisions contained in the final rule issued on June 1, 1987, and this proposed rule, has been placed in the public docket and is available for inspection in the Headquarters office of the FHWA, 400 Seventh Street, SW., Washington, DC 20590. A regulatory evaluation addressing the specific impacts associated with this NPRM is currently being prepared.

A significant part of the motor carrier industry and other employers covered by the Act are made up of small firms, from one-person, one-truck operations of some owner-operators, to the thousands of small fleet operators throughout the country. For this reason, the benefit and cost considerations described in the preliminary regulatory evalution/initial regulatory flexibility analysis as applicable to employers and the motor carrier industry in general, are equally applicable to the small entity component of the industry. Small entities have been represented at public meetings held to discuss the Act and small entities have had the opportunity to submit comments to the public docket established in conjunction with FHWA's August 1, 1986, ANPRM (49 CFR Part 391). The FHWA is fully committed to doing all that it can to ensure that no undue burdens are placed on small entities as a result of this proposal.

List of Subjects in 49 CFR Part 383

Commercial driver's license documents, Commercial motor vehicles, Highways and roads, Motor carriers licensing and testing procedures, Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on December 8, 1987.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA hereby proposes to amend Title 49, Code of Federal Regulations, Chapter III, Subchapter B, as set forth below.

Alternative 1

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES—[AMENDED]

1. The authority citation for 49 CFR Part 383 continues to read as follows:

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

2. The table of sections to Part 383 is amended as follows:

* * * * *

Subpart B—License Requirements

Sec.

* * * * *

383.23 Commercial driver's license.

* * * * *

Subpart E—Testing and Licensing Plans

383.71 Formulation of testing and licensing plan.
383.73 Approval of plan.
383.75 Third party testing.
383.77 Substitute for driving skills tests.

Subpart F—Motor Vehicle Groups and Endorsements

383.91 Motor vehicle groups.
383.93 Endorsements.

Subpart G—Required Knowledge and Skills

383.110 General requirement.
383.111 Hazardous materials requirement.

Subpart H—Tests

383.131 Minimum passing scores.

Subpart I—[Reserved]

Subpart J—Commercial Driver's License Document

383.151 General.
383.153 Information on the document.
383.155 Tamperproofing requirements.
383.157 Commercial driver's certificate document.

3. Section 383.1 is amended by removing the word "and" from the end of paragraph (b)(4), substituting a semicolon for the period at the end of paragraph (b)(5) and adding paragraphs (b)(6) through (b)(11) to read as follows:

§ 383.1 Purpose and scope.

* * * * *

(b) * * *

(6) Establishes testing and licensing requirements for commercial motor vehicle operators;

(7) Requires States to give knowledge and skills tests to all qualified applicants for commercial driver's licenses or certificates which meet the Federal standard;

(8) Sets forth commercial motor vehicle groups and endorsements;

(9) Sets forth the knowledge and skills test requirements for the motor vehicle groups and endorsements.

(10) Sets forth the Federal standards for procedures, methods, and minimum passing scores for States and others to use in testing and licensing commercial motor vehicle operators; and

(11) Establishes requirements for the State issued commercial license documentation.

4. Section 383.5 is amended by adding eight definitions and revising the two definitions entitled "Commercial driver's license" and "Commercial motor vehicle", placing them in alphabetical order as follows:

§ 383.5 Definitions.

* * * * *

"*Commercial driver's certificate (CDC)*" means a certificate issued by a State to an individual. Such certificate authorizes the individual to operate a class of a commercial motor vehicle and is considered as a valid CDL only when used with the individual's driver license issued by the individual's State of domicile or country.

"Commercial driver's license (CDL)" means a license issued by a State or jurisdiction, in accordance with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle. A CDC accompanied by a valid driver's license shall be considered a valid CDL.

"Commercial driver's license information system (CDLIS)" means the CDLIS established by FHWA pursuant to section 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle (CMV)" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—

(a) Has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds;

(b) Is designed to transport more than 15 passengers, including the driver; or

(c) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded.

* * * * *

"Driver applicant" means an individual who applies to a State to obtain, transfer, upgrade, or renew a CDL or CDC.

* * * * *

"Endorsement" means an authorization to an individual's CDL or CDC required to permit the individual to operate certain types of commercial motor vehicles.

* * * * *

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate.

* * * * *

"State of domicile" means that State where a person has his/her true, fixed, and permanent home and principal residence and to which he/she has the intention of returning whenever he/she is absent.

* * * * *

"Vehicle" means a motor vehicle unless otherwise specified.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

5. Part 383, Subpart B is revised by adding a new § 383.23 to read as follows:

Subpart B—License Requirements

* * * * *

§ 383.23 Commercial driver's license.

(a) *General rule.* (1) Effective April 1, 1992, no person shall operate a commercial motor vehicle unless such person has taken and passed written and driving tests which meet the Federal standards contained in Subparts F, G, and H of this part for the commercial motor vehicle that person operates or expects to operate.

(2) Effective April 1, 1992, except as provided in paragraph (b) of this section, no person shall operate a commercial motor vehicle unless such person possesses a CDL which meets the standards contained in Subpart J of this part, issued by his/her State or jurisdiction of domicile.

(b) *Exceptions.* (1) If, after October 1, 1991, a commercial motor vehicle operator is domiciled in a State which does not test drivers and issue a CDL in accordance with the Federal standards contained in Subparts F, G, and H of this part, the person shall obtain a CDC from a State which does comply with the testing and licensing standards contained in such Subparts F, G, and H.

(2) If a commercial motor vehicle operator is domiciled in a foreign jurisdiction which, as determined by the Administrator, does not test drivers and issue a CDL in accordance with, or similar to, the standards contained in Subparts F, G, and H of this part, the person shall obtain a CDC from a State which does comply with the testing and licensing standards contained in such Subpart F, G, and H.

(c) *Learner's permit.* State learner's permits, issued for limited time periods according to State requirements, shall be considered valid commercial driver's licenses for purposes of behind-the-wheel training on public roads or highways and for taking required driving tests, which a State may give in traffic.

6. Part 383 is amended by adding Subparts E, F, G, H, I, and J to read as follows:

Subpart E—Testing and Licensing Plans

§ 383.71 Formulation of testing and licensing plan.

(a) Each State shall develop a plan for testing and licensing persons who operate or expect to operate a commercial motor vehicle. The plan shall describe the procedures, resources and facilities which the State intends to devote to the commercial driver's license propram activities. Each plan must be approved by the FHWA as demonstrating that the State:

(1) Requires a person to pass written and driving tests to operate a commercial motor vehicle;

(2) Requires a person to pass a driving test in a commercial motor vehicle which is representative of the type of vehicle such person operates or expects to operate;

(3) Has in effect and enforces a law which provides that any person with a blood alcohol concentration level at or above the level established by the Secretary when operating a commercial motor vehicle is deemed to be operating under the influence of alcohol;

(4) Administers different tests for each different class of commercial motor vehicle described in Subpart F;

(5) Authorizes a person to operate a commercial motor vehicle only by issuance of a commercial driver's license which contains the information described in Subpart J;

(6) For commercial driver's licenses issued prior to April 1, 1992, checks with every other State to determine whether the person has a valid driver's license in another State;

(7) Checks with the CDLIS, when it is determined to be operational by the Administrator, to determine whether the driver applicant already has a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the driver applicant has been disqualified from operating a commercial motor vehicle;

(8) Checks with the National Driver Register (NDR), when it is determined to be operational by the National Highway Traffic Safety Administrator, to determine whether the driver applicant has:

(i) Been disqualified from operating a motor vehicle (other than a commercial motor);

(ii) Had a license (other than a CDL or CDC) suspended, revoked or canceled for cause in the 3-year period ending on the date of application; or

(iii) Been convicted of any offenses contained in section 205(a)(3) of the National Driver Register Act of 1982 (23 U.S.C. 401 note);

(9) Before issuance of a CDL, requests from any other State which has issued a CDL to such person all information pertaining to the driving record of such person;

(10) Notifies the CDLIS within 30 days after the issuance of a CDL;

(11) Within 10 days of the disqualification of the holder of the CDL or any suspension, revocation or cancellation (of 60 days or more), notifies the CDLIS and the State which issued the license;

(12) Within 10 days of conviction of a CDL holder for a violation of a State or local law relating to motor vehicle traffic control occurring within its boundaries, notifies the State which issued the license;

(13) Does not issue a CDL to person during a period in which such person is disqualified from operating a

commercial motor vehicle or the driver's license of such person is suspended, revoked, or canceled;

(14) Does not issue a CDL to person who has a CDL issued by any other State unless such person first returns the driver's license issued by the other State;

(15) Only issues a CDL to persons domiciled in the State, except that a State may issue a CDC to a person domiciled in another State or foreign jurisdiction if the Administrator has determined that the commercial motor vehicle testing and licensing standards in the State or foreign jurisdiction do not meet the standards contained in this Part. A State shall issue a CDC in the same manner as it issues CDLs;

(16) Imposes a penalty for operating a commercial motor vehicle while not having a CDL, while having a driver's license suspended, revoked, or canceled, or while being disqualified from operating a commercial motor vehicle;

(17) Allows any person to operate a commercial motor vehicle within its boundaries if such person is not disqualified from operating a commercial motor vehicle and has a CDL:

(i) Which is issued by any other State in accordance with the minimum Federal standards for the issuance of a CDL, and

(ii) Which is not suspended, revoked, or canceled.

(18) Has in effect and enforces minimum Federal disqualifications and penalties under Subpart D or comparable provisions.

(b) Each State should submit the plan to the FHWA no later than July 15, 1989, and within 30 days following significant changes in its commercial driver's license program. The plan should demonstrate that the proposed State CDL program is likely to be effective in ensuring that the State only issues a CDL to a person qualified to drive a CMV.

§ 383.73 Approval of plan.

(a) Within 90 days following its receipt, the FHWA shall review the plan and notify the State of its acceptability in demonstrating that the State complies with the requirements of this Part.

(b) The state should evaluate its CDL program periodically to ensure its effectiveness in ensuring that the State only issues a CDL to persons qualified to drive a commercial motor vehicle.

(c) The FHWA may withdraw approval of any State plan. Prior to withdrawal of any approval of a State plan for lack of effectiveness, a State shall have an opportunity to demonstrate that its CDL program is effective and meets the requirements of this Part.

§ 383.75 Third party testing.

(a) *Third party tests.* A State may allow a person (including another State, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government) to administer the skills tests as specified in Subpart G and H of this part, if the following conditions are met:

(1) The tests given by the third party are the same as those which would otherwise be given by the State; and

(2) The third party has an agreement with the State with at least the following provisions:

(i) Allow the FHWA, or its representative, and the State to conduct random examinations, inspections and audits without prior notice;

(ii) Require the State to conduct on-site inspections at least annually;

(iii) Require all third party examiners meet the same qualification and training as State examiners; and

(iv) Require that State employees periodically take the tests actually administered by the third party as if the State employee were a test applicant, or that States periodically test a sample of drivers who were examined by the third party to compare pass/fail results.

(b) *Proof of testing by a third party.* Driver applicants who take and pass driving tests administered by a third party shall provide evidence to the State licensing agency that he/she has successfully passed the driving tests administered by the third party.

(c) The State shall submit to the FHWA any agreement for third party testing with the State's testing and licensing plan. The FHWA's approval of the plan shall also constitute approval of the agreement.

§ 383.77 Substitute for driving skills tests.

At the discretion of a State, the driving skill tests may be waived for drivers licensed before July 15, 1988, and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's driving record in combination with certain driving experience. The State shall impose conditions and limitations to restrict the applicants from which a State may accept alternative requirements for the skills test. Such conditions must require at least the following:

(a) An applicant must certify that he/she:

(1) Has not had more than one license since July 1, 1987;

(2) Has not had any license suspended, revoked, or canceled since July 1, 1987;

(3) Has not has any convictions for any type of motor vehicle for the disqualification offenses contained in § 383.51 since July 1, 1987; and

(4) Has not had any violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident or has no record of an accident where he/she was at fault, during the 2 years immediately preceding application for a CDL; and

(b) An applicant must provide evidence and certify that:

(1) He/she has previously taken a skills test given by a State with a classified licensing and testing system, and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or

(2) He/she has operated, for at least 2 years, immediately preceding application for a CDL, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

Subpart F—Motor Vehicle Groups and Endorsements

§ 383.91 Motor vehicle groups.

(a) *Vehicle group descriptions.* Each driver applicant must possess and be tested on his/her knowledge and skills, described in Subpart G of this part, for the vehicle group(s) for which he/she desires a CDL. The vehicle groups are as follows:

(1) *Combination vehicle*—any combination of motor vehicles with a Gross Combination Weight Rating (GCWR) of over 26,001 pounds or more provided the motor vehicle or trailers being pulled have a Gross Vehicle Weight Rating (GVWR) of over 10,000 pounds.

(2) *Bus*—any vehicle designed to carry more than 15 passengers, including the driver.

(3) *Heavy straight truck*—any vehicle with a GVWR of 26,001 pounds or more, or any combination of motor vehicles with a GCWR of 26,001 pounds or more provided the vehicle or trailers being pulled have a GVWR of not more than 10,000 pounds.

(4) *Small Vehicle*—any motor vehicle with a GVWR or GCWR of under 26,001 pounds.

(b) *Representative vehicle.* For purposes of taking the driving test, a representative vehicle is any motor vehicle which meets the definition of that vehicle group.

(c) *Relation between vehicle groups.* Each driver applicant who desires to operate in a different vehicle group from the one which his/her DCL or CDC authorizes shall be required to retake and pass all related tests, except the following:

(1) Drivers who have passed the knowledge and skills test for a combination vehicle may operate a heavy straight truck or a small vehicle;

(2) Drivers who have passed the knowledge and skills test for a bus may operate a small vehicle; and

(3) Drivers who have passed the knowledge and tests for a heavy straight truck may operate any small vehicle.

§ 383.93 Endorsements.

(a) *General.* In addition to taking and passing the knowledge and skills tests described in Subpart G of this part, all persons who operate or expects to operate the type(s) of motor vehicle described in paragraph (b) of this section shall take and pass specialized tests to obtain each endorsement. The State shall issue CDL endorsements only to drivers who successfully complete the tests.

(b) *Endorsement descriptions.* Operators must obtain State-issued endorsements to his/her CDL or CDC to operate commercial motor vehicles which are:

(1) Equipped with air brakes;

(2) Required to be placarded for hazardous materials;

(3) Cargo tanks;

(4) Double/triple trailers; or

(5) Articulated buses.

(c) *Endorsement testing requirements.* The following tests are required for the endorsements contained in paragraph (b) of this section:

(1) *Air Brakes*—a knowledge and skills test. The skills test must be taken in a motor vehicle equipped with air brakes;

(2) *Hazardous Materials*—a knowledge test;

(3) *Cargo Tank*—a knowledge and skills test;

(4) *Double/Triple Trailers*—a knowledge test; and

(4) *Articulated Bus*—a knowledge test.

Subpart G—Required Knowledge and Skills

§ 383.110 General requirements.

All persons who pass tests for the issuance of a CDL shall have knowledge of regulations pertaining to safe operation of a commercial motor vehicle issued by the Secretary and contained in title 49 of the Code of Federal Regulations, and any safety system of such vehicle he/she is authorized to drive with the issuance of a CDL.

§ 383.111 Hazardous materials requirement.

In the case of a person who operates or expects to operate a commercial motor vehicle carrying a hazardous material, such person:

(a) Shall be qualified to operate a commercial motor vehicle in accordance with all regulations pertaining to motor vehicle transportation of hazardous materials issued by the Secretary under the Hazardous Materials Transportation Act; and

(b) Shall have a working knowledge of—

(1) Such regulations,

(2) Handling such material,

(3) The operation of emergency equipment used in response to emergencies arising out of the transportation of such material, and

(4) Appropriate response procedures to be followed in such emergencies.

Subpart H—Tests

§ 383.131 Minimum passing scores.

(a) The driver applicant must correctly answer at least 80 percent of the questions on the knowledge test in order to achieve a passing score on such knowledge test.

(b) The passing scores for the skills test shall depend on the way the test is administered. If a disaggregated or elements test approach is used, the lowest acceptable passing score shall be 80 percent. If the test requires successful completion of general skills, the passing score must be 100 percent.

(c) If the driver applicant does not obey traffic laws, or causes an accident during the test, he/she shall automatically fail the test.

Subpart I—[Reserved]

Subpart J—Commercial Driver's License Document

§ 383.151 General.

The CDL shall be a document that is easy to recognize as a CDL. At a minimum, the document shall contain information specified in § 383.153.

§ 383.153 Information on the document.

All CDLs shall contain the following information:

(a) The statement that the license is a "Commercial Driver's License."

(b) The full name, signature, and mailing address of the person to whom such license is issued;

(c) Physical and other information to identify and describe such person including date of birth (month, day, and year), sex, weight, height, eye color, and hair color;

(d) Color photograph of the driver;

(e) The driver's social security number;

(f) The name of State which issued the license;

(g) The date of issuance and the date of expiration of the license;

(h) The group or groups of commercial motor vehicle(s) that the driver is authorized to operate, indicated as follows:

(1) A for Combination Vehicle;

(2) B for Bus;

(3) C for Heavy Straight Truck; and

(4) D for Small Vehicle;

(i) The endorsement for which the driver has qualified, indicated as follows:

(1) AR for air brakes;

(2) TT for double/triple trailers;

(3) AB for articulated bus;

(4) CT for cargo tank; and

(5) HM for hazardous materials.

§ 383.155 Tamperproofing requirements.

States shall make the CDL or CDC tamperproof to the maximum extent practicable. At a minimum, a State shall use the same tamperproof method used for noncommercial drivers' licenses.

§ 383.157 Commercial Driver's Certification (CDC) document.

Each CDC shall contain the same information as contained in § 383.153 except the CDC shall contain the State "Commercial Driver's Certificate" or "CDC" in lieu of "Commercial Driver's License" or "CDL."

Alternative 2

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES—[AMENDED]

1. The authority citation for 49 CFR Part 383 continues to read as follows:

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

2. The table of sections to Part 383 is amended as follows:

* * * * *

Subpart B—License Requirements

Sec.

* * * * *

383.23 Commercial driver's license.

* * * * *

Subpart E—Testing and Licensing Procedures

383.71 Driver application procedures.
383.73 State procedures.
383.75 Third party testing.
383.77 Substitute for driving skills tests.

Subpart F—Motor Vehicle Groups and Endorsements

383.91 Motor vehicle groups.
383.93 Endorsements.

Subpart G—Required Knowledge and Skills

383.110 General requirement.
383.111 Required knowledge.
383.113 Required skills.
383.115 Requirements for air brake endorsement.
383.117 Requirements for double/triple trailers endorsement.
383.119 Requirements for articulated bus endorsement.
383.121 Requirements for cargo tank endorsement.
383.123 Requirements for hazardous materials endorsement.

Subpart H—Tests

383.131 Test procedures.
383.133 Test methods.
383.135 Minimum passing scores.

Subpart I—[Reserved]

Subpart J—Commercial Driver's License Document

383.151 General.
383.153 Information on the document.
383.155 Tamperproofing requirements.
383.157 Commercial driver's certificate document.
383.159 Sample specifications for document appearance.

3. Section 383.1 is amended by removing the word "and" from the end of paragraph (b)(4), substituting a semicolon for the period at the end of paragraph (b)(5) and adding paragraphs (b)(6) through (b)(11) to read as follows:

§ 383.1 Purpose and scope.

* * * * *

(b) * * *

(6) Establishes testing and licensing requirements for commercial motor vehicle operators;

(7) Requires States to give knowledge and skills tests to all qualified applicants for commercial drivers' licenses or certificates which meet the Federal standard;

(8) Sets forth commercial motor vehicle groups and endorsements;

(9) Sets forth the knowledge and skills test requirements for the motor vehicle groups and endorsements.

(10) Sets forth the Federal standards for procedures, methods, and minimum passing scores for States and others to use in testing and licensing commercial motor vehicle operators; and

(11) Establishes requirements for the State issued commercial license documentation.

4. Section 383.5 is amended by adding eight definitions and revising the two definitions entitled "Commercial drivers license" and "Commercial motor vehicle", placing them in alphabetical order as follows:

§ 383.5 Definitions.

* * * * *

"Commercial driver's certificate (CDC)" means a certificate issued by a State to an individual. Such certificate authorizes the individual to operate a class of a commercial motor vehicle and is considered as a valid CDL only when used with the individual's driver license issued by the individual's State of domicile or country.

"Commercial driver's license (CDL)" means a license issued by a State or jurisdiction, in accordance with the standards contained in 49 CFR Part 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle. A CDC accompanied by a valid driver's license shall be considered a valid CDL.

"Commercial driver's license information system (CDLIS)" means the CDLIS established by FHWA pursuant to Section 12007 of the Commercial Motor Vehicle Safety Act of 1986.

"Commercial motor vehicle (CMV)" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—

(a) Has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds;

(b) Is designed to transport more than 15 passengers, including the driver; or

(c) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded.

* * * * *

"Driver applicant" means an individual who applies to a State to obtain, transfer, upgrade, or renew a CDL or CDC.

* * * * *

Endorsement" means an authorization to an individual's CDL or CDC required to permit the individual to operate certain types of commercial motor vehicles.

* * * * *

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate.

* * * * *

"State of domicile" means that State where a person has his/her true, fixed, and permanent home and principal residence and to which he/she has the intention of returning whenever he/she is absent.

* * * * *

"Vehicle" means a motor vehicle unless otherwise specified.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.

5. Part 383, Subpart B is revised by adding a new § 383.23 to read as follows:

Subpart B—License Requirements

* * * * *

§ 383.23 Commercial driver's license.

(a) *General rule.* (1) Effective April 1, 1992, no person shall operate a commercial motor vehicle unless such person has taken and passed written and driving tests which meet the Federal standards contained in Subparts F, G, and H of this part for the commercial motor vehicle that person operates or expects to operate.

(2) Effective April 1, 1992, except as provided in paragraph (b) of this section, no person shall operate a commercial motor vehicle unless such person possesses a CDL which meets the standards contained in Subpart J of this part, issued by his/her State or jurisdiction of domicile.

(b) *Exceptions.* (1) If, after October 1, 1991, a commercial motor vehicle operator is domiciled in a State which does not test drivers and issue a CDL in accordance with the Federal standards contained in Subparts F, G, and H of this part, the person shall obtain a CDC from a State which does comply with the testing and licensing standards contained in such Subparts F, G, and H.

(2) If a commercial motor vehicle operator is domiciled in a foreign jurisdiction which, as determined by the Administrator, does not test drivers and issue a CDL in accordance with, or similar to, the standards contained in Subparts F, G, and H of this part, the person shall obtain a CDC from a State which does comply with the testing and licensing standards contained in such Subpart F, G, and H.

(c) *Learner's permit.* State learner's permits, issued for limited time periods according to State requirements, shall be considered valid commercial drivers' licenses for purposes of behind-the-wheel training on public roads or highways and for taking required driving tests, which a State may give in traffic.

6. Part 383 is amended by adding Subparts E, F, G, H, I, and J to read as follows:

Subpart E—Testing and Licensing Procedures

§ 383.71 Driver application procedures.

(a) *Initial Commercial Driver's License.* Prior to obtaining a CDL or CDC, a person must meet the following requirements:

(1) A person who operates or expects to operate in interstate or foreign commerce, or is otherwise subject to Part 391 of this title, shall certify that he/she meets the qualification requirements contained in Part 391 of this title. A person who operates or expects to operate in intrastate commerce which is not subject to Part 391, is subject to State driver qualification requirements and must certify that he/she is not subject to Part 391;

(2) Pass a knowledge test in accordance with the standards contained in Subparts G and H of this part for the type of motor vehicle the person operates or expects to operate;

(3) Pass a driving or skills test in accordance with the standards contained in Subpart G and H of this part taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate or provide evidence that he/she has successfully passed a driving test administered by a third party;

(4) Certify that the motor vehicle in which the person takes the driving skills test is representative of the type of motor vehicle that person operates or expects to operate;

(5) Provide to the State of issuance the information required to be included on the CDL or CDC as specified in Subpart J of this part; and

(6) The applicant shall surrender his/her (noncommercial) driver's license to the State.

(b) *License transfer.* When applying to transfer a CDL, applicants shall apply for a CDL from the new State of domicile within 30 days.

(1) If the transfer of a CDL is from one State of domicile to a new State of domicile, all applicants shall:

(i) Provide certification contained in § 383.71(a)(1);

(ii) Provide updated information as specified in Subpart J of this part;

(iii) If a person wishes to retain a hazardous materials endorsements, pass the test for such endorsement as specified in § 383.123; and

(iv) Surrender the CDL from the old State of domicile to the new State of domicile.

(2) If a commercial motor vehicle operator with a CDC issued by a State changes his/her State of domicile to a State which tests and licenses according to Subparts G and H of this part, such person shall complete the requirements included in paragraph (b)(1) of this section; and

(3) If a commercial motor vehicle operator with a CDL issued by a State changes his/her domicile to a State which does not test and license in accordance with Subparts G and H of this part, such person shall surrender his/her CDL to the State that issued such license and obtain a CDC.

(c) *License renewal.* When applying for a renewal of a CDL, all applicants shall:

(1) Provide certification contained in § 383.71(a)(1); (2) Provide updated information as specified in Subpart J of this part; and

(3) If a person wishes to retain a hazardous materials endorsements, pass the test for such endorsement as specified in § 383.123.

(d) *License upgrades.* When applying to operate a commercial motor vehicle in a different group from the group in which the applicant already has a CDL, all persons shall:

(1) Provide the certifications as specified in § 383.71(a) (1) and (4); and

(2) Pass all tests specified in § 383.71(a) (2) and (3) for the new vehicle group and/or different endorsements.

(e) *Commercial Driver's Certificate for domestic drivers.* When an applicant is domiciled in a State which, as determined by the Administrator, does not test and license in conformance with the standard contained in Subparts G and H of this part, such applicant shall, no earlier than October 1, 1991, obtain a CDC from a State which does test and license in conformance with the standards. Such applicant shall:

(1) Complete the requirement to obtain a CDL as contained in § 383.71(a) by April 1, 1992;

(2) Notify the State which issued the CDC of any conviction as required in § 383.31(a); and

(3) Notify the State which issued the CDC of any license suspension, revocation or cancellation or if he/she is disqualified from operating a commercial motor vehicle. The notification must be made in accordance with the time periods specified in § 383.33.

(f) *Commercial Driver's Certificates for foreign drivers.* When an applicant is domiciled in a foreign jurisdiction where the commercial motor vehicle operator testing and licensing standards do not meet the standards contained in Subparts G and H of this part, as determined by the Administrator, such applicant shall obtain a CDC from a State which meets such standards. Such applicant shall:

(1) Complete the requirements to obtain a CDL contained in § 383.71(a);

(2) Show proof that he/she has a current license from a foreign jurisdiction; and

(3) Notify the State which issued the CDC of any license suspension or revocation, of if he/she is disqualified from operating a commercial motor vehicle. The notification shall be made within the time periods specified in § 383.33.

§ 383.73 State procedures.

(a) *Initial licensure.* Prior to issuing a CDL or CDC to a person, a State shall:

(1) Require the driver applicant to certify, pass tests, and provide information as described in § 383.71(a)(1) through (5);

(2) Check that the vehicle in which the applicant takes his/her test is representative of the vehicle group the applicant has certified that he/she operates or expects to operate.

(3) Initiate and complete a check within 60 days after issuance of the CDL of the applicant's driving record to ensure that the person is not subject to any disqualification, suspensions, revocations, or cancellations as contained in § 383.51 or that the person does not have a driver's license from more than one State. The record check shall include the following:

(i) For commercial drivers' licenses issued prior to April 1, 1992, a check with every other State to determine whether the person has a valid driver's license in another State. If the person is licensed in another State, the State making the check shall request information pertaining to the applicant's driving record from the other State.

(ii) A check with the CDLIS, when it is determined to be operational by the Administrator, to determine whether the driver applicant already has a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle; and

(iii) A check with the National Driver Register (NDR), when it is determined to be operational by the National Highway Traffic Safety Administrator, to determine whether the driver applicant has:

(A) Been disqualified from operating a motor vehicle (other than the commercial motor vehicle);

(B) Had a license (other than CDL or CDC) suspended, revoked, or canceled for cause in the 3-year period ending on the date of application; or

(C) Been convicted of any offenses contained in section 205(a)(3) of the National Drivers Register Act of 1982 (23 U.S.C. 401 note).

(4) Require the driver applicant, if he/she has moved from another State, to surrender his/her driver's license issued by another State

(5) Provide notification of the proposed issuance and the driver applicant's social security number and other required information to the operator of the CDLIS within 60 days of issuing a CDL or CDC.

(b) *License transfers.* Prior to issuing a CDL or CDC to a person who has a CDL or CDC from another State, a State shall:

(1) Require the driver applicant to make the certification contained in § 383.71(a);

(2) Complete a check of the driver applicant's record as contained in paragraph (a)(3) of this section;

(3) Request and receive updates of information specified in Subpart J of this part;

(4) If such applicant wishes to retain a hazardous material endorsement, require the driver to pass the tests for such endorsement specified in § 383.123; and

(5) Obtain the CDL issued by the applicant's previous State of domicile.

(c) *License renewals.* Prior to renewing an CDL or CDC a State shall:

(1) Require the driver applicant to make the certifications contained in §383.71(a);

(2) Complete a check of the driver applicant's record as contained in paragraph (a)(3) of this section;

(3) Request and receive updates of information specified in Subpart J of this part; and

(4) If such applicant wishes to retain a hazardous materials endorsement, require the driver to pass the test for such endorsement specified in § 383.123.

(d) *License upgrades.* Prior to issuing an upgrade of a CDL or CDC, a State shall:

(1) Require such driver applicant to certify and pass tests as described in § 383.71(c); and

(2) Complete a check of the driver applicants record as described in § 383.73(a)(3).

(e) *License issuance.* After the State has completed the procedures described in § 383.73 (a), (b), (c), or (d) and issued a CDL or CDC, the State shall notify the operator of the CDLIS of such the issuance, renewal or upgrade within the period of time specified by the operator of the CDLIS but no later than 30 days.

(f) *Commercial Driver's Certificates.* A State may issue a CDC to a person domiciled in another State or foreign justification if the Administrator has determined that the commercial motor vehicle testing and licensing standards in that State or foreign jurisdiction do not meet the standards contained in this Part. Issuance of a CDC shall be based on the following provisions:

(1) A State shall not issue a CDC to a person domiciled in another State earlier than October 1, 1991, and shall:

(i) Require the applicant to certify, pass tests, and provide information as described in § 373.71(a);

(ii) Require the applicant to show proof that he/she has a current license from a State;

(iii) Complete a check of the applicant's record as described in § 383.73(a)(3); and

(iv) Provide the clearinghouse with information on such driver.

(2) A State may issue a CDC to a person domiciled in a foreign jurisdiction, provided the State:

(i) Requires the applicant to certify, pass tests and provide information as described in § 383.71(a);

(ii) Requires the applicant to show proof that he/she has a current license from a foreign jurisdiction;

(iii) Completes a check of the applicant's record as described in § 383.73(a)(3) of this section; and

(iv) Provides the clearinghouse with information on such driver.

(g) *Revocation.* If a State determines, in its check of an applicant's prior license status and record, that the applicant has falsified information contained in Subpart J of this part or the certification required in § 383.71(a), the State shall revoke the applicant's CDL within 30 days.

(h) *Reciprocity.* A State shall allow any person who has a valid CDL which is not suspended, revoked, or canceled, and who is not disqualified from operating a commercial motor vehicle, to operate a commercial motor vehicle in the State.

§ 383.75 Third party testing.

(a) *Third party tests.* A State may allow a person (including another State, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government) to administer the skills tests as specified in Subpart G and H of this part, if the following conditions are met:

(1) The tests given by the third party are the same as those which would otherwise be given by the State; and

(2) The third party has an agreement with the State with at least the following provisions:

(i) Allow the FHWA, or its representative, and the State to conduct random examinations, inspections and audits without prior notice;

(ii) Require the State to conduct on-site inspections at least annually;

(iii) Require all third party examiners meet the same qualification and training as State examiners; and

(iv) Require that State employees periodically take the tests actually administered by the third party as if the State employee were a test applicant, or that States periodically test a sample of drivers who were examined by the third party to compare pass/fail results.

(b) *Proof of testing by a third party.* Driver applicants who take and pass driving tests administered by a third party shall provide evidence to the State licensing agency that he/she has successfully passed the driving tests administered by the third party.

§ 383.77 Substitute for driving skills tests.

At the discretion of a State, the driving skill tests as specified in § 383.113 may be waived for drivers licensed before July 15, 1988, and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's driving record in combination with certain driving experience. The State shall impose conditions and limitations to restrict the applicants from which a State may accept alternative requirements for the skills test described in § 383.113. Such conditions must require at least the following:

(a) An applicant must certify that he/she:

(1) Has not had more than one license since July 1, 1987;

(2) Has not had any license suspended, revoked, or canceled since July 1, 1987;

(3) Has not had any convictions for any type of motor vehicle for the disqualification offenses contained in § 383.51 since July 1, 1987; and

(4) Has not had any violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident or has no record of an accident where he/she was at fault, during the 2 years immediately preceding application for a CDL; and

(b) An applicant must provide evidence and certify that:

(1) He/she has previously taken a skills test given by a State with a classified licensing and testing system, and that the test was behind-the-wheel in a representative vehicle for that applicant's driver's license classification; or

(2) He/she has operated, for at least 2 years, immediately preceding application for a CDL, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

Subpart F—Motor Vehicle Groups and Endorsements

§ 383.91 Motor vehicle groups.

(a) *Vehicle group descriptions.* Each driver applicant must possess and be tested on his/her knowledge and skills, described in Subpart G of this part, for the vehicle group(s) for which he/she desires a CDL. The vehicle groups are as follows:

(1) *Combination vehicle.* Any combination of motor vehicles with a Gross Combination Weight Rating (GCWR) of over 26,001 pounds or more provided the motor vehicle or trailers being pulled have a Gross Vehicle Weight Rating (GVWR) of over 10,000 pounds.

(2) *Bus.* Any vehicle designed to carry more than 15 passengers, including the driver.

(3) *Heavy straight truck.* Any vehicle with a GVWR of 26,001 pounds or more, or any combination of motor vehicles with a GCWR of 26,001 pounds or more provided the vehicle or trailers being pulled have a GVWR of not more than 10,000 pounds.

(4) *Small Vehicle.* Any motor vehicle with a GVWR or GCWR of under 26,001 pounds.

(b) *Representative vehicle.* For purposes of taking the driving test in accordance with § 383.113, a representative vehicle for the vehicle groups contained in § 383.91(a), is any motor vehicle which meets the definition of that vehicle group.

(c) *Relation between vehicle groups.* Each driver applicant who desires to operate in a different vehicle group from the one which his/her CDL or CDC authorizes shall be required to retake and pass all related tests, except the following:

(1) Drivers who have passed the knowledge and skills tests for a combination vehicle may operate a heavy straight truck or a small vehicle;

(2) Drivers who have passed the knowledge and skills tests for a bus may operate a small vehicle; and

(3) Drivers who have passed the knowledge and tests for a heavy straight truck may operate any small vehicle.

§ 383.93 Endorsements.

(a) *General.* In addition to taking and passing the knowledge and skills tests described in Subpart G of this part, all persons who operate or expects to operate the type(s) of motor vehicle described in paragraph (b) of this section shall take and pass specialized tests to obtain each endorsement. The State shall issue CDL endorsements only to drivers who successfully complete the tests.

(b) *Endorsement descriptions.* Operators must obtain State-issued endorsements to his/her CDL or CDC to operate commercial motor vehicles which are:

(1) Equipped with air brakes;

(2) Required to be placarded for hazardous materials;

(3) Cargo tanks;

(4) Double/triple trailers; or

(5) Articulated buses.

(c) *Endorsement testing requirements.* The following tests are required for the endorsements contained in paragraph (b) of this section:

(1) *Air Brakes*—a knowledge and skills test. The skills test must be taken in a motor vehicle equipped with air brakes;

(2) *Hazardous Materials*—a knowledge test;

(3) *Cargo Tank*—a knowledge and skills test;

(4) *Double/Triple Trailers*—a knowledge test; and

5) *Articulated Bus*—a knowledge test.

Subpart G—Required Knowledge and Skills

§ 383.110 General requirement.

All drivers of commercial motor vehicles shall have knowledge and skills necessary to operate a commercial motor vehicle safely as contained in this Subpart.

§ 383.111 Required knowledge.

All commercial motor vehicle operators must have knowledge of the following:

(a) *Safe operations regulations.* (1) Motor vehicle inspection, repair, and maintenance requirements as contained in Parts 393 and 396 of this title;

(2) Procedures for safe vehicle operations as contained in Part 392 of this title;

(3) The effects of alcohol, drugs, fatigue, poor vision, hearing, and general health upon safe commercial motor vehicle operation as contained in Parts 391 and 395 of this title; and

(4) The types of motor vehicles and cargoes subject to the requirements contained in Part 397 of this title.

(b) *Commercial motor vehicle safety control systems.* Proper use of the motor vehicle's safety system, including lights, horns, side and rear-view mirrors, proper mirror adjustments, fire extinguishers, symptoms of improper operation revealed through instruments, motor vehicle operation characteristics, and diagnosing malfunctions. Commercial motor vehicle drivers shall have knowledge on the correct procedures needed to use these safety systems in an emergency situation, e.g., skids and loss of brakes.

(c) *Safe vehicle control.* (1) The relationship of wheel base length, articulation, and number of axles to path of a turn;

(2) the proper position from which to begin a turn and how to "set up," execute and recover from a turn;

(3) Shifting procedures and selection of proper gear;

(4) Common shifting errors and their consequences;

(5) The procedures for backing and parking;

(6) The hazards of attempting to operate a commercial motor vehicle when the driver is not qualified;

(7) The relationship between speed and sight distance;

(8) Search patterns appropriate for straight driving, changing speed or direction, and entering or crossing traffic;

(9) When to actuate turn signals to provide adequate warning without creating confusion;

(10) Importance of signaling to the prevention of accidents;

(11) The relationship of speed to stopping distance, needed sight distance, hydroplaning, crash severity, and ability to maneuver;

(12) Causes and procedures to avoid overturning including safe speed and turning maneuvers, and safely negotiating ramps;

(13) The amount of separation which should be maintained from other motor vehicles to ensure room to maneuver in response to driver errors;

(14) Affects of intensity of illumination on ability to see under nighttime conditions;

(15) The symptoms and danger of fatigue in relationship to night driving;

(16) The general factors affecting night vision including interior illumination and use of sunglasses during daytime;

(17) The effects of rain, snow, and ice upon the ability to maneuver and stop the motor vehicle;

(18) Causes and procedures for avoiding skis and/or jackknifing;

(19) The effect of ice, snow, water, mud, and debris on operation of the brakes;

(20) Procedures for hot weather driving;

(21) The effect of motor vehicle weight and speed upon braking and shifting ability for uphill and downhill driving;

(22) The meaning and use of percent of grade signs (mountain driving);

(23) Activities of other road users that provide clues to potential danger and conflict situations including head and body movement (hazard perception);

(24) Appropriate ways to handle an impending head-on collision (emergency maneuver);

(25) Procedures for handling brake failure and blowouts (emergency maneuver); and

(26) Rules of the road.

(d) *Relationship of cargo to vehicle control.* (1) Procedures for securing cargo, including methods of blocking, bracing, packing, stacking, and use of straps, rope, cable, chains, and chain binders for tie down to prevent damage and accidents;

(2) Categories of hazardous materials, the need for specialized training to handle hazardous materials, and correct placarding;

(3) Regulations on loading, weight limits, and distribution of cargo; and

(4) The consequences of improper loading and unloading, overloading, and improper weight distribution.

(e) *Vehicle pre-trip, post-trip, and other inspections.* (1) Procedures for performing inspections;

(2) The importance of periodic inspection and repair to prevention of enroute breakdowns, longevity of parts, safety, and economy of operation;

(3) The name, location, function, and acceptable reading range of the various instruments required to monitor motor vehicle and engine speed as well as status of fuel, oil, air, cooling, exhaust, and electrical systems; and

(4) The effect of undiscovered malfunction upon safety.

(f) *Operators for the combination vehicle group shall also have knowledge of:* (1) Proper procedures for coupling and uncoupling;

(2) Components of pre-trip inspections and indications of problems; and

(3) Proper operation of air brakes as required in § 383.115(a).

(g) *Operators for the bus vehicle group shall also have knowledge of:* (1) Proper procedures for loading/unloading passengers;

(2) Proper use of emergency exits, including push-out windows; and

(3) Proper procedures at railroad crossings;

§ 383.113 Required skills.

(a) *Basic vehicle control skills.* All applicants for a CDL or CDC must possess and demonstrate the following basic motor vehicle control skills for each vehicle group which the driver operates or expects to operate. These skills shall include:

(1) Ability to start, warm-up, and shut down the engine, according to the manufacturer's specifications;

(2) Ability to put the motor vehicle in motion and accelerate smoothly, forward and backward;

(3) Ability to bring the motor vehicle to a smooth stop;

(4) Ability to back the motor vehicle in a straight line, and check path and clearance while backing;

(5) Ability to position the motor vehicle for a turn and negotiate turns of diffeent degrees;

(6) Ability to shift as required and select appropriate gear;

(7) Ability to parallel park; and

(8) Ability to observe road and behavior of other motor vehicles, particularly before changing speed and direction.

(b) *Safe driving skills.* All applicants for a CDL or CDC must possess and demonstrate the following safe driving skills for any vehicle group. These skills shall include:

(1) Ability to ascertain that brakes are functioning properly;

(2) Ability to signal appropriately;

(3) Ability to adjust speed to the configuration and condition of the roadway, weather and visibility conditions, traffic conditions, and motor vehicle, cargo and driver conditions;

(4) Ability to change lanes;

(5) Ability to position the motor vehicle appropriately in initiating and completing a turn to prevent other motor vehicles from passing on the wrong side and to minimize encroachment on other lanes;

(6) Ability to maintain a following distance appropriate to traffic, road surface, visibility, and motor vehicle weight; and

(7) Ability to adjust operation of the motor vehicle to adverse weather conditions including speed selection, braking, direction changes and following distance to maintain control and avoid jackknifing.

(c) *Test area.* Skills tests shall be conducted in on-street conditions or under a combination of on-street and off-street conditions.

(d) Operators for the combination vehicle group shall also demonstrate the skills required for air brakes contained in § 383.115 (b) and (c).

§ 383.115 Requirements for air brake endorsement.

In order to obtain an air brake endorsement each applicant must pass tests on the following:

(a) *Knowledge of air brakes.* (1) General air brake system nomenclature;

(2) The dangers of contaminated air (dirt, moisture and oil) supply;

(3) Implications of severed or disconnected air lines between the power unit and the trailer(s);

(4) Implications of low air pressure readings;

(5) Procedures to conduct safe and accurate pre-trip inspections, including knowledge about:

(i) Automatic fail-safe devices;

(ii) System monitoring devices; and

(iii) Low pressure warning alarms.

(6) Procedures for conducting enroute and post-trip inspections of air actuated brake systems, including ability to detect defects which may cause the system to fail, including:

(i) Tests which indicate the amount of air loss from the braking system within a specified period, with and without the engine running; and

(ii) Tests which indicate the pressure levels at which the low air pressure warning devices and the tractor protection valve should activate.

(b) *Pre-trip inspections skills.* Applicants shall demonstrate the skills necessary to conduct a pre-trip inspection which includes the ability to:

(1) Locate and verbally identify each of the operating controls and monitoring devices such as gauges and alarms;

(2) Determine the motor vehicle's brake system condition for proper adjustments and that air system connections between motor vehicles have been properly made and secured;

(3) Inspect the low pressure warning devices(s) to ensure that they will activate in emergency situations;

(4) Ascertain, with the engine running, that the system maintains an adequate supply of compressed air;

(5) Determine that required minimum air pressure build up time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and

(6) Operationally check the brake system for proper performance.

(c) *Driving skills.* Applicants shall successfully complete the skills tests contained in § 383.113 in a representative vehicle equipped with air brakes.

§ 383.117 Requirements for double/triple trailers endorsement.

In order to obtain a Double/Triple Trailers endorsement each applicant must pass a knowledge test on:

(a) Procedures for assembly and hookup of the units;

(b) Proper placement of heaviest trailer;

(c) Handling and stability characteristics including offtracking, response to steering, sensory feedback, braking, oscillatory sway, rollover in steady turns, yaw stability in steady turns; and

(d) Potential problems in traffic operations, including problems the

motor vehicle creates for other motorists due to slower speeds on steep grades, longer passing times, possibility for blocking entry of other motor vehicle on freeways, splash and spray impacts, aerodynamic buffeting, view blockages, and lateral placement.

§ 383.119 Requirements for articulated bus endorsement.

In order to obtain an Articulated Bus Endorsement each applicant must pass a knowledge test on:

(a) Information as specified in § 383.117 (c) and (d);

(b) Rules pertaining to operation of passenger transport motor vehicles; and

(c) Proper braking and emergency procedure.

§ 383.121 Requirements for cargo tank endorsement.

In order to obtain a Cargo Tank Endorsement, each applicant must pass tests on the following:

(a) *Knowledge of cargo tank safety.* (1) Causes, prevention, and effects of cargo surge on motor vehicle handling;

(2) Proper braking procedures for the motor vehicle when it is empty, full and partially full;

(3) Differences in handling of baffled/compartmental tank interiors versus non-baffled motor vehicles;

(4) Differences in cargo tank type and construction;

(5) Differences in cargo surge for liquids of varying product densities;

(6) Effects of road grade and curvature on motor vehicle handling with filled, half-filled and empty tanks;

(7) Proper use of emergency systems; and

(8) For drivers of DOT specification cargo tanks, retest and marking requirements.

(b) *Driving skills.* Each applicant shall pass a driving skills tests using a motor vehicle with partially loaded (between 30 to 60 percent full in each compartment) cargo tank(s) which includes ability to:

(1) Start, warm up and shut down the engine;

(2) Put the motor vehicle in motion smoothly, both forward and reverse;

(3) Stop the motor vehicle smoothly;

(4) Back the motor vehicle in a straight line while checking clearance,

(5) Negotiate turns and lane changes;

(6) Select and change to proper gear without clashing; and

(7) Park in a jackknife position.

§ 383.123 Requirements for hazardous materials endorsement.

In order to obtain a Hazardous Material Endorsement each applicant must pass a knowledge test from information contained in 40 CFR Parts 171, 172, 173, 177, 178, and 397 on the following:

(a) *Hazardous materials regulations including:* (1) Hazardous materials table;

(2) Shipping paper requirements;

(3) Marking;

(4) Labeling;

(5) Placarding requirements;

(6) Hazardous materials packaging;

(7) Hazardous materials definitions and preparation;

(8) Other regulated material;

(9) Reporting hazardous materials accidents; and

(10) Tunnels and railroad crossings.

(b) *Hazardous materials handling including:* (1) Forbidden Materials and Packages;

(2) Loading and Unloading Materials;

(3) Cargo Segregation;

(4) Passenger Carrying Buses and Hazardous Materials;

(5) Attendance of Motor Vehicles;

(6) Parking;

(7) Routes; and

(8) Cargo Tanks.

(c) *Operation of emergency equipment including:* (1) Use of equipment to protect the public;

(2) Special precautions for equipment to be used in fires;

(3) Special precautions for use of emergency equipment when loading or unloading a hazardous materials laden motor vehicle; and

(4) Use of emergency equipment for cargo tanks.

(d) *Emergency response procedures including:* (1) Special care and precautions for different types of accidents;

(2) Special precautions for driving near a fire and carrying hazardous materials, and smoking and carrying hazardous materials;

(3) Emergency procedures; and

(4) Special driver and carrier requirements for Class A and B explosives.

Subpart H—Tests

§ 383.131 Test procedures.

(a) *Driver information manuals.* Information on how to obtain a CDL and endorsements shall be included in manuals and made available by States to CDL applicants. All information provided to the applicant shall include the following:

(1) Information on the requirements described in § 383.71, State procedures described § 383.73, and other appropriate driver information contained in Subpart E of this part;

(2) Information on vehicle groups and endorsements as specified in Subpart F of this part;

(3) Knowledge and skills which drivers shall have as specified in Subpart G of this part for the different vehicle groups and endorsements;

(4) Details of testing procedures, including the purpose of the tests, how to respond, any time limits for taking the test, and any other special procedures determined by the State of issuance; and

(5) Directions for taking the tests.

(b) *Examiner information manuals.* A State shall provide to test examiners details on testing and any other State imposed requirements in the examiner's manual. States shall provide standardized scoring sheets for the skills tests, as well as standardized driving instructions for the applicants. Such examiners' manuals shall contain the following:

(1) Information on State procedures contained in § 383.71, State procedures described § 383.73, and other appropriate driver information contained in Subpart E of this part;

(2) Details on information which must be given to the applicant;

(3) Details on how to conduct the tests;

(4) Scoring procedures and minimum passing scores;

(5) Information for selecting driving test routes;

(6) List of the skills to be tested;

(7) Instructions on where and how the skills will be tested;

(8) How performance of the skills will be scored; and

(9) Causes for automatic failure of skills tests.

§ 383.133 Test methods.

(a) All tests shall be constructed in such a way to determine if the applicant possesses the required knowledge and skills contained in Subpart G of this part for the type of motor vehicle or endorsement the applicant wishes to obtain.

(b) States shall develop their own specifications for the tests for each vehicle group and endorsement which must be at least as stringent as the Federal standards;

(c) States shall determine specific methods for scoring the knowledge and skills tests;

(d) Passing scores must meet those standards contained in § 383.135.

(e) Knowledge and skills tests shall be based solely on the information contained in the driver manuals referred to in § 383.131(a).

(f) The knowledge test shall contain at least 30 items per test and have established reliability coefficients of at least $r=0.90$.

(g) The skill tests, shall have established administrative procedures

such that interrater reliability of the examiners is at least r=.80.

§ 383.135 Minimum passing scores.

(a) The driver applicant must correctly answer at least 80 percent of the questions on the knowledge test in order to achieve a passing score on such knowledge test.

(b) The passing scores for the skills test shall depend on the way the test is administered. If a disaggregated or elements test approach is used, the lowest acceptable passing score shall be 80 percent. If the test requires successful completion of general skills, the passing score must be 100 percent.

(c) If the driver applicant does not obey traffic laws, or causes an accident during the test, he/she shall automatically fail the test.

Subpart I—[Reserved]

Subpart J—Commercial Driver's e License Document

§ 383.151 General.

The CDRL shall be a document that is easy to recognize as a CDL. At a minimum, the document shall contain information specified in § 383.153. A sample set of specifications for a unique document is contained in § 383.159.

§ 383.153 Information on the document.

All CDLs shall contain the following information:

(a) The statement that the license is a "Commercial Driver's License."

(b) The full name, signature, and mailing address of the person to whom such license is issued;

(c) Physical and other information to identify and describe such person including date of birth (month, day, and year), sex, weight, height, eye color, and hair color;

(d) Color photograph of the driver;

(e) The driver's social security number;

(f) The name of State which issued the license;

(g) The date of issuance and the date of expiration of the license;

(h) The group of groups of commercial motor vehicle(s) that the driver is authorized to operate, indicated as follows:

(1) A for Combination Vehicle;

(2) B for Bus;

(3) C for Heavy Straight Truck; and

(4) D for Small Vehicle;

(i) The endorsements for which the driver has qualified, indicated as follows:

(1) AR for air brakes;

(2) TT for double/triple trailers;

(3) AB for articulated bus;

(4) CT for cargo tank; and

(5) HM for hazardous materials.

§ 383.155 Tamperproofing requirements.

States shall make the CDL or CDC tamperproof to the maximum extent practicable. At a minimum, a State shall use the same tamperproof method used for noncommercial drivers' licenses.

§ 383.157 Commercial Driver's Certificate (CDC) document.

Each CDC shall contain the same information as contained in § 383.153 except the CDC shall contain the State "Commercial Driver's Certificate" or "CDC" in lieu of "Commercial Driver's License" or "CDL."

§ 383.159 Sample specifications for document appearance.

States desiring to achieve an uniform CDL document may use the following specifications.

(a) The CDL and CDC card should not exceed 2⅛ inches high by 3⅜ inches wide and be of white stock;

(b) The front of the CDL document should contain the following, as shown in Illustration A;

(1) Name of the State of issuance;

(2) The words "Commercial Driver's License" or "CDL" in bold print;

(3) The driver's full legal name and signature;

(4) The driver's mailing address;

(5) The driver's social security number;

(6) The dates of issuance and the date of expiration;

(7) The group of motor vehicle the driver is authorized to operate;

(8) The endorsement(s) the driver may have; and

(9) Signature and title of State issuing official.

(c) The reverse side of the CDL should contain the following, as shown in Illustration B;

(1) Driver's date of birth (month, day, and year);

(2) Driver's sex;

(3) Driver's height;

(4) Driver's weight;

(5) Driver's hair color;

(6) Driver's eye color;

(7) Color photograph of the driver; and

(8) Other information the State may desire or space reserved for future storage of information.

(d) Each CDL, issued by a State should indicate the group of motor vehicle the driver is authorized to operate as described in § 383.153(h).

(e) Each CDL issued by a State should indicate the driver's endorsements as described in § 383.153(i).

BILLING CODE 4910-22-M

Illustration A

Front

(Name of Issuing State) COMMERCIAL DRIVER'S LICENSE	
Social Security Number	Group of Vehicle Endorsements
Last Name, First, Middle Mailing Address Date Issued: _____ Date Expires: _____ Applicant's Signature	State Official's Signature State Official's Title

Illustration B

Reverse

(State Information and Future Data Storage)	Sex Height	COLOR PHOTOGRAPH
Date of Birth Hair Color	Weight Eye Color	
(State Information and Future Data Storage)		

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Federal Register

Friday
December 11, 1987

Part VIII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Fish and Wildlife Resources Information; Fish and Wildlife Plan; and Protection of Fish, Wildlife, and Related Environmental Values; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816, and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Fish and Wildlife Resources Information; Fish and Wildlife Plan; and Protection of Fish, Wildlife, and Related Environmental Values

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) is amending its rules with respect to fish and wildlife resource information and planning requirements, and standards applied to the protection of fish and wildlife values. The amendments are being made to comply with recent court decisions and to revise and clarify the rules. The revised rules amend reinstated fish and wildlife permitting requirements and provide added protection to endangered or threatened species.

EFFECTIVE DATE: January 11, 1988.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Charles H. Wolf, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Ten Parkway Center, Pittsburgh, Pennsylvania 15220; telephone: 412–937–2897.

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule and Response to Public Comments on Proposed Rule
III. Procedural Matters

I. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act) sets forth general requirements governing surface coal mining operations and surface impacts of underground coal mining. Sections 515(b)(24) and 516(b)(11) of the Act, 30 U.S.C. 1265(b)(24) and 1266(b)(11), require that surface coal mining and reclamation operations shall: to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

In addition, section 515(b)(2) of the Act, 30 U.S.C. 1265(b)(2), requires that the operator, in consideration of public health and safety and proposed land use, restore mined land to a condition capable of supporting the uses which it was capable of supporting prior to any mining or higher or better uses. Section 516(b)(10) imposes that same requirement on underground mines with such modifications as are necessary to accommodate the distinct difference between surface and underground coal mining.

To implement the requirements of these provisions and the provisions of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), the Bald Eagle Protection Act, as amended (16 U.S.C. 668 *et seq.*), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661 *et seq.*) and other statutes protecting fish and wildlife resources, OSMRE promulgated 30 CFR 779.20, 780.16, 783.20, 784.21, 816.97, and 817.97 on March 13, 1979, as a part of the permanent regulatory program (44 FR 15356, 15359, 15364, 15369, 15410, 15437). Sections 779.20, 780.16, 783.20, and 784.21 were remanded by court decision and suspended by OSMRE (45 FR 51547, August 4, 1980).

On June 30, 1983, OSMRE revised §§ 816.97 and 817.97 (48 FR 30312) to clarify the relationship of the Act to the ESA and the Bald Eagle Protection Act. On October 1, 1984, the District Court for the District of Columbia remanded portions of these rules to modify requirements pertaining to endangered or threatened species and the protection of wildlife from toxic ponds. *In re: Permanent Surface Mining Regulation Litigation II*, No. 79–1144 (D.D.C. 1984). The court also ordered that §§ 779.20, 780.16, 783.20, and 784.21 be reinstated pending a new rulemaking. The sections were subsequently reinstated by OSMRE (50 FR 7274, February 21, 1985). Additional information regarding these actions is provided in the **Federal Register** as cited and in the preamble to the proposed fish and wildlife rules (51 FR 19498, May 29, 1986).

On May 29, 1986 (51 FR 19498) OSMRE proposed revisions to the fish and wildlife provisions of §§ 779.20, 780.16, 783.20, 784.21, 816.97, and 817.97. The purpose of the proposed revisions was to comply with the court decision and to revise and clarify the rules. Throughout the development of the final rules, OSMRE solicited public comment and recommendations. A 70-day period for public comment was provided, ending August 7, 1986, and the public was given the opportunity to request public hearings. However, no public hearings were requested and therefore none were held.

II. Final Rule and Response to Public Comments on Proposed Rule

OSMRE received over 200 comments from representatives of industry, environmental groups, State regulatory authorities, Federal and State fish and wildlife agencies and private citizens. OSMRE has reviewed each comment carefully and has considered the commenters' suggestions and remarks in writing these final rules.

The majority of the comments received on the proposed rule were specific in nature and are discussed in the section-by-section analysis portion of the preamble. Several comments were received in direct response to OSMRE's request for guidance on questions raised in the preamble to the proposed rules. These comments and general concerns expressed by commenters are addressed in the section that follows.

Hereinafter, unless otherwise noted, references to §§ 779.20, 780.16, and 816.97 (surface mining rules) also apply to the counterpart underground mining rules at §§ 783.20, 784.21 and 817.97.

General Comments

OSMRE suspended §§ 779.20 and 780.16 on August 4, 1980 (45 FR 51547) and reinstated these same regulations on February 21, 1985 (50 FR 7274). During the period when the Federal rules were suspended State regulatory authorities could omit or, if desired, adopt special permitting rules pertaining to fish and wildlife. In the preamble to the proposed rules (51 FR 19499), OSMRE specifically requested comments on whether the experiences and events of the four and one-half years when the Federal rules were suspended justify Federal regulation requiring either premining resource information or protection and enhancement plans or both. Based upon remarks from commenters and for the reasons discussed below, OSMRE has concluded that such regulations are necessary.

Most commenters indicated that Federal regulation requiring both premining resource information and protection and enhancement plans are necessary for the protection of fish and wildlife resources. One commenter further stated that because OSMRE is the regulatory authority for Indian lands and in Federal program States such as Georgia and Washington, without Federal regulations, the fish and wildlife resources in these States and lands

would not be protected as section 515(b)(24) of SMCRA demands. OSMRE agrees with the commenter that Federal rules are needed in Federal program States and for Indian lands.

Three commenters felt that permitting regulations for fish and wildlife resources information are not justified or needed. Two of these commenters stated that fish and wildlife resources were adequately protected under their approved state programs during the four and one-half year period in which the Federal regulations were suspended. One of the commenters cited as an example a situation where a species currently proposed to be listed as threatened had been protected. Although certain states may be protecting fish and wildlife resources, OSMRE has concluded that these rules are needed to define Federal standards regarding the submission of permit information needed to assure minimum standards of protection.

Another commenter felt that the proposed regulations appeared to be a rekindling of the ongoing efforts of Federal and State fish and wildlife agencies to gain decisionmaking authority in the permitting process. The commenter believed that such authority was not granted by Congress but would be granted by the final regulations. OSMRE considered the role given the Federal and State fish and wildlife agencies by SMCRA and has adopted a final rule that clarifies that the various Federal and State fish and wildlife agencies act in an advisory capacity to the regulatory authorities. Regulatory authorities retain their responsibility for making decisions on the completeness and adequacy of applications for SMCRA permits.

OSMRE also requested comments in the preamble to the proposed rules (51 FR 19499) on whether fish and wildlife information and planning requirements can be addressed effectively under one section as proposed or whether they should remain as separate and distinct sections as in the existing rules under Parts 779 and 780. OSMRE has decided that the fish and wildlife information and planning requirements can be addressed under one section as has been adopted in the final rule.

Several commenters agreed with the proposal that fish and wildlife information and planning requirements be addressed under one section. One commenter who disagreed stated that existing Part 779 requires specific resource information for each component of the premine environment, including wildlife (§ 779.20). Similarly, the commenter stated, Part 780 requires a resource protection plan for each component of the premining environment, including wildlife (§ 780.16). The commenter contended that if fish and wildlife baseline data collection and protection requirements are to be combined as one section under Part 780, then all other environmental resource components should be similarly treated. Otherwise, the combination of the two fish and wildlife requirements may de-emphasize the importance of baseline data collection, since this requirement is being shifted in the final rule to Part 780 which deals with resource protection. The commenter suggested that OSMRE be consistent in its treatment of each resource component.

OSMRE believes that the combining of §§ 779.20 and 780.16 will not result in a loss of importance attached to the collection of fish and wildlife baseline data. Requirements for data collection for certain resources (such as hydrology and geology) are combined with the requirements for protection plans for those resources, while in other cases the requirements for information collection and the plans remain separate (such as soils and land use). It is OSMRE's intent to combine resource information collection and protection plan requirements whenever possible because of the logical link between baseline information pertaining to a resource and the protection and enhancement of that resource.

In the preamble to the proposed rules (51 FR 19499), OSMRE solicited comments on whether or not there are distinct differences between surface and underground mining that would justify differences in the regulations. After considering remarks from commenters, and for the reasons discussed below, OSMRE has determined that the same requirements should apply to both surface and underground mining.

Several commenters indicated that from a fish and wildlife protection and enhancement perspective there are no distinct differences between surface and underground mining that justify differences in the regulations. Three commenters expressed concerns over subsidence-related impacts on fish and wildlife resources. These commenters further suggested that subsidence impacts receive special attention during the permit review and interagency consultation process. OSMRE disagrees with the commenters that the impacts of subsidence on fish and wildlife need special attention because 30 CFR 784.21(b) will cover any problem not covered under OSMRE's regulations at 30 CFR 784.20 which provide for detailed subsidence control plans to protect renewable resource lands. One commenter was concerned that underground mining could temporarily disrupt the flow of alluvial water into a surface drainage and cause adverse impacts to the downstream aquatic ecosystem. OSMRE believes that such concerns are adequately addressed under existing rules concerning hydrology. Studies of the hydrologic regime required under existing 30 CFR 784.14(e) and 784.14(f) would indentify any potential adverse impacts to surface drainage from proposed underground mining. 30 CFR 773.15(c)(5) requires that before a permit application is approved, the regulatory authority must find in writing that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area. Also under 30 CFR 817.57, a buffer zone around streams exists within which most mining disturbances may not occur without a specific finding that environmental resources of such streams will not be adversely affected.

One commenter suggested that the last statement in the Summary of the preamble misleads the public into believing that the proposed rule would provide added protection to endangered or threatened species. The commenter contended that this is not true since the proposed rule does not provide any additional protection, for Federally-listed endangered or threatened species but merely reinstates the original (1979) protection for State-listed species. The commenter is correct in recognizing that the proposed rule would reinstate the protection previously given to State-listed endangered or threatened species in OSMRE's March 13, 1979 rulemaking (44 FR 15410, 15437). However, the proposed rule contains other important provisions that provide added protection. The final rule prohibits surface coal mining operations which are likely to jeopardize the continued existence of endangered or threatened species, not just those operations which are certain to do so, as provided in the existing rules. Also, the final rule clearly establishes the requirement for permit applicants to provide site-specific resource information in their applications when the permit area or adjacent area are likely to include endangered or threatened species.

Two commenters expressed support for the rules as proposed. One commenter stated that the proposed rules contain rather specific requirements on the type of fish, wildlife, and related resource information which must be provided in the permit application by the permit applicant. The commenter further stated

that the regulatory authority in his particular state has established a permit review process whereby the State fish and wildlife agencies themselves, not the applicant, provide this information to the regulatory authority. The commenter sought final rules that would have sufficient flexibility to allow for this means of providing wildlife resource information. Although the final rule adopted today would not preclude such a system, the applicant retains the ultimate responsibility for assuring that all the permit application requirements are met.

One commenter questioned how the proposed rule would address the additional protection standards afforded fish, wildlife, and habitats listed under Tribal statutes. The commenter is reminded that OSMRE is the regulatory authority on Indian lands and that Parts 779, 780, 783, 784, 816, and 817 are included in the Indian lands program (30 CFR Part 750) through cross-referencing. When implementing the Indian lands program, OSMRE will treat species and habitats protected under Tribal statutes in a manner similar to those protected by State statutes.

One commenter stated that OSMRE's draft Environmental Assessment (EA) for this rulemaking should be revised to include additional decision alternatives. This suggestion was taken into consideration in the preparation of the final environmental assessment.

A. Fish and Wildlife Permitting Requirements

Resource Information—30 CFR 780.16(a)/784.21(a).

As proposed, § 780.16(a) provided that each application shall include fish and wildlife resource information for the permit area and adjacent area. Furthermore, it required the scope and level of detail for such information to be determined by the regulatory authority in accordance with any written guidance provided by State and Federal agencies with responsibilities for fish and wildlife. The proposed rule required that the information include, at a minimum, the existence of any threatened or endangered species, eagles, migratory birds or other species requiring special protection, and habitats of unusually high value for fish and wildlife. After considering the commenters' remarks, OSMRE has changed § 780.16(a)(1) in the final rule so that the scope and level of detail for fish and wildlife information will be determined by the regulatory authority in consultation with State and Federal agencies with responsibilities for fish and wildlife. Similarly, a new provision was added to require the information to be sufficient to design the protection and enhancement plan required under paragraph (b). Thus, although the level of detail may vary from permit to permit, the fish and wildlife resource information needed for each permit application will be carefully considered by the regulatory authority and those agencies with expertise in the resource area. This procedure will insure that sufficient information will be included to establish a meaningful protection plan.

Three commenters expressed concern that the proposed rules eliminate the requirement existing in § 779.20(b) for permit applicants to contact the regulatory authority to determine what fish and wildlife information will be necessary. One commenter felt that such contact increased the chances of receiving a complete and accurate application which could be easily reviewed by the regulatory authority. Another commenter was concerned that the proposed deletion will leave applicants with too little direction regarding site-specific data collection requirements. The third commenter believed that consultation early in the permitting process will give the respective agencies more time to determine whether specific studies should be required and will prevent unnecessary expenditures by permit applicants. OSMRE agrees that advance planning and consultation can help to reduce delays in processing permits and to avoid unnecessary expenses. As stated in the preamble to the proposed rule, however, OSMRE does not believe it is necessary to impose a Federal rule requiring all applicants to contact their respective regulatory authorities since some regulatory authorities may find it more appropriate and cost effective to set forth in either rules or guidance documents specific requirements for fish and wildlife information for mining in certain areas. Applicants should contact the regulatory authority early in the permitting process if they are unable to determine what information will be needed to meet regulatory requirements.

Proposed § 780.16(a) provided that the scope and level of detail for resource information be determined by the regulatory authority "in accordance with any written guidance" provided by State and Federal fish and wildlife agencies. OSMRE has deleted this provision in the final rule and replaced it with language requiring the regulatory authority to determine the scope and level of detail of resource information in consultation with State and Federal fish and wildlife agencies. This new language was adopted because several commenters requested that the final rule provide for consultation between the regulatory authority and Federal and State fish and wildlife agencies on what information is needed to permit applications to protect fish and wildlife resources. Some of these commenters felt that early consultation with State and Federal fish and wildlife agencies would be an effective means of cooperatively resolving resource issues while others believed that through consultation available information could be shared and determinations could be made on whether site-specific studies would be necessary. One commenter on this topic expressed concern that by specifying that only written guidance be provided by State and Federal fish and wildlife agencies, there would be less interaction between wildlife management and coal permitting. Although OSMRE does not believe that such a result would necessarily occur, OSMRE has changed the rule to provide for consultation. Consultation may include both oral and written advice, participation by these agencies in the development of technical guidance documents, memoranda of understanding, and other communications necessary to protect fish and wildlife resources.

Many commenters suggested that OSMRE more clearly indicate when site-specific fish and wildlife resource information would be required. Accordingly, OSMRE has added new paragraph (a)(2) in the final rule that will require site-specific resource information when the permit area or adjacent area are likely to include listed or proposed endangered or threatened species of plants or animals or their critical habitats; habitats of unusually high value for fish and wildlife; or other species or habitats identified through agency consultation as requiring special protection. One commenter suggested that when any special resource values in proposed § 780.16(a) (1), (2), or (3) are identified, the regulatory authority should require site-specific, in-depth studies of fish and wildlife and their habitats. OSMRE agrees that site-specific resource information is necessary for such identified species and habitats and has addressed the commenter's concern by the addition of paragraph (a)(2) to the final rule.

One commenter expressed concern over OSMRE's rationale for the substitution of the phrase "resource information" in § 780.16(a) for the term "study" as required under previous § 779.20(a). The term "resource information" is intended to allow for the use of existing fish and wildlife information, in addition to any site-

specific studies authorized under § 780.16(a)(2).

One commenter contended that the deletion of the requirement for site-specific data would have deleterious effects on fish and wildlife and that existing information is often out-of-date, incomplete, or not relevant to the site, and/or otherwise of limited value for determining degree of impact. OSMRE is sensitive to this concern and, as stated above, has added new paragraph (a)(2) to address when site-specific information is required.

Another commenter, who is currently developing a computer-based fish and wildlife data system, stated that its data system may not provide enough site-specific information on all proposed permit areas and therefore believed that the responsibility for providing information on fish and wildlife and their habitats should rest with the applicant. OSMRE agrees. As discussed in the preamble to the proposed rule, the authority to require site-specific studies has been retained but the restriction that a study be the only means to achieve compliance is removed. The need for site-specific studies will be determined by the regulatory authority through the consultation process required in the final rule. Site-specific studies could include aquatic sampling of streams to determine their "importance" as one commenter suggested.

One commenter suggested that "minimum standards" be established in the final rules for those areas that are not designated as critical habitat or that are otherwise sensitive, as outlined in proposed § 780.16(a) (1)–(3). This commenter contended that most mining operations are likely to occur in the "non-critical" fish and wildlife habitats and therefore in the majority of cases, the proposed rules provide no minimum standards to the regulatory authority on what resource information must be part of the permit application. OSMRE has added the requirement in § 780.16(a)(1) that the resource information be sufficient to design the protection and enhancement plan. Because of the diversity and variability of lands between and within regions, OSMRE cannot establish minimum resource information standards in the Federal rules for "non-critical" fish and wildlife habitat. Instead, OSMRE has determined that a more practical and as protective an approach will be for the regulatory authority to make these decisions within the framework of that information needed to assure an appropriate fish and wildlife management plan.

Several comments were received regarding the qualification requirements of those individuals compiling or reviewing fish and wildlife information. The commenters felt that the required information should be developed and/or reviewed by professional biologists. OSMRE disagrees that there is a need to specify qualifications for the preparers and reviewers of fish and wildlife information. The applicant is responsible for the accuracy and completeness of the submitted information and the regulatory authority is required to consult with agencies which possess the needed resources to competently evaluate the applicant's data.

Proposed rule § 780.16(a)(1) required permit applications to contain information on listed and proposed endangered or threatened species of plants or animals and their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and those species and habitats protected by similar State statutes. Commenters generally supported and endorsed this provision of the proposed rule. One commenter felt that listed or proposed endangered or threatened plants should be protected by separate requirements within the vegetation information requirements in existing § 779.19. OSMRE believes it appropriate to address both plants and animals that are afforded special protection under the ESA and similar State statutes under one section for administrative and continuity reasons. Another commenter requested clarification with regard to the reference to "state statutes." This commenter asked if an operation is to be located in a particular state, whether the proposed language would require that the fish and wildlife information address species which are not protected under that state's statute but are protected under the statutes of other states? Section 780.16(a)(2)(i) of the final rule would apply to only those species protected under Federal law and to those species protected under the laws of the state where the particular mining operation is located.

One commenter asked OSMRE to define a "proposed" endangered or threatened species. A "proposed species" as defined under existing 50 CFR 402.02 means any species of fish, wildlife, or plant that is proposed in the **Federal Register** to be listed under section 4 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* States with similar statutes may have various definitions for the term "proposed" or may use different terms for species under this classification.

Proposed § 780.16(a)(2) required information about eagles, migratory birds, and other species identified as requiring special protection under State or Federal law. OSMRE has modified this provision and numbered it in the final rule as § 780.16(a)(2)(iii). The final rule requires information on other species or habitats identified through agency consultation as requiring special protection under State or Federal law. OSMRE has deleted the specific reference to eagles and migratory birds. Instead, such species would be included in the general requirement to identify other species requiring special protection under State or Federal law.

Proposed § 780.16(a)(3) required information about habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, and reproduction and wintering areas. OSMRE has adopted the proposed rule as final § 780.16(a)(2)(ii). One commenter requested that the term "wetland" be defined using the U.S. Fish and Wildlife Service's (FWS) *Classification of Wetlands and Deepwater Habitats of the United States*, 1979 (FWS/OBS–79–31 December 1979). Under the process outlined in the final rule, OSMRE believes it is unnecessary to define the term "wetland" because definitions in common usage by the appropriate State and Federal agencies are applied.

Three commenters suggested that the list of examples of habitat in proposed § 780.16(a)(3) be expanded to include additional habitat types and areas that they viewed as being of "unusually high value." OSMRE believes that the habitats provided as examples in the final rule are representative and not exclusive of the types that the regulatory authority should consider under this section. One commenter associated the term "migration routes" only with migratory birds and did not consider the term to be a type of habitat. OSMRE included the term "migration routes" under this section because of the different habitat types within migration routes utilized by such species as mule deer and elk in the western states.

Protection and Enhancement Plan—30 CFR 780.16(b)/784.21(b)

As proposed, § 780.16(b) required that each application shall include a description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse

impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during surface coal mining and reclamation operations and how enhancement of these resources will be achieved where practicable. After considering remarks from commenters and for the reasons discussed below, OSMRE has adopted § 780.16(b) as proposed.

One commenter suggested that the terminology "protection and enhancement plan" be changed to "mitigation and enhancement plan" and that acceptable definitions of "mitigation" and "enhancement" be provided. OSMRE has retained the terminology "protection and enhancement plan" as proposed. The terms "protection" and "enhancement" are consistent with terminology used in sections 515 and 516 of the Act. OSMRE does not believe that the term "enhancement" requires further definition when it is used in context in § 780.16(b).

Four commenters shared OSMRE's view of that enhancement of fish and wildlife values is practicable for almost all postmining land uses. Other commenters indicated that if a situation arises where fish and wildlife habitat enhancement measures are not practicable, the burden should fall to the applicant to indicate why enhancement is not practicable. OSMRE has reconsidered this provision and agrees that enhancement may not be practicable in *all* situations. Furthermore, the applicant should be afforded the opportunity to state why enhancement is not practicable. OSMRE has therefore modified § 780.16(b)(3)(ii) in the final rule to require that, where enhancement measures are not included in the permit application, the applicant shall provide a statement explaining why such measures are not practicable.

One commenter expressed concern that the proposed regulations requiring a protection and enhancement plan are silent on the enforceability of the plan by the regulatory authority. OSMRE reminds the commenter that the plan is a part of the permit application and thus is enforceable by the regulatory authority when the permit is issued.

Proposed § 780.16(b)(1) required that the description of how the operator will protect and enhance fish and wildlife values be consistent with the requirements of § 816.97. No comments were received regarding this subsection. OSMRE has therefore adopted the proposed rule as final § 780.16(b)(1).

Several commenters expressed concern that the proposed rule did not contain language which explicitly requires the protection and enhancement plan to cover the permit area and adjacent area. Two commenters requested that "adjacent area" be changed to "portions of the adjacent area where effects may reasonably be expected to occur." OSMRE does not agree that any change is necessary since "adjacent area" is already defined in § 701.5 to mean that area outside the permit area where a resource is, or reasonably would be expected to be, adversely impacted by proposed mining operations. Furthermore, § 780.16(b)(2) requires that the protection and enhancement plan apply at a minimum to resource information that is required for both the permit area and adjacent area in § 780.16(a). One commenter was concerned about substituting the terms permit area and adjacent area for mine plan area. OSMRE no longer uses the term mine plan area in the Federal rules. The revision of areal descriptors is discussed in 48 FR 14814. This substitution of terms will provide consistency in the terminology used in the Federal rules without affecting the substantive requirements for fish and wildlife plans required by § 780.16.

Three commenters expressed concern that the language of the proposed rule may leave some ambiguity by the generic reference to paragraph (a) and suggested that the language of § 780.16(b)(2) should read: "Apply, at a minimum, to species and habitats identified under paragraphs (a)(1), (a)(2), and (a)(3) of this section." OSMRE has rejected the commenters suggested language because, to be consistent with sections 515(b)(24) and 516(b)(11) of SMCRA, the protection and enhancement must not be limited to critical species and habitats.

Proposed § 780.16(b)(3)(i) required the protection and enhancement plan to describe the protective measures that will be used during the active mining phase of operation. The proposed rule specified that such measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity. OSMRE has adopted the proposed rule as final § 780.16(b)(3)(i). One commenter recommended that biological monitoring be added as an example of a protective measure under this section. OSMRE emphasizes that the protective measures provided as examples under this section are not an exclusive list to be considered by the applicant. Other protective measures such as biological monitoring may also be considered.

One commenter argued that the proposed regulations do not establish any minimum protection and enhancement measures. This commenter suggested the proposed rule require that protection and enhancement measures listed as discretionary in proposed § 780.16(b)(3)(i) and § 780.16(b)(3)(ii) be required in the plan when a determination is made by either the regulatory authority or the State or Federal fish and wildlife agency that these measures would improve the overall reclamation of the site for fish and wildlife resources. OSMRE believes the final rule provides the regulatory authority with sufficient guidance in § 780.16 (a) and (b) to determine what measures are necessary for the protection and enhancement of fish and wildlife. Section 515(b)(24) of SMCRA does not require specific protection and enhancement measures but rather requires each operation, to the extent possible using the best technology currently available, to minimize disturbances and achieve enhancement where practicable.

Proposed § 780.16(b)(3)(ii) required the protection and enhancement plan to describe the enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. The proposed rule provided that such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the placement of perches and nest boxes. One commenter believed that this section was inaccurate because the commenter did not view the restoration of streams and wetlands as a method of fish and wildlife enhancement. In his opinion, the term "restoration" indicated the return to a previous condition. OSMRE disagrees with the commenter since restored streams and wetlands may contain features that were not present during premining conditions. The addition of pools and riffles to a premine channelized stream is one example. Part of the commenter's concern is semantic. For example, one performance standard which the protection and enhancement plan implements, 30 CFR 816.43(a)(3), illustrates how closely the two concepts are and requires restoration or approximation of premining characteristics to promote the recovery and enhancement of the aquatic habitat.

A commenter stated that the establishment of vegetation for wildlife food and cover may not constitute wildlife enhancement. The commenter believed that a comparison of the

premining vegetation and habitats and the proposed postmining revegetation plan must be made before one can determine if the revegetation plan would enhance wildlife. OSMRE does not agree that such a comparison must be made; however, a comparison of pre- and postmining vegetative conditions may be one approach to reflect that wildlife enhancement has been realized. Enhancement can also be achieved by developing a postmining land use plan that benefits or promotes a selected or featured fish and wildlife species or a diversity of species.

The same commenter agreed that some enhancement measures—such as the creation of impoundments—can be implemented during mining and that proposed § 780.16(b)(3)(ii) stipulates the enhancement measures to be implemented after mining. OSMRE agrees that impoundments are normally created during the active phase of mining and has used the word "retention" in reference to ponds and impoundments in the final rule.

One commenter suggested that this section of the proposed rules be amended to include consultation with the appropriate fish and wildlife agency to ensure that the premining habitat diversity found in the permit area and adjacent areas is protected as much as possible when reclaiming the site to a postmining land use. OSMRE believes that through the consultation process in § 780.16(a)(1) the permit review process required by §§ 773.13 and 773.15, habitat diversity will receive adequate consideration.

Fish and Wildlife Service Review—30 CFR 780.16(c)/784.21(c).

Proposed § 780.16(c) required that upon request, the regulatory authority provide the resource information submitted by permit applicants under paragraph (a) and the protection and enhancement plan submitted under paragraph (b) to the U.S. Department of the Interior, Fish and Wildlife Service (USFWS) Regional or Field Office for their review. The proposed rule required that the information be provided within 10 days of receipt of the request from the Service. After considering remarks from commenters and for the reasons discussed below, OSMRE has adopted paragraph (c) as proposed. Several commenters supported the proposal while others offered suggestions for modifications. One commenter suggested that the final rule be expanded to require other information such as is found in the reclamation, revegetation and hydrologic balance restoration plans be provided to the USFWS if requested. OSMRE and the USFWS have discussed this provision and are in agreement that the resource information required under paragraph (a) and the protection and enhancement plan required under paragraph (b) will in most situations be sufficient for USFWS reviews. In those cases where an inspection of other parts of the permit application is desired, the USFWS can visit the location where the public file copy of the application is kept or make other arrangements with the regulatory authority to obtain the additional information.

Another commenter who acts as a liaison between the USFWS and a regulatory authority requested that the regulatory authority or the State agency charged with the protection of the plant and wildlife resources provide the resource information and the protection and enhancement plan to the USFWS.

OSMRE believes there is sufficient flexibility in the final rule to provide for this transfer as suggested by the commenter. One commenter expressed concern that the implementation of this provision could relegate State fish and wildlife agencies to a role where their comments are solicited but are never implemented. OSMRE does not believe that this will happen. Under § 780.16(a)(1), the regulatory authority is required to consult with both State and Federal agencies in setting information requirements. Regulatory authorities that are provided comments by fish and wildlife agencies must consider all comments in their decisions to issue permits. To be defensible, these decisions must be well-reasoned and consistent with the State regulatory program.

One commenter questioned how many days the Service would have to review and comment on the permit application. Section 773.13(b)(1) requires each regulatory authority to establish a reasonable time for the submittal of written comments or objections on permit applications by State and Federal fish and wildlife agencies and other public entities.

Two commenters opposed § 780.16(c) as proposed and urged deletion of the proposal from the final rule. The commenters contended that there was no basis in the statute for this provision. OSMRE does not agree. Sections 201(c)(2), (6), (12), and (13), 501(b), and 510(b) of the Act provide authority. Moreover, in order for the USFWS to discharge its responsibilities under the Endangered Species Act, Bald Eagle Protection Act and the Fish and Wildlife Coordination Act, and to assure that sections 515(b)(24) and 516(b)(10) of SMCRA are implemented, the USFWS must have access to information supplied under § 780.16.

B. Performance Standards

Sections 816.97(b)/817.97(b)

OSMRE proposed to amend § 816.97(b) to provide for the protection of endangered and threatened species by requiring that no mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The previous rule was more limited in that it prohibited only mining activity which *will* jeopardize the existence of endangered or threatened species or which *will* result in the destruction or adverse modification of designated critical habitats. OSMRE also proposed to require the operator to promptly report to the regulatory authority any State- or Federally-listed endangered or threatened species within the permit area of which the operator becomes aware. The proposed rule added the requirement to report State-listed species to the existing requirement that the operator report Federally-listed species. OSMRE has adopted § 816.97(b) as proposed.

Several commenters expressed support for this proposal. One commenter, however, noted that a number of states do not maintain state endangered species lists and instead classify certain species as "rare." OSMRE is aware that classification or terminology may differ in the various States; however, it is the protection afforded these special species under similar State statutes that is intended. This commenter further stated that it is not necessary or desirable to report immediately every threatened or endangered species observed within the permit area and cited an example of wintering bald eagles foraging over coal permit areas on a daily basis. Sections 515(b)(24) and 516(b)(10) require that disturbances to fish and wildlife and related environmental values be minimized. Accordingly, OSMRE has required, since 1979, that the operator promptly report the presence of certain species in the permit area. In the example provided, the eagles may be nesting or resting off the mine site but could be dependent upon a food source on the mine site and, thus, be adversely impacted by the mining operations. The reporting provision enables the

regulatory authority to ensure compliance with the Endangered Species Act and with the Bald Eagle Protection Act.

One commenter suggested that the reporting requirement be expanded to include not only the permit area but also the adjacent area. The rule is sufficiently flexible to allow the regulatory authority to require reports of sightings on adjacent areas if it wishes to do so. This commenter further suggested that the rule be expanded to mandate consultation when the regulatory authority receives sighting reports from any person, unless the sightings are deemed to be frivolous. While the rule requires the operator to notify the regulatory authority whenever the operator becomes aware of an endangered or threatened species in the permit area, it does not preclude other persons from so notifying the regulatory authority. The regulatory authority would have discretion on whether to initiate the consultation process.

Two commenters objected to the inclusion of the term "any State" in the proposed rule. The commenters further stated that SMCRA does not extend protection to State-listed species. As discussed in the preamble to the proposed rule, OSMRE proposed to amend the existing rule to include "State-listed" species in response to the District Court's decision of October 1, 1984. *In re: Permanent Surface Mining Regulation Litigation II*, No. 79–1144, slip op. at pp. 58–63 (D.D.C. 1984). The deletion of a reference to State-listed species from the previous rule was found by the court to be contrary to section 515(b)(24) of the Act. The commenters objected to the requirement to report the presence of endangered or threatened species within the permit area because they believed it would require duplicative reporting inasmuch as an operator will have already reported in the permit application the existence of any endangered or threatened species. The commenters cited for support the District Court's decision upholding the Secretary's regulation which requires identification of critical habitats in the permit application but not during the mining operation. *In Re: Permanent Surface Mining Regulation Litigation II*, No. 79–1144 (D.D.C. October 1, 1984) Slip op. at 60–1. OSMRE does not agree with the commenter's reasoning that the court's decision regarding critical habitats also applies to the reporting of threatened or endangered species. Unlike critical habitats which are designated by the Secretary after an administrative proceeding, threatened and endangered species are mobile rather than stationary and may enter the permitted area after a permit is approved.

Sections 816.97(e)/817.97(e)

Sections 816.97 (e)(2) and (e)(3) of the existing regulations were republished in the proposed rule solely for editorial reasons to reflect the addition of § 816.97(e)(4) and not to make substantive changes. OSMRE has therefore adopted these proposed rules as final §§ 816.97(e)(2) and 816.97(e)(3).

As proposed, § 816.97(e)(4) required each operator to fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials. After considering remarks from commenters and for the reasons discussed below, OSMRE has adopted the proposed rule as final § 816.97(e)(4). One commenter expressed support for the rule as proposed. Five commenters asked for clarification as to what constitutes "hazardous concentrations of toxic-forming materials" and one suggested that OSMRE work with the U.S. Environmental Protection Agency (EPA) to develop a standard definition for this term, consistent with the existing regulations for toxic-forming materials found in EPA's regulations at 40 CFR 261.2 and 40 CFR 261.3. OSMRE does not believe that further regulatory changes are necessary since OSMRE already defines "toxic-forming materials" in 30 CFR 701.5.

The final rules also amend §§ 779.10 and 783.10 which pertain to Federal information collection by deleting references to §§ 779.20 and 783.20 respectively. This amendment was necessary because §§ 779.20 and 783.20 have been deleted in the final rules.

Effect in Federal Program States and on Indian Lands

The final rules apply through cross-referencing in those States with Federal programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The final rules also apply through cross-referencing to Indian lands under the Federal program for Indian Lands as provided in 30 CFR Part 750.

III. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements of Parts 780 and 784 have been submitted to the Office of Management and Budget under 44 U.S.C. 3507. The following clearance numbers were assigned: 30 CFR Part 780 (OMB Control No. 1029–0036) and 30 CFR Part 784 (OMB Control No. 1029–0039). The information is needed to meet the requirements of sections 515(b)(24) and 516(b)(11) of Pub. L. 95–87, and will be used by the regulatory authority to assess the impact of proposed mining operations on fish and wildlife resources and the adequacy of proposed protection and enhancement plans. The obligation to respond is mandatory.

Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule does not distinguish between small and large entities, and will make no change in the threshold for determining whether to approve permits for surface coal mining operations because of fish and wildlife considerations. No incremental economic effects are anticipated as a result of the rule.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) on the impacts on the human environment of this final rulemaking and has made a finding that the rules would not have a significant impact under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the OSMRE Administrative Record Room 5131, 1100 L Street NW., Washington, DC.

Author

The author of this rule is Bruce Klein, Office of Surface Mining Reclamation and Enforcement, Knoxville Field Office, Knoxville, Tennessee 37902; telephone 615–673–4330.

List of Subjects

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

For the reasons set out in this preamble, 30 CFR Parts 779, 780, 783, 784, 816, and 817 are amended as set forth below.

Dated: April 9, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Editorial Note: This document was received at the office of the Federal Register December 10, 1987.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

1. The authority citation for Part 779 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, sec. 115 of Pub. L. 98–146, (30 U.S.C. 1257), and 16 U.S.C. 470 *et seq.*

§ 779.10 [Amended]

2. Section 779.10 is amended by removing the term "779.20,".

§ 779.19 [Amended]

3. Section 779.19, paragraph (b) is amended by removing the words "30 CFR 779.20" and adding in their place the words "30 CFR 780.16."

§ 779.20 [Removed]

4. Section 779.20 is removed.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

5. The authority citation for Part 780 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, sec. 115 of Pub. L. 98–146, (30 U.S.C. 1257), and 16 U.S.C. 470 *et seq.*

6. Section 780.16 is revised to read as follows:

§ 780.16 Fish and wildlife information.

(a) *Resource information.* Each application shall include fish and wildlife resource information for the permit area and adjacent area.

(1) The scope and level of detail for such information shall be determined by the regulatory authority in consultation with State and Federal agencies with responsibilities for fish and wildlife and shall be sufficient to design the protection and enhancement plan required under paragraph (b) of this section.

(2) Site-specific resource information necessary to address the respective species or habitats shall be required when the permit area or adjacent area is likely to include:

(i) Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), or those species or habitats protected by similar State statutes;

(ii) Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or

(iii) Other species or habitats identified through agency consultation as requiring special protection under State or Federal law.

(b) *Protection and enhancement plan.* Each application shall include a description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations and how enhancement of these resources will be achieved where practicable. This description shall—

(1) Be consistent with the requirements of § 816.97 of this chapter;

(2) Apply, at a minimum, to species and habitats identified under paragraph (a) of this section; and

(3) Include—

(i) Protective measures that will be used during the active mining phase of operation. Such measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity; and

(ii) Enhancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the replacement of perches and nest boxes. Where the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(c) *Fish and Wildlife Service review.* Upon request, the regulatory authority shall provide the resource information required under paragraph (a) of this section and the protection and enhancement plan required under paragraph (b) of this section to the U.S. Department of the Interior, Fish and Wildlife Service Regional or Field Office for their review. This information shall be provided within 10 days of receipt of the request from the Service.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

7. The authority citation for Part 783 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, sec. 115 of Pub. L. 98–146 (30 U.S.C. 1257), and 16 U.S.C. 470 *et seq.*

§ 783.10 [Amended]

8. Section 783.10 is amended by removing the term "783.20,".

§ 783.19 [Amended]

9. Section 783.19, paragraph (b) is amended by removing the words "30 CFR 779.20" and adding in their place the words "30 CFR 784.21."

§ 783.20 [Removed]

10. Section 783.20 is removed.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

11. The authority citation for Part 784 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, sec. 115 of Pub. L. 98–146 (30 U.S.C. 1257), and 16 U.S.C. 470 *et seq.*

12. Section 784.21 is revised to read as follows:

§ 784.21 Fish and wildlife information.

(a) *Resource information.* Each application shall include fish and wildlife resource information for the permit area and adjacent area.

(1) The scope and level of detail for such information shall be determined by the regulatory authority in consultation with State and Federal agencies with

responsibilities for fish and wildlife and shall be sufficient to design the protection and enhancement plan required under paragraph (b) of this section.

(2) Site-specific resource information necessary to address the respective species or habitats shall be required when the permit area or adjacent area is likely to include:

(i) Listed or proposed endangered or threatened species of plants or animals or their critical habitats listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), or those species or habitats protected by similar State statutes;

(ii) Habitats of unusually high value for fish and wildlife such as important streams, wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, migration routes, or reproduction and wintering areas; or

(iii) Other species or habitats identified through agency consultation as requiring special protection under State or Federal law.

(b) *Protection and enhancement plan.* Each application shall include a description of how, to the extent possible using the best technology currently available, the operator will minimize disturbances and adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the surface coal mining and reclamation operations and how enhancement of these resources will be achieved where practicable. This description shall—

(1) Be consistent with the requirements of § 817.97 of this chapter;

(2) Apply, at a minimum, to species and habitats identified under paragraph (a) of this section; and

(3) Include—

(i) Protective measures that will be used during the active mining phase of operation. Such measures may include the establishment of buffer zones, the selective location and special design of haul roads and powerlines, and the monitoring of surface water quality and quantity; and

(ii) Enchancement measures that will be used during the reclamation and postmining phase of operation to develop aquatic and terrestrial habitat. Such measures may include restoration of streams and other wetlands, retention of ponds and impoundments, establishment of vegetation for wildlife food and cover, and the placement of perches and nest boxes. Where the plan does not include enhancement measures, a statement shall be given explaining why enhancement is not practicable.

(c) *Fish and Wildlife Service Review.* Upon request, the regulatory authority shall provide the resource information required under paragraph (a) of this section and the protection and enhancement plan required under paragraph (b) of this section to the U.S. Department of the Interior, Fish and Wildlife Service Regional or Field Office for their review. This information shall be provided within 10 days of receipt of the request from the Service.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

13. The authority citation for Part 816 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), unless otherwise noted.

14. In § 816.97, paragraphs (b), (e)(2), and (e)(3) are revised and paragraph (e)(4) is added to read as follows:

§ 816.97 Protection of fish, wildlife, and related environmental values.

* * * * *

(b) *Endangered and threatened species.* No surface mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The operator shall promptly report to the regulatory authority any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the regulatory authority shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operater may proceed.

* * * * *

(e) * * *

(2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law;

(3) Design fences, overland conveyors, and other potential barriers to permit passage for large mammals, except where the regulatory authority determines that such requirements are unnecessary; and

(4) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

* * * * *

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

15. The authority citation for Part 817 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), unless otherwise noted.

16. In § 817.97 paragraphs (b), (e)(2), and (e)(3) are revised and paragraph (e)(4) is added to read as follows:

§ 817.97 Protection of fish, wildlife, and related environmental values.

* * * * *

(b) *Endangered and threatened species.* No underground mining activity shall be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the Secretary or which is likely to result in the destruction or adverse modification of designated critical habitats of such species in violation of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The operator shall promptly report to the regulatory authority any State- or federally-listed endangered or threatened species within the permit area of which the operator becomes aware. Upon notification, the regulatory authority shall consult with appropriate State and Federal fish and wildlife agencies and, after consultation, shall identify whether, and under what conditions, the operator may proceed.

* * * * *

(e) * * *

(2) Locate and operate haul and access roads so as to avoid or minimize impacts on important fish and wildlife species or other species protected by State or Federal law;

(3) Design fences, overland conveyors, and other potential barriers to permit passage for large mammals except where the regulatory authority determines that such requirements are unnecessary; and

(4) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials.

* * * * *

[FR Doc. 87–28528 Filed 12–10–87; 8:45 am]

BILLING CODE 4310–05–M

Federal Register

Friday
December 11, 1987

Part IX

Department of Agriculture

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1988; Solicitation of Applications; Notice

Part IX

Department of Agriculture

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1988; Solicitation of Applications

Notice is hereby given that under the authority contained in section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), the Cooperative State Research Service (CSRS) of the United States Department of Agriculture (USDA) anticipates awarding standards grants for basic studies in certain areas of rangeland research. No more than $80,000 will be awarded for the support of any one project, regardless of the amount requested. *The award of any grant under the Rangeland Research Grants Program is contingent upon the availability of funds.*

Under this program, the Secretary may award grants to land-grant colleges and universities, State agricultural experiment stations, and to colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research. Except in the case of Federal laboratories, each grant recipient must match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding. Proposals received from scientists at non-United States organizations or institutions will not be considered for support.

Applicable Regulations

This program is subject to the provisions found at 7 CFR Part 3401 (51 FR 16152, April 30, 1986). These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, processes regarding the awarding of grants, and regulations relating to the post-award administration of grant projects. Pursuant to section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or for tuition remission costs; therefore, funds should not be requested for these costs except in the case of Federal laboratories. In addition, USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015, as amended, apply to this program.

How to Obtain Application Materials

Copies of this solicitation, the Research Grant Application Kit, and the Administrative Provisions for this program (7 CFR Part 3401) may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 005, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, DC 20251–2200, Telephone: (202) 475–5048.

What to Submit

An original and nine copies of each proposal submitted under this program are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made. In addition to other required forms and certifications included in the Research Grant Application Kit, each copy of each proposal must include a Form CSRS–661, "Grant Application." Proposers should note that one copy of this form, preferably the original, must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative.

Members of review committees and CSRS staff expect each project description to be complete in itself. Grant proposals must be limited to 10 pages (single-spaced) exclusive of required forms, bibliography and vitae of the principal investigator(s), senior associate(s) and other professional personnel. Attachment of appendices is discouraged and should be included only if pertinent to an understanding of the proposal.

All copies of each proposal must be mailed in one package. Please see that each copy of each proposal is *stapled securely* in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

Every effort should be made to ensure that the proposal contains all pertinent information when submitted. Prior to mailing, compare your proposal with the regulations contained in the Administrative Provisions which govern the Rangeland Research Grants Program, 7 CFR Part 3401. If applicable, the research grant proposal must state that the 50 percent non-Federal funding requirement will be met.

Where and When to Submit Grant Applications

Each research grant application must be submitted to: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Room 005, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, DC 20251–2200.

To be considered for funding during fiscal year 1988, *proposals must be received* in the Proposal Services Unit *by the close of business on February 22, 1988.* One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Specific Areas of Research to be Supported in Fiscal Year 1988

Standard grants will be awarded to support basic research in certain areas of rangeland research. Proposals will be considered in the following specific areas: (1) Management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) methods of managing rangeland watersheds to maximize efficient use of water and improve water yield, water quality, and water conservation, to protect against onsite and offsite damage to rangeland resources from floods, erosion and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; and (3) revegetation and rehabilitation of rangelands including the control of undesirable species of plants.

If necessary, further information may be obtained by calling Dr. Wayne K. Murphey, CSRS–USDA; telephone: (202) 447–2044.

Supplementary Information

The Rangeland Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the Final Rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 4th day of December 1987.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 87–28471 Filed 12–10–87; 8:45 am]

BILLING CODE 3410–22–M

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 148/Pub. L. 100-184

Michigan Wilderness Act of 1987. (Dec. 8, 1987; 101 Stat. 1274; 5 pages) Price: $1.00

PLUS

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- ***BILL NUMBER***
- ***PUBLIC LAW NUMBER***
- ***DATE SIGNED BY THE PRESIDENT***
- ***U.S. STATUTES CITATION***

IN ADDITION, P L U S WILL ALERT YOU TO LEGISLATION AWAITING APPROVAL AND NOT YET RECEIVED.

BEST OF ALL, P L U S IS AVAILABLE 24 HOURS A DAY.

SO DON'T WAIT FOR IMPORTANT INFORMATION ABOUT THE LAWS.

CALL P L U S ! ! !

(202) 523-6641

(Rev. 11-1-87)